



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
1100 Commerce Street, MC 4920DAL
Dallas, TX 75242

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

Number: **202110041**
Release Date: 3/12/2021

UIL: 501.07-00

Date: September 18, 2020

Taxpayer ID Number:

Form:

For Tax Period(s) Ending:

Person to Contact:

Identification Number:

Telephone Number:

Fax Number:

CERTIFIED MAIL – Return Receipt Requested
LAST DAY FOR FILING A PETITION WITH THE TAX COURT:

Dear :

This is a final determination that you do not qualify for exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a) as an organization described in IRC Section 501(c)(7) for the tax periods above. Your determination letter dated December 19XX is revoked.

Our adverse determination as to your exempt status was made for the following reasons:

You have not established that you are operated substantially for pleasure and recreation of your members or other non-profitable purposes and no part of the earnings inures to the benefit of private shareholder within the meaning of IRC Section 501(c)(7). You have exceeded the non-member income test for tax year ending December 31, 20XX.

Organizations that are not exempt under IRC Section 501 generally are required to file federal income tax returns and pay tax, where applicable. For further instructions, forms, and information please visit www.irs.gov.

If you decide to contest this determination, you may file an action for declaratory judgment under the provisions of IRC Section 7428 in one of the following three venues: 1) United States Tax Court, 2) the United States Court of Federal Claims, or 3) the United States District Court for the

District of Columbia. A petition or complaint in one of these three courts must be filed within 90 days from the date this determination was mailed to you. Please contact the clerk of the appropriate court for rules and the appropriate forms for filing petitions for declaratory judgment by referring to the enclosed Publication 892. You may write to the courts at the following addresses:

United States Tax Court
400 Second Street, NW
Washington, DC 20217

U.S. Court of Federal Claims
717 Madison Place, NW
Washington, DC 20439

U. S. District Court for the District of Columbia
333 Constitution Ave., N.W.
Washington, DC 20001

Processing of income tax returns and assessments of any taxes due will not be delayed if you file a petition for declaratory judgment under IRC Section 7428.

You may be eligible for help from the Taxpayer Advocate Service (TAS). TAS is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 1-877-777-4778.

Taxpayer Advocate assistance can't be used as substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determination, nor extend the time fixed by law that you have to file a petition in Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

You can get any of the forms or publications mentioned in this letter by calling 800-TAX-FORM (800-829-3676) or visiting our website at www.irs.gov/forms-pubs.

If you have any questions, you can contact the person listed in the heading of this letter.

Sincerely,



Enclosures:
Publication 892

Sean E. O'Reilly
Director, Exempt Organizations Examinations



**Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities**

Date:

April 27, 2020
Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:

Name:
ID number:
Telephone:
Fax:
Address:

Manager's contact information:

Name:
ID number:
Telephone:
Response due date:

Dear:

Why you're receiving this letter

We enclosed a copy of our audit report, Form 886-A, Explanation of Items, explaining that we propose to revoke your tax-exempt status as an organization described in Internal Revenue Code (IRC) Section 501(c)(7).

If you agree

If you haven't already, please sign the enclosed Form 6018, Consent to Proposed Action, and return it to the contact person shown at the top of this letter. We'll issue a final adverse letter determining that you aren't an organization described in IRC Section 501(c)(7) for the periods above.

After we issue the final adverse determination letter, we'll announce that your organization is no longer eligible to receive tax deductible contributions under IRC Section 170.

If you disagree

1. Request a meeting or telephone conference with the manager shown at the top of this letter.
2. Send any information you want us to consider.
3. File a protest with the IRS Appeals Office. If you request a meeting with the manager or send additional information as stated in 1 and 2, above, you'll still be able to file a protest with IRS Appeals Office after the meeting or after we consider the information.

The IRS Appeals Office is independent of the Exempt Organizations division and resolves most disputes informally. If you file a protest, the auditing agent may ask you to sign a consent to extend the period of limitations for assessing tax. This is to allow the IRS Appeals Office enough time to consider your case. For your protest to be valid, it

must contain certain specific information, including a statement of the facts, applicable law, and arguments in support of your position. For specific information needed for a valid protest, refer to Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status.

Fast Track Mediation (FTM) referred to in Publication 3498, The Examination Process, generally doesn't apply now that we've issued this letter.

4. Request technical advice from the Office of Associate Chief Counsel (Tax Exempt Government Entities) if you feel the issue hasn't been addressed in published precedent or has been treated inconsistently by the IRS.

If you're considering requesting technical advice, contact the person shown at the top of this letter. If you disagree with the technical advice decision, you will be able to appeal to the IRS Appeals Office, as explained above. A decision made in a technical advice memorandum, however, generally is final and binding on Appeals.

If we don't hear from you

If you don't respond to this proposal within 30 calendar days from the date of this letter, we'll issue a final adverse determination letter.

Contacting the Taxpayer Advocate Office is a taxpayer right

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 877-777-4778.

For additional information

You can get any of the forms and publications mentioned in this letter by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676).

If you have questions, you can contact the person shown at the top of this letter.

Sincerely,

Denise Gonzalez for

Maria Hooke
Director, Exempt Organizations
Examinations

Enclosures:
Form 886-A
Form 6018
Publication 3498
Publication 892

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (<i>last 4 digits</i>)	Year/Period ended 12/31/20XX

ISSUE

Should _____ (hereafter the EO) continue to qualify as an organization described in Section 501(c)(7) of the Internal Revenue Code?

FACTS

_____ is exempt as an organization described in IRC § 501(c)(7) to provide social, recreational and other activities to its members. The EO is exempt under _____ group ruling exemption number _____. The EO’s purpose per its statement on Form 990 is to support the _____ at _____ and foster the relationships of alumni of the _____ chapter.

On February 25, 20XX, the examiner conducted the field visitation with _____, Treasurer, regarding the examination of the organization’s Form 990, Return of Organization Exempt from Income Tax, for tax year ending December 31, 20XX. During the examination, the examiner discovered that the EO publishes a bi-annual newsletter that provides information regarding _____ at _____. The organization does not have any property or facility for its members to use. The EO’s meetings are held virtually via telephone & video conference. There are no opportunities for the members to commingle or conduct social activities.

The EO’s income is mainly derived from an investment fund donated to the EO by a member decades ago. The other source of income are volunteer contributions made to the EO from a few of its Officers. The EO is not supported by any membership fees, dues, or assessments that normally would support a 501(c)(7) organization. The expenses of the EO are not in furtherance of the exempt purpose because none of the expense are directly related with conducting any social or recreational activity for the members. The EO’s expense are for printing a bi-annual newsletter, accounting, office, and licensing expense.

During the interview on February 25, 20XX, _____ stated that the EO’s investment fund is professionally managed. The EO has exceeded the 35% investment income limitation four years in a row.

Form 990	20XX	20XX	20XX	20XX
Investment Income	\$0	\$0	\$0	\$0
Total Revenue	\$0	\$0	\$0	\$0
Percentage of investment Income	0%	0%	0%	0%

LAW

Required purposes

IRC § 501(c)(7) exempts from federal income tax clubs organized for pleasure, recreation, and other non-profitable purposes, substantially all of the activities of which are for such purposes and not part of the net earnings of which inures to the benefit of any private shareholder.

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
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Revenue Ruling 58-589, C.B. 1958-2, 266, sets forth the criteria for exemption under section 501 (c) (7) of the Code and provides that a club must have a membership of individuals, personal contacts, and fellowship. A commingling of members must play a material part in the activities of the organization.

A social or recreational club must provide the opportunity for personal contact between its members and the members must be bound together by a common objective of pleasure, recreation, and other non-profitable purposes. See Rev. Rul. 74-30, 1974-1 C.B. 137, Rev. Rul. 69-632, 169-2 C.B. 126, and Rev. Rul. 70-32, 1970-1 C.B. 132.

Investment Income

Section 1.501(c)(7) of the Regulations provides that, in general, the exemption extends to social and recreation clubs supported solely by membership fees, dues and assessments. However, a club that engages in a business, such as making its social and recreational facilities open to the general public, is not organized and operated exclusively for pleasure, recreation and other non-profitable purposes, and is not exempt under section 501(a).

Prior to its amendment in 1976, IRC § 501(c)(7) required that social clubs be operated exclusively for pleasure, recreation and other non-profitable purposes. Public Law 94-568 amended the “exclusive” provision to read “substantially” in order to allow an IRC § 501(c)(7) organization to receive up to 35 percent of its gross receipts, including investment income, from sources outside its membership without losing its tax-exempt status. The Committee Reports for Public Law 94-568 (Senate Report No. 94-1318 2d Session, 1976-2 C.B. 597) further states;

(a) Within the 35 percent amount, not more than 15 percent of the gross receipts should be derived from the use of a social club’s facilities or services by the general public. This means that an exempt social club may receive up to 35 percent of its gross receipts from a combination of investment income and receipts from non-members, so long as the latter do not represent more than 15 percent of total receipts.

(b) Thus, a social club may receive investment income up to the full 35 percent of its gross receipts if no income is derived from non-members’ use of club facilities.

(c) In addition, the Committee Report states that where a club receives unusual amounts of income, such as from the sale of its clubhouse or similar facilities, that income is not to be included in the 35 percent formula.

Revenue Ruling 66-149 holds a social club as not exempt as an organization described in IRC § 501(c)(7) where it derives a substantial part of its income from non-member sources.

TAXPAYER’S POSITION

The EO has not stated their position.

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
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GOVERNMENT’S POSITION

Based on the examination, the organization does not qualify for exemption as a social club described in IRC §501(c)(7) and Treas. Reg. §1.501(c)(7) which provides that in general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues, and assessments.

The organization does not meet the operational requirement of providing members the opportunity to socialize or establish physical contact per Rev. Rul. 74-30, 1974-1 C.B. 137. Rather, its activities consist of publishing a bi-annual newsletter that provides information regarding _____ at _____. The organization does not have any property or facility for its members to use. The EO’s meetings are held virtually via telephone & video conference. There are no opportunities for the members to commingle or conduct social activities.

Further, a social club is not exempt under Code section 501(c)(7) if it regularly derives a substantial part of its income from nonmember sources, such as investment income. See Rev. Rul. 66-149.

Organizations investment income comprised 0% of their gross income for 20XX, the year under examination. In addition, Organization’s investment income exceeded the 35% non-member limitation, as outlined in Public Law 94-568, on a recurring basis for multiple years, demonstrate that 20XX was not an outlier:

Form 990	20XX	20XX	20XX	20XX
Investment Income	\$0	\$0	\$0	\$0
Total Revenue	\$0	\$0	\$0	\$0
Percentage of investment Income	0%	0%	0%	0%

Accordingly, it is proposed that the organization’s tax-exempt status be revoked effective January 1, 20XX.

CONCLUSION

Alumni does not qualify for exemption under IRC § 501(c)(7) of the Code because it does not provide its members the opportunity for personal contact or activities that bind the members together by a common objective of pleasure, recreation, and other non-profitable purposes. Further, it is not operated exclusively for social and recreational purposes as indicated by the fact that its non-member income has exceeded the 35% investment income limitation on a continuing basis.

Therefore, it is proposed that your exempt status under § 501(c)(7) of the Code be revoked effective January 1, 20XX.

Should this revocation be upheld, Form 1120 must be filed starting with tax periods ending December 31, 20XX.

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (<i>last 4 digits</i>)	Year/Period ended 12/31/20XX

If you agree to this conclusion, please sign the attached Forms.

If you disagree please submit a statement of your position.