



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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Number: 202110046
Release Date: 3/12/2021
UIL: 501.07-00

Date:
September 23, 2020
Taxpayer ID Number:

Form:

For Tax Period(s) Ending:

Person to Contact:

Identification Number:

Telephone 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 period(s) above. Your determination letter dated September 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 made your recreational and social facilities available to the general public. 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 at the top of this letter.

Enclosures:
Publication 892

Sincerely,



Sean E. O'Reilly
Director, Exempt Organizations Examinations



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
7850 SW 6th Court/MS 7955
Plantation, FL 33324

Date:
June 30, 2020
Person to contact:

ID number:
Telephone:
Fax:
Taxpayer identification number:

Form:

Tax periods ended:

Contact address:

Manager's information:

ID number:
Telephone:
Response due date:

Certified Mail – Return Receipt Requested

Dear _____ :

Why you're receiving this letter

We've enclosed a copy of our audit report, Form 886-A, Explanation of Items, explaining the proposed adjustments to the tax you owe for the tax periods above.

If you agree

Sign and date the enclosed Form 4549-E, Income Tax Examination Changes, and return it to the person above by the response due date.

Provide proof that you've made any required corrections.

If you owe additional tax, enclose payment of the tax, interest and penalties. It's to your advantage to pay the full amount, as interest will continue to accrue until you pay the full balance due. Please make your check, money order, or cashier's check payable to the "United States Treasury."

If you can't pay the full amount, you can contact the person shown at the top of this letter to discuss different payment methods, such as an installment agreement. If you don't enclose payment, we'll bill you for the unpaid amounts. Publication 594, The IRS Collection Process, provides information about the collection process.

If you disagree

1. Request a meeting or telephone conference with the manager 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 the IRS Appeals office after the meeting or after we consider the information.

The 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 Appeals office enough time to consider your case. For your protest to be valid, it must contain certain 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 5, *Your Appeals Rights and How To Prepare a Protest If You Don't Agree* and Publication 3498, *The Examination Process*.

Fast Track Mediation (FTM) referred to in Publication 5092, *Fast Track Settlement: A Process Resolution of Tax Exempt and Government Entities (TE/GE) Tax Issues*, generally doesn't apply now that we've issued this letter.

4. Request technical advice from the Office of Associate Chief Counsel (TEGE) if you feel the issue hasn't been addressed in published precedent or we've treated you inconsistently.

If you're considering requesting technical advice, contact the person at the top of this letter. If you disagree with the technical advice decision, you'll be able to appeal to the Appeals office, as explained above. However, a technical advice decision on your exempt status is generally 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 Statutory Notice of Deficiency based on the adjustments shown in the audit report.

If you need further assistance

You may also 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 877-777-4778.

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

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

Sincerely,

Sean E. O'Reilly
Director, Exempt Organizations
Examinations

Enclosures:
Form 886-A
Exhibit 1 to Form 886-A
Form 4549-E
Schedules to Form 4549-E
Publication 5

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 (last 4 digits)	Year/Period ended 12/31/20XX

ISSUE

Should (hereafter 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 was organized under State Law on October 4, 19XX to provide its members with land for hunting, fishing, and outdoor activities. The EO was granted exemption from the Internal Revenue Service on September 1, 19XX.

On April 6th, 20XX the RA interviewed the Treasurer, , and discovered the EO has a total of 0 acres of primarily wooded lands located at , . On that land is a that consists of 0 military-style bunk beds, a kitchen, bathroom, dining room, and a sitting room and has running water, oil heat, and a commercial size propane range. The is used for the EO's hunting parties that include an annual deer hunt, father and son weekend, and work parties throughout the year. Members are responsible for providing their own food and drinks. The EO holds meetings with the members on the first Monday of every month at a local restaurant in , . The EO does not conduct any of its activities with non-members.

was selected for examination for tax year ending December 31, 20XX. During the examination, the RA discovered the EO received non-member income that included investment income, royalties, and rents.

The EO has two investment accounts with that reported investment income that included dividends, interest income, and gains on sale of securities. The Treasurer informed the RA, that the EO sold their securities in order to maintain a cash fund to expand their organization.

The EO received a 1099-Misc from that reported rent income to the EO. The Treasurer stated he is unsure why the income was reported as rental income. The EO only received rental income for the tax year ending December 31, 20XX.

The EO filed Form 990-T, Exempt Organization Business Income Tax Return, for tax years ending December 31, 20XX thru December 31, 20XX. The EO only reported their royalty income as UBI

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
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on the Form 990-T. The EO did not report their investment or rental income on the Form 990-T. The EO did not make set-aside elections on the Form 990-T for their investment income. Their total investment income below includes their royalty income. The EO has consecutively exceeded the 35% investment income limitation.

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

LAW

IRC § 501(c)(7) exempts from federal income tax clubs organized for pleasure, recreation, and other non-profitable purposes, substantially all 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.

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.

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 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.

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.

Rev. Rul. 66-149 support this position stating that 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.

The organization has investment income from royalties, dividends and other income from securities, and rent which totaled 0% of their gross income for the year under examination. For the 0-year period from 20XX through 20XX, the organization’s non-member investment income consistently exceeded 90% of its revenue, far exceeding the 35% non-member threshold as outlined in Public Law 94-568, on a recurring basis during tax years ending December 31, 20XX – December 31, 20XX.

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

CONCLUSION

no longer qualifies for exemption under IRC § 501(c)(7) of the Code as the non-member income has exceeded the 35% investment income threshold on a continuing basis, therefore the RA is proposing revocation of your tax-exempt status under IRC § 501(c)(7) of the Code effective January 1, 20XX.

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

If you agree to this conclusion, please sign the attached Form 6018.

If you disagree please submit a statement of your position.