



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

**TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION**

**Number: 202123009**  
**Release Date: 6/11/2021**

**UIL: 501.07-00**

**Date: September 22, 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 period(s) above. Your determination letter dated June 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 years ending December 31, 20XX and 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](http://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](http://www.taxpayeradvocate.irs.gov) or call 1-877-777- 4778.

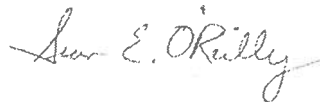
Taxpayer Advocate assistance can't be used as substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determination, nor extend the time fixed by law that you have to file a petition in Court. The Taxpayer 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](http://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

Date:  
03/16/2020  
Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:  
Name:  
ID number:  
Telephone:

Manager's contact information:  
Name:  
ID number:  
Telephone:  
Response due date:

**CERTIFIED MAIL – Return Receipt Requested**

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.

**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](http://www.taxpayeradvocate.irs.gov) or call 877-777-4778.

**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](http://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,

*Peter Jansen*

for Maria Hooke

Director, Exempt Organizations Examinations

Enclosures:

Form 886-A

Form 6018

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

**ISSUE:**

Whether the \_\_\_\_\_ (Organization) is tax-exempt under Internal Revenue Code (IRC) Section (Sec.) 501(c)(7), as a social club.

**FACTS:**

The Organization’s Articles of Incorporation state, the Organization was incorporated on March 16, 19XX, in the State of \_\_\_\_\_. The Organization submitted a Form 1025, *Exemption Application*, on June 10, 19XX, requesting exempt status under IRC Sec. 501(c)(7). The Organization was granted exemption as a social club exempt from Federal income tax under IRC Sec. 501(c)(7) pursuant to a determination in June 19XX.

The Organization’s Articles of Incorporation state its purposes are: “

.”

The Organization operates an indoor shooting range and an outdoor shooting range. The indoor shooting range is used primarily by the Organization’s “\_\_\_\_\_”. The \_\_\_\_\_ program is for youth from ages 0 to 0. The \_\_\_\_\_ provides training in firearm safety and handling procedures and coaching from basic to advanced shooting techniques. The outdoor range is used by members and made available for use to the public (non-members). The Organization hosts shooting matches at the outdoor range and both members and non-members participate in the matches.

The Organization’s general ledger, bank deposits, and receipts, show income received by the Organization includes membership dues & initiation fees, grants, donations, ammunition & target sales, entrance fees from nonmember use of the outdoor shooting range, and member and nonmember fees for participating in club shooting matches.

The Organization’s 20XX Form 990, *Return of Organization Exempt From Income Tax*, indicate the percent of gross receipts from nonmember use of the Organization’s facilities exceeded 15% beginning with tax year 20XX continuing through 20XX, while investment income was less than 0% for all years. See the table below for the investment income and non-member use income as reported on the Organization’s Form 990, for the tax years 20XX through 20XX:

Form <b>886-A</b> (May 2017)	Department of the Treasury – Internal Revenue Service <b>Explanations of Items</b>	Schedule number or exhibit
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## CHART DELETED

The phrase "open to the public" appears on the Organization's outdoor sign that faces the road in front of the shooting range. Additionally, the Organization's website states the range is a public shooting range. A review of shooting ranges in the area shows the price for nonmembers to use the Organization's outdoor shooting range is competitive with other local ranges.

### **LAW:**

Internal Revenue Code (IRC)

IRC Sec. 501(c)(7) provides exemption from income taxes for clubs organized for pleasure, recreation, and other non-profitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder.

Treasury Regulations (Treas. Reg.)

Treas. Reg. 1.501(c)(7)-1 relating to the requirements of exemption of such clubs under section 501(a), reads in part as follows:

- (a) The exemption provided by section 501(a) for organizations described in section 501(c)(7) applies only to clubs which are organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, but does not apply to any club if its net earnings inure to the benefit of any private shareholder. In general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues, and assessments. However, a club otherwise entitled to exemption will not be disqualified because it raises revenue from members through the use of club facilities or in connection with club activities.

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- (b) A club which engages in business, such as making its social and recreational facilities available to the general public or by selling real estate, timber or other products, is not organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes and is not exempt under section 501(a). Solicitation by advertisement or otherwise for public patronage of its facilities is prima facie evidence that the club is engaging in business and is not being operated exclusively for pleasure, recreation, or social purposes. However, an incidental sale of property will not deprive a club of its exemption.

### Legislative History

Public Law 94-568 amended the “exclusive” provision to read “substantially” in order to allow an IRC Sec. 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.
- (d) If an organization has outside income in excess of the 35-percent limit (or 15-percent limit in the case of gross receipts derived from nonmember use of a club’s facilities), all the facts and circumstances are to be taken into account in determining whether the organization qualifies for exempt status.

### Court Cases

Pittsburgh Press Club v. USA, 536 F.2d 572, (1976), The Court of Appeals in this case has indicated some factors to consider in determining exempt status.

Factors to consider in applying this test include:

- The actual percentage of nonmember receipts and/or investment income.
- The frequency of nonmember use of club facilities. (An unusual or single event (that is, non-recurrent on a year to year basis) that generates all the nonmember income should be viewed more favorably than nonmember income arising from frequent use by nonmembers).

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- The number of years the percentage has been exceeded. (The record over a period of years is also relevant. The high percentage in one year, with the other years being within the permitted levels, should be viewed more favorably to the organization than a consistent pattern of exceeding the limits, even by relatively small amounts).
- The purposes for which the club's facilities were made available to nonmembers.
- Whether the nonmember income generates net profits for the organization. Profits derived from nonmembers, unless set aside, subsidize the club's activities for members and result in inurement within the meaning of IRC Sec. 501(c)(7).

#### Revenue Rulings (Rev. Rul.)

Rev. Rul. 58-589, 1958-2 C.B. 266 - examines the criteria for determining whether an organization qualifies for exemption under IRC Sec. 501(a) as an organization described in IRC Sec. 501(c)(7) of the Code. These ruling states it is clear under the foregoing regulations that a club which engages in business, such as making its social and recreational facilities available to the general public or by selling real estate, etc., may not be considered as being organized and operated exclusively for pleasure, recreation or social purposes. It is equally clear that the solicitation by advertisements or otherwise of public patronage of its facilities may be adverse to the establishment of an exempt status.

Rev. Rul. 60-324, 1960-2 C.B. 173 - states by making its social facilities available to the general public the club cannot be treated as being operated exclusively for pleasure, recreation or other non-profitable purposes.

Rev. Rul. 66-149, 1966-1 C.B. 146 - holds a social club as not exempt as an organization described in IRC Sec. 501(c)(7) where it derives a substantial part of its income from non-member sources.

#### **TAXPAYER'S POSITION:**

The Organization has agreed to the proposed revocation of their tax-exempt status as described in IRC Sec. 501(c)(7).

#### **GOVERNMENT'S POSITION:**

It is the Government's position; the Organization does not qualify for exemption under IRC Sec. 501(c)(7) as a social club.

Public Law 94-568 amended the "exclusive" provision to read "substantially" in order to allow an IRC Sec. 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. Senate Report No. 94-1318 2d Session, 1976-2 C.B. 597 further states: 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.



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Here, the Organization was granted exempt status under IRC Sec. 501(c)(7) and operates an indoor and a separate outdoor shooting range. The Organization has dues paying members. However, the Organization allows non-members to use the Organization's outdoor shooting range. The Organization has a sign at the outdoor shooting range entrance, facing the road, that states the range is "open to the public". The Organization's website states that the outdoor shooting range is a public range.

Due to extensive non-member use of the facilities, a review of non-member income was conducted. The review shows non-member income annually exceeds 15% of the total revenue received by the Organization.

Form 990 reported income in the 20XX tax year as follows:

Total Reportable Income	\$ 0
Non-Member Income	\$ 0
% of Income from Non-Members	0.0%

Upon examination of the Organization's books and records it was determined that the Organization had underreported non-member income from the use of the club's facilities by not reporting the income from non-member participation in club shooting matches as non-member income on the Form 990.

The Organization did not track the shooting match income received from members and non-members separately. After a review of the Organization's match sign-in sheets it was determined that most of the shooting match participants were members except for the ( ) shooting matches. The Organization provided a spreadsheet of payments received from the online registration system for the matches that the Organization began using in March 20XX. , the Organization's treasurer, agreed to use the member/non-member participation percentage calculated from the spreadsheet to determine the amount of match income that was non-member income. Analysis of the spreadsheet showed the member/non-member participants by percentage as 0.0% non-members and 0.0% members.

As a result of including 0.0% of the shooting match income, the 20XX Form 990 revenues should be reflected as follows:

Form 990 income (after correction) in the 20XX tax year as follows:

Total Reportable Income	\$ 0
Non-Member Income	\$ 0
% of Income from Non-Members	0.0%

The Form 990, for the tax period ended December 31, 20XX, was opened for examination as a result of the findings in the Form 990, for the tax period ended December 31 , examination. Analysis of the return showed the Organization received non-member income in excess of 15% of the total revenue received by the Organization.

Form 990 reported income in the 20XX tax year as follows:

Total Reportable Income	\$ 0
Non-Member Income	\$ 0
% of Income from Non-Members	0.0%

Form <b>886-A</b> (May 2017)	Department of the Treasury – Internal Revenue Service <b>Explanations of Items</b>	Schedule number or exhibit
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In 20XX, the Organization continued to not track the shooting match income received from members and non-members separately and it was determined that the Organization had underreported non-member income from the use of the club's facilities by not reporting the income from non-member participation in club shooting matches as non-member income on the Form 990, for the tax period ended December 31, 20XX. The member/non-member participation percentage that was agreed upon by the Organization was used to allocate non-member income from non-member match participation. Thus, the Form 990, for the tax period ended December 31, 20XX, should be as follows:

Form 990 income (after correction) for the 20XX tax year as follows:	
Total Reportable Income	\$ 0
Non-Member Income	\$ 0
% of Income from Non-Members	0.0%

Therefore, it has been determined that the Organization received more than 15 percent of gross receipts from non-member use of the Organization's facilities during 20XX (0.0%) and 20XX (0.0%), which places the Organization's exemption at risk for revocation. The facts and circumstances must be considered to determine whether the Organization continues to qualify for exemption.

#### Facts and Circumstances

The Committee Reports for Public Law 94-568 (Senate Report No. 94-1318 2d Session, 1976-2 C.B. 597) states that if an organization has outside income in excess of the 35-percent limit (or 15-percent limit in the case of the gross receipts derived from nonmember use of a club's facilities), all facts and circumstances are to be taken into account in determining whether the organization qualifies for exempt status. In *Pittsburg Press Club v. United States*, the court considered five factors in its facts and circumstance analysis.

The five factors established in *Pittsburgh Press Club V. United States* are applied below:

- The actual percentage of non-member receipts and/or investment income
  - 2017 – 46.5%, 2018 – 40.9%. Here, the percentages are considerably higher than the 15% allowed in the Code.
- The frequency of non-member use of the club facilities. (An unusual or single event (that is, non-recurrent on a year to year basis) that generates all the nonmember income should be viewed more favorably than non-member income arising from frequent use by nonmembers).
  - Here, the Organization permits almost unrestricted use of its outdoor shooting range. The range is open and available for public use on most days of the year. The non-member income is not generated from a single or non-recurrent event but from frequent use by non-members of the Organization's facilities.

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- The number of years the percentage has been exceeded. (The record over a period of years is also relevant. The higher percentage in one year, with the others being within the permitted levels, should be viewed more favorably to the organization than a consistent pattern of exceeding the limits, even by relatively small amounts).
  - Here, the Organization has exceeded the 15% gross receipts standard for non-member income on a continuous basis for the last 0 years as reported on the Organization's Form 990, in the chart below:

## CHART DELETED

As it was determined above, the 20XX and 20XX gross non-member receipts were underreported. Based on the determination for 20XX and 20XX, the actual non-member income percentages are higher than shown in the table above.

- The purposes for which the club's facilities were made available to nonmembers.
  - The purpose for which the club's facilities were made available to nonmembers was for the general public to use the outdoor shooting range for a price competitive with local shooting ranges, like any other for-profit enterprise.
- Whether the nonmember income generates net profits for the organization. Profits derived from non-members, unless set aside, subsidize the club's activities for members and result in inurement within the meaning of IRC Sec. 501(c)(7).
  - Here, it was determined, upon examination, that the costs directly attributable to non-member use of the outdoor range are minimal. Even after establishing a reasonable allocation method to allocate the Organization's expenses to non-member income the Organization still showed a profit from non-member use. The profits derived from non-member income inure to the Organization's members to pay for things that would otherwise be paid for by the Organization's members such as club expenses or capital improvements.

The facts and circumstances test completed above, in accordance with the court case *Pittsburg Press Club v. United States*, show that the Organization is operating in a manner consistent with a for-profit business. The Organization advertises and makes its outdoor range available for public use. Year after year, the Organization receives more than an insubstantial part of its gross receipts allowed by the Internal Revenue Code from outside its membership and the profits inure to the Organization's members.

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Therefore, it is the Government's position that the Organization is no longer operated exclusively for the pleasure and recreation of its members and is not exempt under IRC Sec. 501(c)(7).

**CONCLUSION:**

It has been determined the Organization does not meet the requirements for recognition of tax exemption under IRC Sec. 501(c)(7). The non-member income far exceeds the limitations established in Public Law 94-568. The Organization's continuous dependence on non-member income to fund the Organization constitutes private inurement to its members which precludes tax exemption under IRC Sec. 501(c)(7). The Organization is no longer operated exclusively for pleasure, recreation, and other non-profitable purposes.

, no longer meets the requirements to qualify as exempt from federal income tax under IRC Sec. 501(a) as described in IRC Sec. 501(c)(7). Therefore, its exempt status under 501(c)(7) of the Internal Revenue Code will be revoked effective January 1, 20XX.

As a taxable entity, the organization is required to file Form 1120, U.S. Corporation Income Tax Return for the periods open under statute. Under 6501(g) these periods include the years ending December 31, 20XX, and subsequent tax years.

Additionally, the organization is reminded of the provisions of IRC 277 concerning membership organizations which are not exempt organizations.