



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

**Date:**  
January 13, 2023  
**Taxpayer ID number (last 4 digits):**

**Form:**

**Tax periods ended:**

Release Number: 202317023  
Release Date: 4/28/2023  
UIL Code: 501.07-00

**Person to contact:**  
**Name:**  
**ID number:**  
**Telephone:**  
**Fax:**  
**Last day to file petition with United States Tax Court:**  
April 13, 2023

**CERTIFIED MAIL - Return Receipt Requested**

Dear \_\_\_\_\_ :

**Why we are sending you this letter**

This is a final determination that you don't 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 \_\_\_\_\_, is revoked.

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

An organization described in IRC Section 501(c)(7) may not receive more than 35% of its gross receipts, including investment income, from sources outside of its membership in order to maintain its tax-exempt status. 35% is the overall limit and included in the 35%, not more than 15% of the gross receipts can be derived from the use of a social club's facilities or services by non members. You have made your social and recreational facilities available to the general public, and your nonmember income has exceeded the 15% and 35% threshold as outlined in Public Law 94-568 for tax years ending \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_.

\_\_\_\_\_ . You also have not established that you are organized and operated exclusively for an exempt purpose within the meaning of IRC Section 501(c)(7). As a result, you are not operating substantially for pleasure, recreation, or other non-profitable purposes.

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 **IRS.gov**.

**What you must do if you disagree with this determination**

If you want to contest our final determination, you have 90 days from the date this determination letter was mailed to you to file a petition or complaint in one of the three federal courts listed below.

**How to file your action for declaratory judgment**

If you decide to contest this determination, you can file an action for declaratory judgment under the provisions of Section 7428 of the Code in either:

- The United States Tax Court,
- The United States Court of Federal Claims, or
- The United States District Court for the District of Columbia

You must file a petition or complaint in one of these three courts within 90 days from the date we mailed this determination letter to you. You can download a fillable petition or complaint form and get information about filing at each respective court's website listed below or by contacting the Office of the Clerk of the Court at one of the addresses below. Be sure to include a copy of this letter and any attachments and the applicable filing fee with the petition or complaint.

You can eFile your completed U.S. Tax Court petition by following the instructions and user guides available on the Tax Court website at [ustaxcourt.gov/dawson.html](http://ustaxcourt.gov/dawson.html). You will need to register for a DAWSON account to do so. You may also file your petition at the address below:

**United States Tax Court**  
400 Second Street, NW  
Washington, DC 20217  
[ustaxcourt.gov](http://ustaxcourt.gov)

The websites of the U.S. Court of Federal Claims and the U.S. District Court for the District of Columbia contain instructions about how to file your completed complaint electronically. You may also file your complaint at one of the addresses below:

**US Court of Federal Claims**  
717 Madison Place, NW  
Washington, DC 20439  
[uscfc.uscourts.gov](http://uscfc.uscourts.gov)

**US District Court for the District of Columbia**  
333 Constitution Avenue, NW  
Washington, DC 20001  
[dcd.uscourts.gov](http://dcd.uscourts.gov)

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.

#### **Information about the IRS Taxpayer Advocate Service**

The IRS office whose phone number appears at the top of the notice can best address and access your tax information and help get you answers. However, you may be eligible for free help from the Taxpayer Advocate Service (TAS) if you can't resolve your tax problem with the IRS, or you believe an IRS procedure just isn't working as it should. TAS is an independent organization within the IRS that helps taxpayers and protects taxpayer rights. Contact your local Taxpayer Advocate Office at:

Internal Revenue Service  
Taxpayer Advocate Office

Or call TAS at 877-777-4778. For more information about TAS and your rights under the Taxpayer Bill of Rights, go to [taxpayeradvocate.irs.gov](http://taxpayeradvocate.irs.gov). Do not send your federal court pleading to the TAS address listed above. Use the applicable federal court address provided earlier in the letter. Contacting TAS does not extend the time to file an action for declaratory judgment.

#### **Where you can find more information**

Enclosed are Publication 1, Your Rights as a Taxpayer, and Publication 594, The IRS Collection Process, for more comprehensive information.

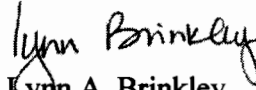
Find tax forms or publications by visiting IRS.gov/forms or calling 800-TAX-FORM (800-829-3676). If you have questions, you can call the person shown at the top of this letter.

If you prefer to write, use the address shown at the top of this letter. Include your telephone number, the best time to call, and a copy of this letter.

You may fax your documents to the fax number shown above, using either a fax machine or online fax service. Protect yourself when sending digital data by understanding the fax service's privacy and security policies.

Keep the original letter for your records.

Sincerely,



Lynn A. Brinkley

Acting Director, Exempt Organizations Examinations

Enclosures:

Publication 1

Publication 594

Publication 892



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

Date:  
06/27/2022  
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:  
July 27, 2022

**CERTIFIED MAIL – Return Receipt Requested**

Dear

**Why you're receiving this letter**

**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,

  
Lynn A. Brinkley

Acting Director, Exempt Organizations Examinations

**Enclosures:**

Form 886-A

Form 6018

Publication 892

Publication 3498

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATIONS OF ITEMS</b>	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended

**ISSUES**

- Whether \_\_\_\_\_ qualifies for exemption under Internal Revenue Code (IRC) 501(c)(7) for the tax years ending \_\_\_\_\_ and \_\_\_\_\_ ?

**FACTS**

- \_\_\_\_\_ ( \_\_\_\_\_ ) was incorporated in \_\_\_\_\_ and located in \_\_\_\_\_. It is exempt under IRC Code §501(c)(7). It received its exempt status in \_\_\_\_\_. The Organization was established to provide and maintain swimming facilities for its members.
- The Organization operated a swimming pool for its members. There were no other activities by this social club.
- The pool has been closed since summer of \_\_\_\_\_ due to less members and less participation.
- The Organization reported a total of \$ \_\_\_\_\_ in program service revenue.
- The Organization provided a handwritten schedule showing amounts from members totaling \$ \_\_\_\_\_. The Organization had no other source documentation to verify amounts received from members.
- The Organization provided copies of bank statements from \_\_\_\_\_ showing that they earned \$ \_\_\_\_\_ in interest income. Based on the bank statements and lease agreement with \_\_\_\_\_, the Organization had \$ \_\_\_\_\_ in rental income per month, totaling \$ \_\_\_\_\_ for the year from the adjacent parking lot. The parking lot was rented for the whole year ended \_\_\_\_\_.
- \_\_\_\_\_ % of the revenue comes from renting the property as a parking lot to non-members in the year ended \_\_\_\_\_.
- The Organization is trying to sell the property and wants to self-terminate as a 501 (c) (7) organization.
- The pool has been closed but the rentals continue, and it has been rented all year in the fiscal years ended \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_. The Organization wants to be solvent and pays the expenses from income earned by renting the adjacent parking lot to a local \_\_\_\_\_ dealer.
- The Organization rented \_\_\_\_\_ % of its area as a parking lot. Gross revenue from the parking area was \$ \_\_\_\_\_ in the year ended \_\_\_\_\_. The Organization did not file the required Forms \_\_\_\_\_ for unrelated business income for the years ended \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_.
- The income and expenses shown below are verified amounts from the examination of the Form \_\_\_\_\_ for the year ended \_\_\_\_\_. The income and expenses for the years ended \_\_\_\_\_ and \_\_\_\_\_ were taken directly from the Forms \_\_\_\_\_ filed for those periods.

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATIONS OF ITEMS</b>		Schedule number or exhibit
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**Law**

Section 501(c)(7), in part, provides for the exemption from federal income tax of clubs organized for pleasure, recreation, and other non-profitable purposes, substantially all 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.

Section 511(a), in part, provides for the imposition of tax on the unrelated business taxable income (as defined in § 512) of social clubs described in § 501(c)(7).

Section 512(a)(1) of the Code defines the term 'unrelated business taxable income' as the gross income derived by any organization from an unrelated trade or business regularly carried on by it.

Public Law 94-568 provides that social clubs are permitted to receive up to 35% of their gross receipts from sources outside of their membership, including investment income, without losing their tax-exempt status. Within that 35%, not more than 15% of gross receipts should be derived from the use of a social club's facilities or services by the general public.

Treasury Regulation Section 1.501(c)(7)-1(b) states 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, timber, or other products, is not organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, and is not exempt under Section 501(a) of the Code.

Rev. Rul. 58-589, 1958-2 C.B. 266, states that a business activity will defeat exemption, unless it is incidental, trivial or nonrecurrent. The Service has interpreted incidental, trivial or nonrecurrent to mean insubstantial for this purpose.

Rev. Rul. 60-324, 1960-2 C.B. 173, held that a social club which has been granted exemption from Federal income tax under Section 501(c)(7) of the Code of 1954 may lose its exemption if it makes its club facilities available to the general public on a regular, recurring, basis since it may then no longer be considered to be organized and operated exclusively for its exempt purpose.

In Polish American Club, Inc. v. Commissioner, T.C. Memo 1974-207 (1974), the court decided that the club is not qualified for exemption under §501(c)(7) of the Code because its non-member income was substantial, recurring and that it was not operated exclusively for pleasure, recreation, and other non-profit purposes.

Rev. Proc. 71-17, 1971-1 C.B. 683, requires that organizations described under IRC §501(c)(7) keep adequate documentation to support all income received from members or non-members. Failure to retain such adequate documentation to differentiate member and non-member income will cause the Service to use the audit assumption that all income derived from such an activity is received from non-members and, therefore, is taxable under IRC §511.

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATIONS OF ITEMS</b>	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended

**Taxpayer's position**

The [redacted] had only the swimming pool for its members. The [redacted] had to discontinue its operations because of less participation of its members and less revenues from membership dues. The pool closed but expenses continued for the [redacted] property. The [redacted] decided to sell the property and wants to self-terminate as an IRC 501(c)(7) organization. The Organization wants to be solvent to maintain the expenses by renting adjacent parking lot until they can sell the property.

**Government's position**

According to Section 1.501(c)(7) of the Regulations 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). [redacted] receives nontraditional income from renting the adjacent parking lot. Renting a parking lot does not further pleasure, recreation, and other nonprofitable purpose as described in IRC 501(c)(7). The [redacted] receives a substantial portion of income from renting the property.

The [redacted] has failed to respond to the Service's requests for information in contrast to section 1.6033-2(h)(2) of the Regulations, which requires an organization to provide such information as requested to allow the Service to make a determination of that [redacted] exempt status.

Revenue Procedure 71-17 requires the maintenance of separate records for member and non-member usages of the club facility. Failure to do so means all income can be treated as from non-members and, therefore, is taxable under IRC §511.

The exempt status of [redacted] should be revoked. [redacted] filing requirement should be Form 1120, U.S. Corporation Income Tax Return, for the future years. All its income is taxable due to the following reasons:

- The rental income is more than [redacted] % of total gross receipts derived from non-members or the general public.
- The [redacted] failed to provide the documentation showing revenues from exempt income sources (membership dues).
- The [redacted] failed to keep member records separate from non-member usage of the [redacted] facilities.



Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATIONS OF ITEMS</b>	Schedule number or exhibit
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Unrelated Business Income Tax for the tax years ending \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ are calculated as follows:

Tax calculation for the year ended		
	\$ Amount	
<b>Revenues</b>		\$
<b>Expense types</b>		
Accounting	\$	
Other	\$	
Office Expenses	\$	
Interest	\$	
Depreciation	\$	
Insurance	\$	
Real Estate Taxes	\$	
Utilities	\$	
State Corp Taxes	\$	
Repairs & Maintenance	\$	
All Other	\$	
<b>Total Expenses</b>	\$	
<b>Net Taxable Income</b>		\$
<b>Total Tax Due</b>		\$
<i>Note: Revenues based on bank statements</i>		
<i>Note: Applied tax rate schedule for corporations</i>		
Tax calculation for the year ended		
<b>Revenues</b>		\$
<b>Expense types</b>		
Accounting	\$	
Office Expenses	\$	
Interest	\$	
Depreciation	\$	
Insurance	\$	
Real Estate Taxes	\$	
Utilities	\$	
Rent	\$	
State Corporate Taxes	\$	
All Other Expenses	\$	
<b>Total Expenses</b>	\$	
<b>Net Taxable Income</b>		\$
<b>Total Tax Due</b>		\$
<i>Note: Applied % corporation rate</i>		
Tax calculation for the year ended		
<b>Revenues</b>		\$
<b>Expense types</b>		
Legal	\$	
Accounting	\$	
Depreciation	\$	
Insurance	\$	
Real Estate Taxes	\$	
Utilities	\$	
Telephone	\$	
Appraisal Services	\$	
All Other	\$	
<b>Total</b>	\$	
<b>Net Taxable Income</b>		\$
<b>Total Tax Due</b>		\$
<i>Note: Applied % corporation rate</i>		

**EXPLANATIONS OF ITEMS**

Schedule number or exhibit

Name of taxpayer

Tax Identification Number

Year/Period ended

**Rental Income for the Year Ended**

Deposit of rental income	\$
Deposit of rental income	\$
Deposit of rental income	\$
Deposit of rental income	\$
Deposit of rental income	\$
Deposit of rental income	\$
Deposit of rental income	\$
Deposit of rental income	\$
Deposit of rental income	\$
Deposit of rental income	\$
Deposit of rental income	\$
Deposit of rental income	\$
Deposit of rental income	\$
Deposit of rental income	\$
<b>Total Rental Income</b>	<b>\$</b>

Total revenues for the year ended	\$1
Law permits upto % of non-member usage	\$
The club exceeded the allowable amount by	\$

**Rental Income for the Year Ended**

Rental Income of	\$
Rental Income of	\$
Rental Income of	\$
Rental Income of	\$
Rental Income of	\$
Rental Income of	\$
Rental Income of	\$
Rental Income of	\$
Rental Income of	\$
Rental Income of	\$
Rental Income of	\$
Rental Income of	\$
<b>Total Rental Income</b>	<b>\$</b>

Total revenues for the year ended	\$
Law permits upto % of non-member usage	\$
The club exceeded the allowable amount by	\$

**Rental Income for the Year Ended**

Rental Income of	\$
Rental Income of	\$
Rental Income of	\$
Rental Income of	\$
Rental Income of	\$
Rental Income of	\$
Rental Income of	\$
Rental Income of	\$
Rental Income of	\$
Rental Income of	\$
Rental Income of	\$
Rental Income of	\$
Rental Income of	\$
<b>Total Rental Income</b>	<b>\$</b>

*Rent increased to \$ from	
Total revenues for the year ended	\$
Law permits upto % of non-member usage	\$
The club exceeded the allowable amount by	\$

**EXPLANATIONS OF ITEMS**

Schedule number or exhibit

Name of taxpayer

Tax identification Number

Year/Period ended

				Unrelated Business Income			
Total Revenues	Non-member usage allowed by law	%	Amount exceeding the allowable amount				
§	§		§				
				Total Revenues	Non-member usage allowed by law	%	Amount exceeding the allowable amount
Total Revenues	Non-member usage allowed by law	%	Amount exceeding the allowable amount				
§	§		§				
				Total Revenues	Non-member usage allowed by law	%	Amount exceeding the allowable amount
Total Revenues	Non-member usage allowed by law	%	Amount exceeding the allowable amount				
§	§		§				
				Total Revenues	Non-member usage allowed by law	%	Amount exceeding the allowable amount

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATIONS OF ITEMS</b>	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended

**Conclusion**

The rental income of the adjacent parking area is not infrequent. substantial rental activity exceeds the amounts allowed by law of a qualifying IRC 501(c)(7) organization. The [redacted] is inactive and is not engaging in social activities with its members. The [redacted] is not operated exclusively for pleasure, recreation and other non-profitable purposes, and is not exempt under section 501(a). [redacted] no longer qualifies for exemption under IRC 501(c)(7), effective [redacted]. The [redacted] is responsible for income tax for the years ended [redacted], [redacted] and [redacted]. [redacted] should file Form 1120, U.S. Corporation Income Tax Return, for the affected years.