



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

Number: **202248015**
Release Date: 12/2/2022

Date:
April 28, 2022
Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:
Name:
ID number:
Telephone:
Fax:

UIL: 501.07-00

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: You have not established that you are organized and operated exclusively for an exempt purpose within the meaning of IRC Section 501(c)(7). Your non-member income has exceeded the 15% and 35% threshold as outlined in Public Law 94-568 for tax years ending _____ and _____. Additionally, your club is open to the general public, lacks commingling of members, and provides for death benefits to members. 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 www.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 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.

Please contact the clerk of the appropriate court for rules and the appropriate forms for filing an action for declaratory judgment by referring to the enclosed Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status. You may write to the courts at the following addresses:

United States Tax Court	U.S. Court of Federal Claims	U.S. District Court for the District of Columbia
400 Second Street, NW	717 Madison Place, NW	333 Constitution Ave., N.W.
Washington, DC 20217	Washington, DC 20439	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.

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:

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. 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 www.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.

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
Exempt Organizations Examinations**

Date:
June 11, 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:

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.

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,

Sean E. O'Reilly
Director, Exempt Organizations
Examinations

Enclosures:
Form 886-A
Form 6018
Form 4621-A
Publication 892
Publication 3498

Form 886-A	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

ISSUE

Whether the _____ continues to qualify for exemption under IRC § 501(c)(7)?

FACTS

_____ was granted exemption on _____ as a social club organization described under Section 501(c)(7) of the Internal Revenue Code.

Per a review of the organization's articles of incorporation, the purpose of _____ is to unite _____ and for mutual benefit. To foster and cultivate the social, educational and business relations of the members. To encourage among the members closer personal acquaintance and a _____. To gather, receive and disseminate such information as may seem helpful to the members; to interchange ideas in rendering mutual assistance. To forward and promote the general welfare and prosperity of the members and to improve their status and condition. To encourage the promotion and establishment and to improve, maintain and conduct said _____ and recreational facilities and reading rooms for the members and their friends. To purchase, lease, hold, sell, develop, mortgage, convey or otherwise acquire or dispose of real and personal property necessary or proper for the carrying out of the purposes of this corporation. To invest and reinvest surplus funds in such securities or properties as the Board of Directors may from time to time determine. To circulate publications of any kind and description. To assist in any other matters pertaining to the welfare and advancement of the members and for the attainment of the highest order in the _____.

_____ operates a facility open to members and the general public. The income is derived from donations, _____, fundraisers, _____, _____, pool table, kitchen food sales, advertising income and member dues. The _____ consists of _____ different games; _____, _____ and _____ machines. All the activities conducted by the organization are made available to the members and the general public. Members pay a \$ _____ annual membership fee, which offers the members a discount at the bar, non-members pay regular price at the bar per information received during the initial interview. In addition, _____ had a sign in _____ posted on _____ double door entrance alerting that non-members pay a different price than the prices offered to members. _____ is also available upon request for events hosted by members or non-members.

_____ operates a _____, both which are open to members and the general public. _____ currently has a license issued by the state of _____ liquor authority to sell _____ at the facility. The type of _____ held by _____ is _____ – _____. An _____ is a standard full _____ license; it does not contain restrictions regarding the sale of alcoholic beverages for consumption on the premises. The holding of an _____ differs from a _____, since a _____ contains restrictions on the sale of _____. Under a _____ a _____ can sell _____ members only. The _____ does not hold a license with such restrictions.

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holds fundraisers to raise money for their . The fundraisers are open to the general public and the club allows the participation and contribution of the general public during the fundraising events. The is offered for purposes only and they are offered to based on need and merit. has a manner of selection in place to avoid private benefit. The specific criteria used to select recipients are; financial need, grades and the amount of expense. Any board member can be part of the selection committee since the identity information of the applicant is not exposed when the applications are submitted to the selection committee for review. The amount of the grant is dependent on the amount of household income and the amount, if the is a member, an additional \$ are granted. The are paid to the recipient and not directly to the school. does not keep track of the payments nor does it have any type of documentation requirements to ensure that the grant money is paid to the for the intended purposes.

The income derived from the sales or receipts from non-members is unknown because does not keep separate records for member and non-member income. The only income that is traced by the as member income is the annual income received from membership dues. Per multiple statements made on and by the president appointed during the years under examination and a statement made by the current president on , without the participation and contribution of non-members would not be able to survive. The former president also stated that most of the income is derived from non-members, since members do not contribute much nor have significant participation in the activities conducted by . A precise amount of non-member income is unknown for the years ending in and since the club was unable to retrieve cash register reports from the bar sales. was also unable to provide non-member income records for kitchen sales, fundraisers, , juke box and the pool table. The organization does not hold events that are particularly organized for its members.

provides financial assistance to their members and non-members when they are in need and provides death benefits to its members and their beneficiaries. The assistance provided can be for different types of needs, like assistance paying for rent for a -time emergency, to pay for electricity, gas and groceries. The organization also allows members to use the facility -free of charge- to conduct fundraisers for deceased beneficiaries and/or provides financial assistance for deceased members or their beneficiaries.

LAW:

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. Section 1.501(c)(7) -1(a) of the Regulations provides that, in general, the exemption extends to social and recreation clubs supported solely by membership fees, dues and assessments.

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

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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.

Rev. Rul. 58-589, 1958-2 C.B. 266 tests the criteria for determining if an organization qualifies for exemption under IRC section 501(a) as an organization described under § 501(c)(7) of the Code. This ruling clearly specifies that exemption provided for organizations described in § 501(c)(7) applies only to clubs which are organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, but does not apply to any club if any part of its net earnings inures to the benefit of any private shareholder. The exemption extends to social and recreational clubs which are supported solely by membership fees, dues, and assessments. A club which engages in business, such as making its social and recreational facilities available to the general public or by selling real estate 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). 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.

Revenue Ruling 63-190 articulates that the payment of sick and death benefits is not a function of a social club. An organization that maintains a social club as described in section 501 (c) (7) and, in addition, pays sick and death benefits to its members does not qualify for exemption from Federal income tax as an organization described in section 501 (c)(4), (7), or (8) of the Code.

Revenue Ruling 55-716 provides evidence in reference to the definition of commingling, which specifies that Section 501(c) of the code describes certain organizations exempt from Federal income tax under section 501(a) and reads, in part, as follows:

(7) Clubs organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder.

The term 'club' as used in the above section of law contemplates the commingling of members, one with the other, in fellowship. Personal contacts and fellowship must also play a material part in the life of an organization for it to come within the meaning of the term 'club'.

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Revenue Procedure 71-17 describes the record keeping required when non-members use of a facilities and the circumstances in which a host-guest relationship will be assumed. The guidelines set forth under Revenue Procedure 71-17 sets forth that the club must maintain books and records for each use and the amount derived therefrom. This requirement applies even though the member pays initially for such use. For each occurrence the record must contain the following information:

1. The date;
2. The total number in the party;
3. The number of nonmembers in the party;
4. The total charges;
5. The charges attributable to nonmembers;
6. The charges paid by nonmembers;
7. Where a member pays all or part of the charges attributable to nonmembers, a statement signed by the member indicating whether has been or will be reimbursed for such nonmember use and, if so, the amount of the reimbursement:
8. Where the member's employer reimburses the member or makes direct payment to for the charges attributable to nonmembers, a statement signed by the member indicating the name of employer; the amount of the payment attributable to the nonmember use; the nonmember's name and business or other relationship to the member; and the business, personal, or social purpose of the member served by the nonmember use.
9. Where a nonmember, other than the employer of the member, makes payment to or reimburses a member and a claim is made that the amount was paid gratuitously for the benefit of a member, a statement signed by the member indicating the donor's name and relationship to the member, and containing information to substantiate the gratuitous nature of the payments or reimbursement.

Exceptions to these record keeping requirements are:

1. Where a group of or fewer individuals, at least one of whom is a member, uses club facilities, it will be assumed for audit purposes that the nonmembers are the guests of the member, provided payment for such use is received by the club directly from the member or the member's employer.
2. Where percent or more of a group using club facilities are members, it will likewise be assumed for audit purposes that the nonmembers in the group are guests of members, provided payment for such use is received by the club directly from one or more of the members or the member's employer.
3. Solely for purposes of and , above, payment by a member's employer will be assumed to be for a use that serves a direct business objective of the employee-member.

Where a club makes its facilities available to the general public to a substantial degree, the club is not operated exclusively for pleasure, recreation, or other non-profitable purposes.

Furthermore, defines the term "exempt function income" as the gross income from dues, fees, charges, or similar amounts paid by members of the organization as consideration for providing such members or their dependents or guests goods, facilities, or services in furtherance of the purposes

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constituting the basis for the exemption of the organization to which such income is paid. To substantiate that their income is from members, social clubs must keep adequate records.

Reg. 53.4945-4(c)(2) states that, with respect to any scholarship or fellowship grants, the organization must make arrangements to receive a report of the courses that were taken by the grantee (if any) and grades received by the grantee (if any) during each academic period. The report must be verified by the educational institution which the grantee attended, and it must be obtained at least once a year. In the case in which the grantees whose study at an educational institution does not involve the taking of courses but only the preparation of research papers or projects, such as the writing of a doctoral thesis, the foundation must receive a brief report on the progress of the paper or project at least once a year. Such a report must be approved by the faculty member supervising the grantee or by another appropriate university official. Upon completion of a grantee's study at an educational institution, a final report must also be obtained.

Pittsburgh Press Club v. USA, 536 F.2d 572, (1976)

Should the gross receipts from nonmember and/or investment income exceed the permitted thresholds, IRC § 501(c)(7) proposes further consideration by allowing the application of a “facts and circumstances test”. While there are no specific criteria when looking at facts and circumstances, the Court of Appeals has indicated some factors to consider in determining exempt status.

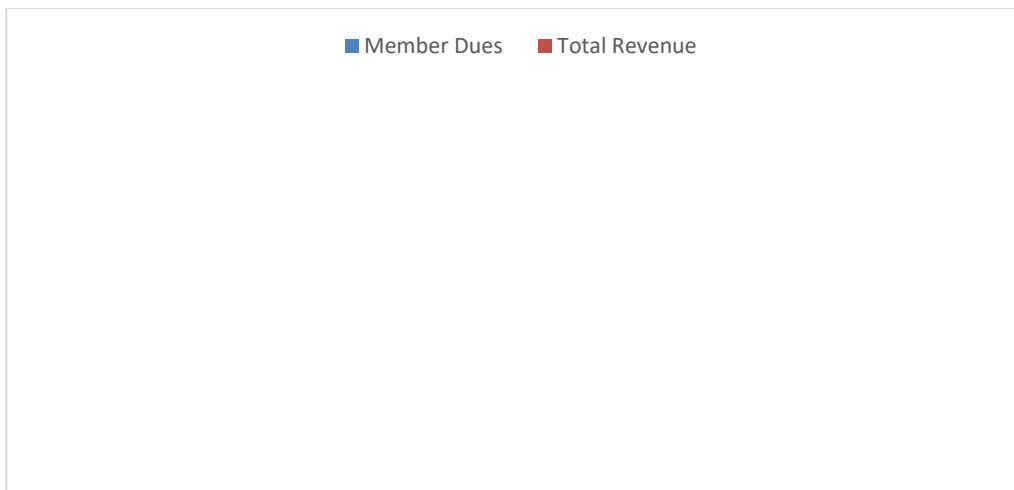
Factors to consider in applying the “facts and circumstances test”:

- Actual percentage of non-member gross receipts or investment income (as the percentages increase above the permitted levels, the facts and/or circumstances in the organization's favor must increase proportionately to avoid revocation)
- Frequency of use of club facilities or services by non-members and the net income from such use (an unusual or single event that generates all of the non-member income would be viewed more favorably than non-member income arising from frequent use by non-members)
- Purpose for which a club's facilities are made available to non-members
- Whether or not the non-member income generates net profits for the organization
- The number of years that the percentage exceeded the permitted thresholds

GOVERNMENT’S POSITION

The club is not solely supported by membership dues, fees, assessments and revenue from member use of _____ facility, as defined under Treasury Regs. §1.501(c)(7)-1(b). The total amount received from member dues for the year ending in _____ and _____ were only \$ _____ and \$ _____, respectively. As a result, the organization has a minute amount of income derived from member dues, as demonstrated with the data charted below.

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In addition, the organization is open to the general public. As an organization operating under IRC § 501(c)(7) which is open to the general public, it directly violates the requirements described under Treasury Regs. §1.501(c)(7)-1(b) and Rev. Rul. 58-589 applies, as it 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 or other products, is not organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, and is not exempt under section 501(a). The type of held by the organization confirms that they are open to the public as it does not restrict the sale of liquor to members only.

Furthermore, the organization failed to keep records of the non-member activity and use of the facility as required by Revenue Procedure - , which applies to any organization operating under IRC § 501(c)(7). Consequently, all income- besides member dues- will be categorized as non-member income and used in the calculation to determine member income and non-member income as shown on the table found below.

	Member Income	Non-member Income	Total Income	Non-member income percentage
	\$	\$	\$	%
	\$	\$	\$	%

The calculation of non-member income illustrates that the organization derived % of their income from non-member sources for the year ending in and % of income was derived from non-member sources for the year ending in . Hence, obtains a substantial amount of income from non-members, presumed to be non-exempt function income, since it does not meet the definition of exempt function income as described under Section 512(a)(3)(B). The has remarkably exceeded the % of gross receipts from sources outside its membership income

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threshold, as outlined in Public Law 94-568, on a continuing basis during the tax years ending in and .

Additionally, the organization grants scholarships to individuals. The are made payable directly to the recipient rather than submitting payments directly to the school. The organization does not track payments to ensure that the money granted as a is used for the purposes intended. The individual is not required to submit any documentation or records to the club in order to substantiate the use of the monies received. As a result, the organization does not comply with the requirements set forth under Reg. 53.4945-4(c)(2).

Moreover, does not hold any events or activities that require the direct participation and commingling of its members as required by IRC § 501(c)(7). The organization did not provide any evidence that would support that there is personal contact and fellowship playing a material part in the life of the organization for it to come within the meaning of the term 'club'. Failure to provide evidence that there is personal contact and fellowship playing a material part in the life of the club is in opposition of Revenue Ruling 55-716; therefore, the organization cannot be defined as a 'club' under IRC § 501(c)(7).

Lastly, death benefits are being provided to the members and their beneficiaries. The organization allows members to use the facility -free of charge- to conduct fundraisers for deceased beneficiaries and/or provides financial assistance for deceased members or their beneficiaries. As articulated in Revenue Ruling 63-190, the payment of sick and death benefits is not a function of a social club. Revenue Ruling 63-190 also asserts that a social club as described in section 501 (c) (7) that pays sick and death benefits to its members does not qualify for exemption from Federal income tax as an organization described in section 501 (c)(4), (7), or (8) of the Code.

TAXPAYER'S POSITION

Taxpayer's position has not been provided.

CONCLUSION

of no longer qualifies for exemption under § 501(c)(7) of the Code as the non-member income remarkably exceeded the % threshold of gross receipts from sources outside its membership on a recurring basis. Additionally, the club no longer qualifies for exemption under § 501(c)(7) of the Code considering that it is open to the public, lacks the commingling of members and provides death benefits to its members. Therefore, it is proposed that your exempt status under § 501(c)(7) of the Code be revoked effective .

Subject to the revocation being upheld, Form must be filed starting with the tax period ending in .