



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

Date:
February 15, 2022
Taxpayer ID number:

Form:

Tax periods ended:

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

Number: 202246012
Release Date: 11/18/2022

UIL: 501.07-00

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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 operated substantially for pleasure and recreation of your members or other nonprofitable purposes and no part of the earnings inures to the benefit of any private shareholder within the meaning of IRC Section 501(c)(7). You have exceeded the non-member income test for tax year ending

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
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.

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.

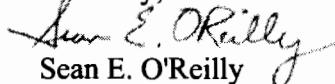
Find tax forms or publications by visiting www.irs.gov/forms or calling 800-TAX-FORM (800-829-3676).

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,



Sean E. O'Reilly

Director, Exempt Organizations Examinations

Enclosures:

Publication 1

Publication 594

Publication 892



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

Date:
06/23/2021
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:

- Tracking #

:

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
Publication 3498
Publication 892

Form 886-A	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

ISSUE

Whether the organization continues to qualify for exemption under Internal Revenue Code section 501(c)(7) when its facilities is open to the general public?

FACTS

The () was incorporated in in the state of and granted tax exempt status in under IRC § 501(c)(7) to provide social, recreational and other activities to its members. The and clubhouse are located at

The operates a and , that also include the , a for profit restaurant with a bar, and the , a for profit associated with organization President, . According to their website, , all facilities are open to the general public. The income received by the includes membership dues, , and league fees. The members' dues are paid yearly and include all , priority , % discount on all food at the , and \$ to participate in a . Non-member fees are listed as unrelated business income.

The was selected for examination of tax forms and for tax year ending . The name of the organization listed on both Forms and is:

The mission or most significant activities stated on the page 1, Part 1, *Summary*, line 1, *Briefly describe the organization's mission or most significant activities*, of the Form is: To provide and social activities for its members.

The website, states has been renamed as the as of and mentions that is accessible for members and non-member use. All other forms of directory or social media promotion still use the name. The secretary of State for shows that the is still in good standing and there are no filings for the . Member and non-member fees are posted on the website with different rates with members having priority reservations. Per website, they are open , for either by reservation only

Current pricing is listed as:

MEMBERS – \$ | \$
MEMBERS – Walking only () FREE

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NON-MEMBERS – \$ | \$
NON-MEMBERS – Walking only \$ | \$

The organization reported, as follows, the Total Revenue on its Form , Return of Organization Exempt from Income Tax, for the Tax periods ending –

The organization listed amounts as non-member income derived from nonmember and rentals that are included in unrelated trade or business income. The figures listed as unrelated trade/business income for the periods ending and have been reported on Form , Exempt Organization Business Income Tax Return, Part I: Unrelated Trade or Business Income; Line 13: Total.

The unrelated trade/business income for the period ending , are figures from Form Part VIII: Statement of Revenue: Column C: Unrelated Business Revenue, since the organization has failed to file Form for this tax period:

Form			
% Maximum amount of nonmember income	\$	\$	\$
% of gross receipts	\$	\$ 5	\$
Unrelated Trade/Business Income	\$	\$	\$
Total Revenue	\$	\$	\$
Percentage of non-member income	%	%	%

On , Letter 3611, IDR and Publication 1 was sent to the Organization address of record , requesting an appointment to examine the books and records and activities of the Organization and to examine Forms and for the tax year ended . There was no response from the Organization.

On , the agent again sent the Letter 3611, IDR and Publication 1 to the Organization, as well as, the President listed on Form , to his address on Accurant listed as , via . Again, received no response.

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On _____ the agent sent Letter 3611, IDR and Publication 1 to the Organization Treasurer listed on Form _____, to his address listed on Accurint 2 _____. There was no response from _____.

On _____, _____, and _____, the Revenue Agent attempted to contact the organization via phone number _____, and left messages for call back.

On _____ and _____, the Revenue Agent attempted to contact Organization President, _____, via phone number _____, and left messages for call back.

On _____ Revenue Agent attempted to contact Organization Treasurer _____, via phone number _____, and left message for call back.

Left several messages for call back and as of date, have not been contacted.

LAW

Internal Revenue Code (IRC) Section 501(c)(7) provides exemption from income taxes for clubs organized for pleasure, recreation, and other nonprofitable 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.

IRC Section 512(a)(3)(B) exempts social clubs only to the extent of their "exempt function income," which is defined as the gross income from dues, fees, charges, and other income generated by club members pursuant to the organizations' nonprofitable purposes. Income received from the general public or from investments is treated as unrelated business taxable income and is taxed at general corporate rates.

Treasury Regulation section 1.501(c)(7)-1(a) further provides that 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.

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 is not organized and operated exclusively for pleasure, recreation, and other 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.

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Revenue Procedure 71-17, 1971-1 C.B. 683 sets forth guidelines for determining the effect of gross receipts derived from public use of the club's facilities on exemption under section 501(c)(7) of the Code. It states that 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 nonprofitable purposes. It also describes the record-keeping requirements for social clubs with respect to nonmember use of the club's facilities. If records are not maintained in accordance with the Revenue Procedure, all receipts may be classified as nonmember income.

The term "general public," as used in that Revenue Procedure, means persons other than members of a club, their dependents, or guests. A guest of a nonprofit social club defined in Revenue Ruling 79-145, is an individual who is a guest of a member of the club and who ordinarily does not reimburse the member for the guest's expenses. On the other hand, amounts paid to a social club by visiting members of another social club are amounts paid by nonmembers, even though both clubs are of like nature and the amounts paid are for goods, facilities, or services provided by such social club under a reciprocal arrangement with such other social club. Accordingly, in this case, the members of the other social clubs that attend the calcutta are not guests of the members of the host club but are members of the general public within the meaning of Rev. Proc. 71-17.

Rev. Proc. 71-17 also provides that a significant factor reflecting the existence of a nonexempt purpose is the amount of gross receipts derived from use of club facilities by the general public. It provides that gross receipts in excess of \$2,500 and which make up more than 5% of total gross receipts will demonstrate a nonexempt purpose.

Public Law 94-568 passed in 1976 amended IRC 501(c)(7) to allow exemption for social clubs "substantially all of the activities of which" are for pleasure, recreation, and other nonprofitable purposes and allow organizations to receive up to 35% of their gross receipts, including investment income, from sources outside their membership without losing their exempt status. Within this 35%, not more than 15% of gross receipts should be nonmember income.

Rev. Rul. 58-589, 1958-2 C.B. 266 sets forth the criteria for exemption under section 501(c)(7) of the Code and provides that a club may lose its exemption if it makes its facilities available to the general public. A club will not be denied exemption merely because it receives income from the general public provided such participation is incidental to and in furtherance of its general club purposes. To retain exemption a club must not enter into outside activities with the purpose of deriving profit. If such income producing activities are other than incidental, trivial or nonrecurrent, it will be considered that they are designed to produce income and will defeat exemption.

Rev. Rul. 60-324, 1960-2 C.B. 173. provides that a 501(c)(7) organization may lose its exemption if it makes its club facilities available to the general public on a regular, recurring basis since it may

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no longer considered to be organized and operated exclusively for its exempt purpose. The organization described in that ruling derived 12 to 17 percent of its total income from the general public's use of its facilities was revoked as not being operated exclusively for pleasure, recreation or other nonprofitable purposes.

Rev. Rul. 69-219, 1969-1 C.B. 153. states that a social club that regularly holds its golf course open to the general public, charging established green fees that are used for maintenance and improvement of club facilities, is not exempt under section 501(c)(7) of the Code.

In United States vs. Fort Worth Club of Fort Worth, Texas. 345 F. 2d. 52 (1965), described an organization which operated a men's club in a 13-story downtown building, title to which was held by its wholly-owned subsidiary. Half of the space was occupied by the club and the other half was rented to tenants by the subsidiary which turned the net income over to the club. It held that the club was not exempt because it derived substantial and recurring profit from a business altogether unrelated to its activities as a social club.

Polish American club, Inc. vs. Commissioner, 33 T.C.M. (CCH) 925 (1974) T.C. Memo. 1974-207 held that the statutes and regulations require that exempt social clubs be organized and operated exclusively for pleasure, recreation and other nonprofitable purposes. The case law has modified this requirement by allowing social clubs to qualify for exemption under section 501(c)(7) when its outside profits were: (1) strictly incidental to club activities, not as a result of an outside business; and (2) either negligible or nonrecurring. However, when the outside income is both substantial and recurring, the statutory requirements are not satisfied, and the social club is not exempt from tax.

TAXPAYER'S POSITION

Taxpayer's position has not been provided and is unknown at this time.

GOVERNMENT'S POSITION

is not a social club as described in IRC Section 501(c)(7) and Treas. Reg. Section 1.501(c)(7)-1(a) because extensive use of club facility by nonmembers on a regular basis reveals does not primarily fulfill a pleasure, recreation, or other non-profitable purpose. Specifically, primarily conducts rental activities with the general public and for activities open to the general public, it also provides bar service during nonmember functions and does not track receipts received between member and nonmember patrons. receives substantial nonmember income to support its operations and upkeep the facility.

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Per Treas. Reg. Section 1.501(c)(7)-1(a), exemption extends to social and recreation clubs which are supported solely by membership fees, dues and assessments. does not collect member dues as the membership is limited to the Council members and they pay dues directly to the Council. Based on its sources of income, does not qualify for exemption because it is supported substantially through the rental of the facility to nonmembers including local organizations in the community and the public individuals.

Per Treas. Reg. Section 1.501(c)(7)-1(b), when a club engages in business it is not organized and operated exclusively for pleasure, recreation and other nonprofit purposes. The evidence presented throughout the examination indicates that has allowed nonmembers to utilize its facilities, by renting the hall to the public and making the bar available to nonmembers. As described in Rev. Rul. 58-589, although a club may receive some income from the general public, substantially all of activities are dealing with nonmembers that are clearly not incidental and not in furtherance of general club purposes, and income from that participation have inured to the benefit of the members therefore, preclude exemption under Section 501(c)(7) of the Code.

Both Rev. Rul. 55-716 and Rev. Rul. 74-30 state that commingling of members and personal contacts must play a material part in the activities of the organizations. Social clubs are typically formed to provide members with recreational facilities. These members are a group of individuals that bound together by a common objective directed toward pleasure, recreation or similar nonprofit purposes.

However, based on the facts presented, does not show there is significant commingling of its members. The general public are not members of . It is regularly engaged in the conduct of substantial and profitable activities with nonmembers and services to the general public adversely affect status.

Rev. Proc. 71-17 describes the term "general public" persons other than members of a club, their dependents, or guests. Since guests invited by members pay for their own drinks, the guests therefore are also treated as nonmembers per Rev. Rul. 79-145.

is like the organization described in Rev. Rul. 60-324. If discontinues its involvement with outsiders, a substantial increase in annual membership dues would be necessary to sustain its operations. is also similar to the organization described in Rev. Rul. 69-220 that did not qualify for exemption under section 501(c)(7) of the Code. activities of the general public are conducted for the purpose of generating income, decreasing the amounts generally to be contributed by club members. Such income received from sources outside of membership is substantial and is supporting operations, and as it is decreasing the obligations of funds required to be paid by membership, it inures to the benefit of members.

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Various court decisions discussed the permissible volume of nonmember income. Like the court case United States vs. Fort Worth Club of Fort Worth, a substantial portion of income is from renting the facility to nonmembers. Based on examination of Form for the year ended and inspection of prior and subsequent years returns, over % – % of revenue was received from nonmember sources on a recurring basis and was substantial. These gross receipts help to defray the cost of recreational activities and operating expenses for the members, resulting in private inurement to the members which precludes tax exemption.

is also like the court case in Polish American club, Inc. vs. Commissioner, in that it makes the facility available to the general public, for a fee, represented a substantial activity disqualifying from exemption under section 501(c)(7) of the Code.

A substantial portion of income is generated from business involved with the general public. By receiving over % of its revenue from nonmembers, fails the 15% gross income level set forth by Public Law 94-568. does not meet the facts and circumstances exception for this income test as its activities are regular and substantial in relation to the total income.

Moreover, did not follow record-keeping requirements outlined in Rev. Proc. 71-17. Therefore, it was determined that nearly all of the income received from the public use of facilities was from nonmembers, which was more than % of total revenue for the exam year. Because the nonmember use of the facility is substantial in this case, the presumption is that all unrelated business income which made up % of total revenue is treated as nonmember income.

As a result, has greatly exceeded the 15% and 35% threshold amounts of their gross receipts, including investment income, from sources outside their membership during the exam year. Meaning within this 35%, not more than 15% of gross receipts should be nonmember income. is clearly engaged in a substantial amount of nonexempt activity and its exempt status should be revoked because it is not primarily engaged in section 501(c)(7) activities. In case the tax exemption status of is revoked, will be liable to file Form 1120 return beginning the effective date of revocation. Therefore, there is no longer a need to raise the additional tax per IRC Section 511-513 for unrelated business income on nonmember activities.

CONCLUSION

As of this date, there has been no response received or actions taken by the organization to contact Revenue Agent for discussion of pending examination issues. Revocation is being proposed based on available information reported by the organization on their tax returns and what is available through internet research demonstrating they do not qualify for exemption.

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The fails to establish that it is a social and recreational club that qualifies for exemption from federal income tax under section 501(c)(7) of the IRC and section 1.501(c)(7)-1 of the Treasury Regulations because its facilities are open to the public.

Revenue Ruling 58-589 reasons that a club which engages in business, such as making its social and recreational facilities available to the general public may not be considered as being organized and operated exclusively for pleasure, recreation or social purposes.

 fails to meet the requirements for exemption under section 501(c)(7) of the Code. First, it regularly receives a substantial amount of its income from nonmember sources on a recurring basis with the result that portions of its net earnings inure to members by reducing the membership dues revenue required to support .

Accordingly, is not entitled to tax exemption under 501(c)(7) of the Code and its tax-exempt status should be revoked, effective . Form , *U.S. Corporation Income Tax*, should be filed for tax year ending and thereafter.

You have the right to file a protest if you disagree with this determination. To protest, you must submit a statement of your position and fully explain your reasoning within 30 days from the date of this letter. Details of filing a protest can be found in the enclosed publications. We will consider your statement and decide if that information affects our determination. If your statement does not provide a basis to reconsider our determination, we will forward your case to Appeals Office.

If you agree with this conclusion, please sign and return the enclosed Form 6018.