



Department of the Treasury  
Internal Revenue Service  
Tax Exempt and Government Entities  
PO Box 2508  
Cincinnati, OH 45201

Date:  
03/15/2023  
Employer ID number:

Form you must file:  
Form 1120  
Tax years:  
All Years  
Person to contact:

Release Number: 202323014  
Release Date: 6/9/2023  
UIL Code: 501.07-00

Dear :

This letter is our 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). Recently, we sent you a proposed adverse determination in response to your application. The proposed adverse determination explained the facts, law, and basis for our conclusion, and it gave you 30 days to file a protest. Because we didn't receive a protest within the required 30 days, the proposed determination is now final.

You must file the federal income tax forms for the tax years shown above within **30 days** from the date of this letter unless you request an extension of time to file. For further instructions, forms, and information, visit [www.irs.gov](http://www.irs.gov).

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection after deleting certain identifying information, as required by IRC Section 6110. Read the enclosed Letter 437, Notice of Intention to Disclose - Rulings, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Letter 437 on how to notify us. If you agree with our deletions, you don't need to take any further action.

If you have questions about this letter, you can call the contact person shown above. If you have questions about your federal income tax status and responsibilities, call our customer service number at 800-829-1040 (TTY 800-829-4933 for deaf or hard of hearing) or customer service for businesses at 800-829-4933.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements

Enclosures:  
Letter 437  
Redacted Letter 4034  
Redacted Letter 4038



**Department of the Treasury**  
**Internal Revenue Service**  
PO Box 2508  
Cincinnati, OH 45201

**Date:** 01/04/2023

**Employer ID number:**

**Person to contact:**

Name:

ID number:

Telephone:

**Legend:**

Y = Date

B = School

C = District

**UIL:**

501.07-00

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

We considered your application for recognition of exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a). We determined that you don't qualify for exemption under IRC Section 501(c)(7). This letter explains the reasons for our conclusion. Please keep it for your records.

**Issues**

Do you qualify for exemption under IRC Section 501(c)(7)? No, for the reasons stated below.

**Facts**

You are an association that was formed on Y.

Your membership requirement is to be a parent and/or guardian of B varsity swimmers and divers. Membership is voluntary and there are no member dues.

You plan and organize fundraising on behalf of the B swim and dive team. You partner with local for-profit entities to offer members the opportunities to spend money at local establishments with a percentage of the proceeds going back to you. You run periodic voluntary raffles for members and sell team magnets, t-shirts, and bracelets to raise money. Your fundraising activities are planned by the booster club board and occur annually between October and February.

Proceeds from fundraising go towards the student athletes end-of-season recognition banquet, team equipment, and new computers for running meets and maintain statistics.

You partner with swim and dive coaches and members for the following reasons:

- To communicate season practice schedules, swim and dive meet requirements, achievements, local press releases, and health and fitness information

- Offer volunteer opportunities for the student athletes
- Organize and run masters level swim meets, and local community service with veteran groups

Your primary source of financial income is fundraising. Parents of B varsity swimmers and divers are eligible for membership and there are no membership dues. All surplus of funds must be turned over to the C.

Your mission statement is to provide parent support for the B varsity swim and dive team. Your specific objectives and purposes for your booster club are:

- To sponsor, host and/or participate in events and activities that promote the varsity swim and dive team, including fundraising and recognition of student athlete achievements
- To provide opportunities for student athletes to engage in community service, health and fitness education, and college athletic planning
- To partner with the coaches, team captains and managers to provide training equipment, computer systems and other accessories for improved athlete performance and experience

### **Law**

IRC Section 501(c)(7) provides for the exemption from federal income tax of clubs organized and operated 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.

Treasury Regulation Section 1.501(c)(7)-1(a) states 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 nonprofitable purposes, but does not apply to any club if any part of its net earnings inures 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.

Revenue Ruling 58-589, 1958-2 C.B. 266, discusses the criteria for exemption under section 501(c)(7) of the Code and holds that a club must have an established membership of individuals, personal contacts, and fellowship to be a social club within the meaning of the statute. Commingling of the members must play a material part in the life of the organization.

In Rev. Rul. 66-360, 1966-2 C.B. 228, a business corporation founded a national sorority as a nonprofit organization for the purpose of forming chapters for the study and mutual pursuit of culture and for friendly social contact. The national sorority's constitution provides for an executive council whose powers include fixing national initiation and annual fees, chartering new chapters, and withdrawing of national membership privileges. The sorority's constitution grants to the founding business corporation the right to select all members of the executive council resulting in the business corporation controlling the sorority's governing body. The Service held that the sorority and its chapters are operated to serve the financial interests of the business corporation and that neither the sorority nor its chapters are organized and operated for pleasure, recreation, and other nonprofitable purposes.

Rev. Rul. 69-635, 1969-2 C.B. 126, describes an automobile club whose principal activity is rendering automobile services to its members but has no significant social activities that does not qualify for exemption under section 501(c)(7) of the Code.

Rev. Rul. 74-30, 1974-1 C.B. 137, describes a flying club of limited membership that provides flying privileges solely for its members, assesses dues based on the club's fixed operating costs and charges fees based on variable operating expenses, and whose members are interested in flying as a hobby, constantly commingle in informal meetings, maintain and repair the aircraft owned by the club, and fly together in small groups, which qualifies for exemption under section 501(c)(7) of the Code.

### **Application of law**

Your bylaws are silent as to being organized for the pleasure, recreation or other nonprofitable purposes of your membership.

Your activities support and promote a high school varsity swim and dive team, but you are not organized for pleasure, recreation or other nonprofitable purposes of your members. Therefore, you are not organized as a social or recreational club as described in IRC Section 501(c)(7) and Treas. Reg. Section 1.501(c)(7)-1(a).

You do not meet the criteria described in Rev. Rul. 58-589 because you do not have a substantial amount of personal contact and fellowship and the commingling of your members does not play a material part in your organization. You are similar to the organization described in Rev. Rul. 66-360 because you are not organized or operated for pleasure, recreation or other nonprofitable purposes. You are similar to the organization described in Rev. Rul. 69-635 because you have no significant social activities that engage in pleasure and recreation. You are not similar to the organization described in Rev. Rul. 74-30 because you do not have members who engage in a common interest with commingling of your members.

### **Conclusion**

You do not meet the criteria of a social club because your members do not engage in recreation, pleasure, and other nonprofitable purposes and you are formed to support and promote another organization; therefore, you do not qualify for tax-exemption under IRC Section 501(c)(7).

### **If you agree**

If you agree with our proposed adverse determination, you don't need to do anything. If we don't hear from you within 30 days, we'll issue a final adverse determination letter. That letter will provide information on your income tax filing requirements.

### **If you don't agree**

You have a right to protest if you don't agree with our proposed adverse determination. To do so, send us a protest within 30 days of the date of this letter. You must include:

- Your name, address, employer identification number (EIN), and a daytime phone number
- A statement of the facts, law, and arguments supporting your position
- A statement indicating whether you are requesting an Appeals Office conference
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization or your authorized representative
- The following declaration:

**For an officer, director, trustee, or other official who is authorized to sign for the organization:**  
Under penalties of perjury, I declare that I have examined this request, or this modification to the request, including accompanying documents, and to the best of my knowledge and belief, the request

or the modification contains all relevant facts relating to the request, and such facts are true, correct, and complete.

Your representative (attorney, certified public accountant, or other individual enrolled to practice before the IRS) must file a Form 2848, Power of Attorney and Declaration of Representative, with us if they haven't already done so. You can find more information about representation in Publication 947, Practice Before the IRS and Power of Attorney.

We'll review your protest statement and decide if you gave us a basis to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't given us a basis for reconsideration, we'll send your case to the Appeals Office and notify you. You can find more information in Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status.

If you don't file a protest within 30 days, you can't seek a declaratory judgment in court later because the law requires that you use the IRC administrative process first (IRC Section 7428(b)(2)).

### **Where to send your protest**

Send your protest, Form 2848, if applicable, and any supporting documents to the applicable address:

#### U.S. mail:

Internal Revenue Service  
EO Determinations Quality Assurance  
Mail Stop 6403  
PO Box 2508  
Cincinnati, OH 45201

#### Street address for delivery service:

Internal Revenue Service  
EO Determinations Quality Assurance  
550 Main Street, Mail Stop 6403  
Cincinnati, OH 45202

You can also fax your protest and supporting documents to the fax number listed at the top of this letter. If you fax your statement, please contact the person listed at the top of this letter to confirm that they received it.

You can get 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 listed at the top of this letter.

### **Contacting the Taxpayer Advocate Service**

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 if 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.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements