



**Department of the Treasury
Internal Revenue Service**

P.O. Box 2508
Cincinnati, OH 45201

Date:
December 16, 2019
Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

Number: **202011007**
Release Date: 3/13/2020

UIL: 501.07-05

Dear :

This letter is our final determination that you don't qualify for tax-exempt status under Section 501(c)(7) of the Internal Revenue Code (the Code). 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 federal income tax returns for the tax years listed at the top of this letter using the required form (also listed at the top of this letter) within 30 days of this letter unless you request an extension of time to file.

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection (as required under Section 6110 of the Code) after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Notice 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 contact the person listed at the top of this letter. If you have questions about your federal income tax status and responsibilities, call our customer service number at 1-800-829-1040 (TTY 1-800-829-4933 for deaf or hard of hearing) or customer service for businesses at 1-800-829-4933.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosures:

Notice 437

Redacted Letter 4034, *Proposed Adverse Determination under IRC Section 501(a) Other Than 501(c)(3)*

Redacted Letter 4040, *Final Adverse Determination under IRC Section 501(a) Other Than 501(c)(3) - No Protest*



Department of the Treasury
Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Date:
October 2, 2019
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

X = state
b = number
c = number
d = number
e = number
f = number
g = number
h = number

UIL:
501.07-05

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 Section 501(c)(7) of the Internal Revenue Code? No, for the reasons stated below.

Facts

Your Certificate of Incorporation states you were formed for such educational and charitable purposes as will promote conservation of game and fishing; promote conservation of the waterways of X; encourage good sportsmanlike conduct; attend and host tournaments for sporting events, including, but not limited to hunting and fishing, and do all things necessary to implement the above.

You hold monthly membership meetings to keep the membership informed, address business issues, vote in new members, and to provide educational and conservation information as it changes and becomes available.

You organize monthly fishing tournaments for the membership. These tournaments have volunteer tournament directors responsible for naming the location of the tournaments, collecting entry fees, and disbursing prize payouts to winners.

Letter 4034 (Rev. 11-2018)
Catalog Number 47628K

You also host separate annual tournaments that are open to the membership and the public. These tournaments are organized by the membership and hosted on your property. Family members of the participants are invited to join in festivities at your clubhouse (your only listed asset) after each day's designated fishing times. Children of participants are given the opportunity to see the bass brought in for the day and to learn about the proper handling of the fish and other pertinent conservation information for both the fish and your public waterways.

You participated in a Toys for Tots drive for the first time this past holiday season, and you plan on making this an annual event in order to give back to the community. You encourage the membership to participate in community events and other organizations' sporting events both as private citizens and representatives of your organization.

Your income comes from membership dues, tournament entry fees, member club rentals and non-member club rentals. You rent out your clubhouse to both members and non-members at hourly rates in four, twenty-four and forty-eight hour increments. The fee for non-members is the rate for a twenty-four hour rental, and over times the rate for a forty-eight hour rental. You pay an active member to manage your clubhouse, such as cleaning and readying it for events, collecting rent and securing the building. For these services he receives compensation of b percent of each rental fee received.

You submitted actual income and expenses for the past three years. Breakdowns show non-member income to be on average over three times the amounts received in comparison to member income in those years. In terms of percentages, member income totaled c, d, and e versus f, g, and h, respectively, for the three years given.

Law

Treasury Regulation Section 1.501(c)(7)-1(a) states that the exemption provided by Section 501(a) of the Code for an organization 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 inure to the benefit of any private shareholder. In general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues and assessments. However, a club otherwise entitled to exemption will not be disqualified because it raises revenue from members through the use of club facilities or in connection with club activities.

Treas. Reg. 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 nonprofitable purposes, and is not exempt under Section 501(a) of the Code. Solicitation by advertisement or otherwise for public patronage of its facilities is prima facie evidence that the club is engaging in business and is not being operated exclusively for pleasure, recreation, or social purposes. However, an incidental sale of property will not deprive a club of its exemption.

Rev. Rul. 58-589, 1958-2 CB 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. 69-220 1, 1969-1 CB 154, held a social club that receives a substantial portion of its income from the rental of property and uses such income to defray operating expenses and to improve and expand its facilities is not exempt under section 501(c)(7) of the Code. The club purchased an office building, part of which is leased to commercial tenants. operating expenses of the building, including the part used as a clubhouse. The club uses the net income from the rental operation to make capital improvements and to expand the facilities offered to its members. This club is not exempt from federal income tax under section 501(c)(7) of the Code because it is regularly engaged in a business ordinarily carried on for profit and because net income from the activity is inuring to the members of the club.

The Committee Reports for Public Law 94-568, HR 1144, provides under 501(c)(7) that social clubs be operated substantially for pleasure, recreation and other non profit purposes. An organization may receive up to 35% of its gross receipts from a combination of investment income and non-member receipts, as long as non-member receipts do not represent more than 15% of total receipts.

Application of law

Treasury Regulation Section 1.501(c)(7)-1(a) states that the exemption provided by Section 501(a) of the Code for an organization described in Section 501(c)(7) applies only to clubs which are organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes. Exemption extends to social and recreation clubs which are supported solely by membership fees, dues and assessments. Based on your sources of income you do not qualify as you are supported substantially through non-member, public individuals through the rental of your clubhouse facility.

Per Section 1.501(c)(7)-1(b) of the Regulations, when a club engages in business it is not organized and operated exclusively for pleasure, recreation and other nonprofit purposes. As described in Rev. Rul. 58-589, although a club may receive some income from the general public, your facility rental activities are more than incidental and, therefore, preclude exemption under Section 501(c)(7) of the Code.

Rev. Rul. 69-220 held a social club that receives a substantial portion of its income from the rental of property and uses such income to defray operating expenses is not exempt under Section 501(c)(7) of the Code. Your property rental activity is conducted with the purpose to generate income, decreasing the amounts needed to be contributed by your members. This rental income is supporting your operations, and as it is decreasing the obligations of funds required to be paid by your members, it is inuring to their benefit.

A substantial portion of your income is generated from business done with the general public. By receiving, on average, over % of your revenue from non-members, you fail the membership income tests set forth by the Committee Reports on Public Law 94-568. You do not meet the facts and circumstances exception for this income test as your property rental activity is regular and substantial.

Conclusion

You do not qualify for exemption under Section 501(c)(7) of the Code. You exceed the allowable levels of non-member income and are not organized and operated exclusively for pleasure and recreation of your members. Accordingly, you cannot be granted exemption under 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 Decision 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
P.O. 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 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 or call 877-777-4778.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements