[redacted]

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CERTIFIED MAIL

11 SEP 1986

Gentlemen:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(7) of the Internal Revenue Code of 1954.

The information submitted indicates you were formed as a club [redacted].

Your stated purposes are to create a fantasy-type environment for people interested in live outdoor wargaming activities and provide a medieval atmosphere for people interested in role-playing and fantasy character development.

Your activities include:

1. Battles normally occuring on a bi-weekly basis.

2. Campouts occassionally held during warm weather.

3. Adventures, either indoor or outdoor, occurring on a bi-monthly basis.

Membership is open to anyone interested in participating in the club's activities. Members are charged dues only if they physically attend an event. A person becomes a member by filling out a membership card. There is no membership fee to join. However, all players are expected to purchase a rulebook. Some of your members come from a similar club - [redacted]. They are charged dues of [redacted]¢ per battle, the same as regular [redacted] members.

Income is derived from dues which is entirely dependent upon battle attendance, rulebook sales, sale of literary magazine ([redacted]).

Expenditures are for adventures, phone bill, printing, advertising, game equipment, and campsite rental fees.

Code	Initiator	Reviewer [redacted]	Reviewer [redacted]	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[redacted]	[redacted]	[redacted]				
Date	9/5/86	9/11/86	9/11/86				

[redacted]

In terms of business activity, you have reached agreements with two area businesses. Both [redacted] in [redacted] and [redacted] in [redacted] have agreed to distribute your rulebooks. These books retail for $[redacted] and are sent to the stores in consignments of [redacted]. By oral agreements concluded with both businesses, [redacted]% of the profits from rulebook sales go to [redacted], while [redacted]% of the money is retained by each store.

Members may purchase rulebooks from the stores or directly from the club at events.

Non-members may purchase [redacted] if they attend an event at which the publication is being sold. The price of [redacted] is [redacted]¢ per copy for anyone interested in buying the magazine. The magazine has the name, address, and telephone number of the [redacted].

Section 501(c)(7) of the Internal Revenue Code 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 no part of the net earnings of which inure to the benefit of any private shareholder.

Section 1.501(c)(7)-1 of the Income Tax Regulations provides as follows:

(a) 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 non-profitable 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. However, a club otherwise entitled to exemption will not be disqualified because it raises revenues from members through the use of club facilities or in connection with club activities.

(b) A club which engaged 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 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.

[redacted]

You advertise to the public by the fliers, rulebook, and magazine.

Public Law 94-568 as explained in Senate Report No. 94-1318, published in Cumulative Bulletin 1976-2, page 597, provides that a club exempt from taxation and described in section 501(c)(7) is to be permitted to receive up to 35% of its gross receipts from a combination of investment income and receipts from non-members (from the use of its facilities or services) so long as the latter do not represent more than 15 percent of the total receipts. It is further stated that if an organization exceeds these limits, all of the facts and cirmstances must be considered in determining whether the organization qualifies for exempt status.

Revenue Ruling 58-589, 1959-2, 267, holds that a club will not be denied exemption merely because it receives income from the general public; that is, persons other than members and their bona fide guests, or because the general public on occasion is permitted to participate in its affairs, provided such participation is incidental to an in furtherance of its general club purposes and it may not be said that income therefrom is inuring to members. This is generally true where the receipts from non-members are no more than enough to pay their share of the expenses.

Revenue Ruling 68-119, published in Cumulative Bulletin 1968-1, page 268, holds that a club will not necessarily lose its exempt status if it derives income from other than bona fide members and their guests, or if the general public on occasion is permitted to participate in its affairs, provided such participation is incidental to and in furtherance of its general club purposes and the income therefrom does not inure to members. The equestrian club considered in this ruling held an annual steeplechase which was open to the general public. Prize money was paid from entry fees paid by participants, and general expenses of the meet were paid from admissions and sale of programs and refreshments. The club distributed any net proceeds from the meet to charity. Therefore, it was held the meet was not operated to make a profit, and the income from non-members did not inure to the benefit of members. The club's exemption was not jeopardized by non-member participation in its annual meet.

In liberalizing the amount of non-member income that could be received by social clubs, Congressional Committee Reports state that the amendment (Public Law 94-568) was not intended to permit

[redacted]

social clubs to receive, even within the allowable guidelines for outside income, income from the active conduct of businesses not traditionally carried on by social clubs. (Senate Report No. 94-1318 2d Session, 1976-2 C.B. 596.)

Revenue Ruling 65-63, published in Cumulative Bulletin 1965-1, page 240, holds that a non-profit organization which, in conducting sports car events for the pleasure and recreation of its members, permits the general public to attend such events for a fee on a recurring basis and solicits patronage by advertising, does not qualify for exemption as a club organized and operated exclusively for pleasure, recreation and other non-profitable purposes under section 501(c)(7) of the Internal Revenue Code of 1954.

Revenue Procedure 71-17, 1971-1 C.B., 683, establishes recordkeeping requirements for social clubs, to separate non-member income. If these requirements are met, certain presumptions as to member vs. non-member income may be made, as outlined in the Revenue Procedures.

You do not charge an initial membership fee. Your membership requirements are broad, and members pay dues only if they physically attend the event which is [redacted]c. In fact, any member of the public can attend the activities by paying the dues. You did not answer the question correctly concerning how many members are members who are active for two or more games. The organization and operation of a club in a manner which constitutes a subterfuge for doing business with the public is inconsistent with the term "club" as used in IRC 501(c)(7).

On the basis of the information furnished, it is concluded that your predominant purpose is to engage in the business of selling services for profit to an unlimited number of individuals termed members; that membership is not a true membership but is merely a guise under which virtually unlimited numbers of individuals may utilize the club facilities, and that income from members is in reality income from transactions with the general public, an activity clearly not of an exempt character. Rev. Rul. 58-589, 1958-2, C.B. 266.

Even though you have agreed that you will immediately cease to sell the club rulebooks at [redacted] and [redacted], the agreements with the two businesses are prima facie evidence that your club is engaging in business as previously cited in section 1.507(c)(7)-1(b) of the Income Tax Regulations.

[redacted]

On the basis of the evidence presented, the requirements for exemption of a social and recreational club defined in the Code and Income Tax Regulations, and the interpretation of the Code and Regulations cited in the Revenue Ruling noted above, we hold that you do not qualify for exemption under section 501(c)(7) of the Code.

Based on the information submitted, exempt status will not be recognized under any related paragraph of the Internal Revenue Code section 501(c).

Until you have established an exempt status, you are not relieved of the requirements for filing Federal income tax returns.

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal giving the facts, law and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional office or, if you request, at any mutually convenient District office. If we do not hear from you within 30 days of the date of this letter, this determination will become final.

Sincerely yours,

[redacted]
District Director

Enclosure: Publication 892

[redacted]