[redacted]

Refer Reply to:
[redacted]
Contact Telephone Number:
[redacted]

OCT 20 1988

Dear Sir or Madam:

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

The information submitted indicates that you were incorporated under the laws of the State of [redacted] on [redacted]. Your Articles of Incorporation of that date do not reflect that you are incorporated as a nonprofit organization, nor do they indicate that no part of your net earnings will inure to the benefit of any private shareholder. You amended your articles on [redacted], to provide that, "no part of the net earnings shall inure to the benefit of any organization having a private or personal interest in the activities of the Corporation."

Your purposes as set forth in your Articles of Incorporation are:

> "Any legal and lawful purpose pursuant to the [redacted] Corporation Code and ownership of a houseboat and appurtenant items and maintenance thereof."

Your activities in support of your stated purpose have been to purchase a 54' Master Fabricator Houseboat, a 17' Sea Sprite Ski boat, and a Kawasaki Jet Ski for the use and enjoyment of your members. You indicate that your funds will be used for the acquisition of the above assets, maintenance, repair, insurance, buoy fees, and other operating expenses.

Article IX of your bylaws states, "The Corporation shall initially have [redacted] memberships - - - evidenced by a membership stock certificate." Article XII of the bylaws provides, "The Corporation will - - - assess each outstanding membership on an equal basis for all costs arising in regard to the Corporate property from taxes, insurance, maintenance, mooring and other items of common expense - - -."

	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Code	[redacted]	[redacted]					
Surname	[redacted]	[redacted]					
Date	10/20/88	10/20					

[redacted]

Further, Article XIII B. of the Bylaws states, "Time of usage shall be allotted to each membership in accordance [illegible] the week number noted on the member's stock certificate [illegible]. Assigned 'prime weeks' are Number 18-43. Each membership shall have the right to select off-season time for the usage of the Corporate property."

When asked to show that your organization has the characteristics of a social club and to submit evidence of personal contact, commingling and fellowship among the members, you responded, "The corporation has elements of a social club in that it owns a houseboat [illegible] used only by shareholder (members) [illegible] for a week at a time by several shareholders." When asked to provide a list of your activities for the past [illegible], including regular and special meetings, social activities, and [illegible] activities, you provided a list indicating one executive meeting, one annual meeting and five special meetings of the Board of Directors and members during a thirteen month period, [redacted] through [redacted]. Other than the organizational activities relating to the use of the houseboat, no other recreational or social activities were presented.

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 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."

Section 1.501(c)(7)-1 of the regulations provides, in part, 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 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. 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."

Public Law 94-568 (1976-2 C.B. 596) modifies the old requirement that clubs must be organized and operated "exclusively" for pleasure, recreation and other nonprofitable purposes. The new requirement provides that "substantially all" of a club's activities must be for those purposes.

[redacted]

Revenue Ruling 74-30, 1974-1 C.B. 137 held that 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 aircraft owned by the club, and fly together in small groups qualifies for exemption under section 501(c)(7) of the Code. On the other hand, Revenue Ruling 70-32, 1970-1 C.B. 132 held that a flying club providing economical flying facilities for its members but having no organized social and recreational program does not qualify for exemption under 501(c)(7) of the Code.

Revenue Ruling 58-589, 1958-2 C.B. 266, establishes the criteria for determining whether an organization qualifies for exemption from Federal income tax under section 501(c)(7) of the Code. An organization must establish that it is a club both organized and operated exclusively for pleasure, recreation and other nonprofitable purposes and that no part of the net earnings inures to the benefit of any private shareholder or individual. To meet the first requirement, there must be an established membership of individuals, personal contacts and fellowship. A commingling of the members must play a material part in the life of the organization.

Although the revenue rulings cited in this letter predate the amendment to 501(c)(7) made by Public Law 94-568 they have not been superseded and are applicable to your case.

Your activities are the purchase and maintenance of a houseboat and other water sports equipment for use by the members. You have indicated that you have little organized social and recreational program, and therefore, are like the organization described in Revenue Ruling 70-32. Furthermore, you have not shown that commingling of your members plays a material part in your activities. Rather, it appears that you are similar to a time-share operation, and do not meet the commingling requirements of Revenue Ruling 58-589.

Accordingly, it is held that you are not entitled to exemption from Federal income tax as an organization described in section 501(c)(7) of the Internal Revenue Code, and you should file tax returns on Form 1120.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law and argument that clearly sets forth your position. If you desire an oral discussion of the issues, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this proposed adverse determination letter, this proposed determination will become final.

5.

[redacted]

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely,

[redacted]
District Director

Enclosures:
Envelope
Publication 892
Form 6018