Internal Revenue Service | **Department of the Treasury**

Date: JUL 23 1985

Key District: [redacted]

Year(s): [redacted]

Person to Contact: [redacted]

Contact Telephone Number: [redacted]

[redacted]

Dear Mr. Collins:

We considered your appeal of the adverse action proposed by your key District Director. The paragraph(s) checked below indicate(s) our decision.

[X] Your exemption from Federal income tax under section 501(c)7 of the Internal Revenue Code is:

- [ ] confirmed.
- [ ] modified. A new determination letter is enclosed.
- [X] denied or [ ] revoked. You are required to file Federal income tax returns on Form 1120 for the above years. You should file these returns with your key District Director, EP/EO Division, within 30 days from the date of this letter, unless a request for extension of time is granted.

[ ] You are not a private foundation because you are described in Code section(s) ____________.

[ ] You are an operating foundation as described in code section 4942(j)(3).

[ ] You have no liability for excise taxes under IRC ____________ for the above years.

[ ] Your liability for excise taxes under IRC ____________ for the above year(s) was properly reported on your return(s).

[ ] There is no change to your unrelated business income tax liability as reported for the above years.

[ ] Your Form(s) 990-T for the above years are accepted as filed.

[ ]

You may direct questions about the decision to the appeals officer whose name and telephone number are shown above.

Sincerely yours,

(SIGNED) [redacted]

[redacted]

Associate Chief, Appeals
Cincinnati

Cincinnati Appeals Office
P. O. Box 2026
Cincinnati, Ohio 45201

cc: [redacted]

Letter 1370(RO) (1-80)

Internal Revenue Service

District
Director

Department of the Treasury

P.O. Box 2508
Cincinnati, OH 45201

[redacted]

Person to Contact:

Telephone Number:
[redacted]

Refer Reply to:
[redacted]

Date:
JAN 31 1985

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(7) of the Internal Revenue Code of 1954 and its applicable Income Tax Regulations.

The evidence discloses that the [redacted] (Club) was incorporated [redacted] under the [redacted] Not-for-Profit Corporation Act. The Articles of Incorporation state that the purposes of the corporation are:

> The nature and purpose of this company is to engage in the business of building a building or clubhouse to have membership; to have the member use the clubhouse for social events, including holding licenses for business, whatever kind and description, and all kindred and related products, as well as to engage in all other lawful business and activities, whether herein enumerated or not; and to do all things necessary and incident thereto, including, but not limited to, the holding, leasing renting, owning, selling, mortgaging, giving and receiving assignment of all property, real, personal or mixed, and of any nature, kind or description.

In addition, Article VIII of the Articles states that the organization is organized exclusively for charitable, musical, and entertaining nonprofit purposes.

Article VII of the Articles of Incorporation of [redacted] further states that the corporation shall be limited to professional musicians. The term is defined to include singers, band members, directors and others who are directly interested in musical bands, groups or individual singers who work or have worked for monetary gain.

[redacted]

[redacted]

) Application for Recognition of Exemption and the ensuing ience reveal that the Club's goal is to obtain facilities to house iization. The organization plans to conduct its meetings and parties ne clubhouse as well as concerts for the general public. Presently, ncerts are conducted once a month in local clubs. The Club's social ctivities consist of a party after the election of officers and a Christmas party. Financial assistance is given to members and their families in cases of disasters and emergencies.

Admission to the Club's concerts is $[redacted] for adults and children under 12 years old are admitted free. The general public is solicited to attend the concerts through the use of handouts and flyers, and radio advertising.

Receipts for admissions constitute [redacted]% of the Club's total income. The major expense items are radio advertising, house band, and party expenses. The excess of receipts over expenses will be used, ". . . to obtain facilities to house the organization . . ."

Section 501(c)(7) of the Code provides for the exemption from Federal income tax of 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(b) of the Regulations 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.

Section 501(c)(7) of the Code requires that substantially all of a social club's activities be social or recreational activities for members. Public Law 94-568, 1976-2 C.B. 596 provides that a social club may receive up to 35 percent of its gross receipts, including investment income from sources outside its membership without losing exemption. However, within this 35 percent amount, not more than 15 percent of the gross receipts should be derived from the use of a social club's facilities or services by the general public. This means that an exempt social club may receive up to 35 percent of its gross receipts from a combination of investment income and receipts from nonmembers so long as the latter do not represent more than 15 percent of the total receipts.

[redacted]

Revenue Ruling 65-63 C.B. 1965-1, 240 held that a nonprofit club which conducted events for the pleasure and recreation of the members and which solicited the general public to attend such events for a fee was not entitled to exemption under section 501(c)(7) of the Code.

Based on the available information, it is our opinion that you do not qualify for exemption from Federal income tax under the provisions of section 501(c)(7) of the Code because the income which is derived from the general public for concert admissions exceed the guidelines contained in Public Law 94-568, 1976-2 C.B. 596. More than 15% of your gross receipts are derived from the general public. In addition, you are operated similarly to the organization described in Revenue Ruling 65-63.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1120.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe that it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892 (Rev. 7-83), "Exempt Organizations Appeal Procedures for Unagreed Issues". The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You must request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office, or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

If we do not hear from you within the time specified, this will become our final determination.

Sincerely yours,

[redacted]

District Director

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