



DEPARTMENT OF THE TREASURY
Internal Revenue Service TE/GE EO
EXAMINATIONS

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

Date: April 18, 2017

Number: 201749011
Release Date: 12/8/2017

Taxpayer Identification Number:

Person to Contact:

Employee Identification Number:

Employee Telephone Number:

UIL: 501.07-00

CERTIFIED MAIL – Return Receipt Requested

Dear

This is a Final Adverse Determination Letter as to your exempt status under section 501(c)(7) of the Internal Revenue Code. Your exemption from Federal income tax under section 501(c)(7) of the Code is hereby revoked effective January 1, 20xx

Our adverse determination was made for the following reasons:

You have not demonstrated that you are operated exclusively for exempt purposes within the meaning of section 501(c)(7) of the Internal Revenue Code and Treasury Regulations 1.501(c)(7)-1. Exempt clubs are organized for pleasure, recreation, and other non-profitable purposes. The exemption extends to social and recreation clubs that are supported solely by membership fees, dues, and assessments. Our examination of your activities and finances revealed that your operations are supported primarily with funds other than from your members. Therefore, you are not operating in furtherance of or exclusively for pleasure, recreation or other similar nonprofit purposes as defined under section 501(c)(7) of the Code.

You are required to file Federal income tax returns on Form 1120. If you have not already filed these returns and the agent has not provided you instructions for converting your previously filed Form 990 to Form 1120, you should file these income tax returns with the appropriate Service Center for the tax year ending December 31, 20xx and for all tax years thereafter in accordance with the instructions of the return.

Processing of income tax returns and assessments of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination, you may file an action for declaratory judgment under the provisions of section 7428 of the Code in one of the following three venues: United States Tax Court, the United States Court of Federal Claims, or the United States District Court for the District of Columbia. A petition or complaint in one of these three courts must be filed before the 91st day after the date this determination was mailed to you if you wish to seek review of our determination. Please contact the clerk of the respective court for rules and the appropriate forms regarding filing petitions for declaratory judgment by referring to the enclosed Publication 892. Please note that the United States Tax Court is the only one of these courts where a declaratory judgment action can be pursued without the services of a lawyer. You may write to the courts at the following addresses:

United States Tax Court
400 Second Street, NW
Washington, DC 20217

US Court of Federal Claims
717 Madison Place, NW
Washington, DC 20005

U. S. District Court for the District of Columbia 333
Constitution Ave., N.W.
Washington, DC 20001

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 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 taxpayeradvocate.irs.gov or call 1-877-777-4778.

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

Sincerely yours,

for Maria Hooke
Director, Exempt Organizations Examinations

Enclosures:
Publication 892

Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities Division
Exempt Organizations: Examinations

Date: November 14, 2016

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Manager's name/ID number:

Manager's contact number:

Response due date:

Certified Mail – Return Receipt Requested

DEAR

Why you are receiving this letter

We propose to revoke your status as an organization described in section 501(c)(7) of the Internal Revenue Code (Code). Enclosed is our report of examination explaining the proposed action.

What you need to do if you agree

If you agree with our proposal, please sign the enclosed Form 6018, *Consent to Proposed Action – Section 7428*, and return it to the contact person at the address listed above (unless you have already provided us a signed Form 6018). We'll issue a final revocation letter determining that you aren't an organization described in section 501(c)(7).

After we issue the final revocation letter, we'll announce that your organization is no longer eligible for contributions deductible under section 170 of the Code.

If we don't hear from you

If you don't respond to this proposal within 30 calendar days from the date of this letter, we'll issue a final revocation letter. Failing to respond to this proposal will adversely impact your legal

standing to seek a declaratory judgment because you failed to exhaust your administrative remedies.

Effect of revocation status

If you receive a final revocation letter, you'll be required to file federal income tax returns for the tax year(s) shown above as well as for subsequent tax years.

What you need to do if you disagree with the proposed revocation

If you disagree with our proposed revocation, you may request a meeting or telephone conference with the supervisor of the IRS contact identified in the heading of this letter. You also may file a protest with the IRS Appeals office by submitting a written request to the contact person at the address listed above within 30 calendar days from the date of this letter. The Appeals office is independent of the Exempt Organizations division and resolves most disputes informally.

For your protest to be valid, it must contain certain specific information including a statement of the facts, the applicable law, and arguments in support of your position. For specific information needed for a valid protest, please refer to page one of the enclosed Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*, and page six of the enclosed Publication 3498, *The Examination Process*. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process. Please note that Fast Track Mediation referred to in Publication 3498 generally doesn't apply after we issue this letter.

You also may request that we refer this matter for technical advice as explained in Publication 892. Please contact the individual identified on the first page of this letter if you are considering requesting technical advice. If we issue a determination letter to you based on a technical advice memorandum issued by the Exempt Organizations Rulings and Agreements office, no further IRS administrative appeal will be available to you.

Contacting the Taxpayer Advocate Office is a taxpayer right

You have the right to contact the office of the Taxpayer Advocate. Their assistance isn't a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate can't reverse a legally correct tax determination or extend the time you have (fixed by law) to file a petition in a United States court. They can, however, see that a tax matter that hasn't been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate assistance. If you prefer, you may contact your local Taxpayer Advocate at:

Internal Revenue Service
Office of the Taxpayer Advocate

For additional information

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Margaret Von Lienen
Director, EO Examinations

Enclosures:
Report of Examination
Form 6018
Publication 892
Publication 3498

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer	Tax Identification Number		Year/Period ended December 31, 20xx December 31, 20xx

ISSUES:

1. Whether _____ continues to qualify for exemption under Internal Revenue Code (IRC) § 501(c)(7)?
2. Should _____ tax exemption under section 501(c)(7) of the Internal Revenue Code be revoked because of substantial amounts of non-member income?
3. If revocation is upheld what is the effective date of revocation?

FACTS:

The _____ hereinafter, "_____" was granted tax-exemption under IRC §501(c)(7) in November, 19xx. Per _____'s articles of incorporation, the purpose of the club is to promote the safe operation of motorcycles on public streets and highways, strive for general public acceptance of motorcycles on public streets and to promote and sponsor competition events. The articles of incorporation were filed with _____ Secretary of State on August 11, 19xx.

_____ is a membership club for bikers. _____ sponsors competition events as annual _____. Further, _____ provides camp grounds, grilling, showers and other amenities for bikers and their families during weekend stays. These activities are held on _____. The events are "open to the public". The riders bring their bikes and all-terrain vehicles. Annual dues for club membership are \$. The club has approximately _____ members. _____ has a clubhouse where meetings and other social activities are held for members and their guest.

During the initial interview with _____ treasurer, _____ s activities are attended by bike and all-terrain vehicle riders throughout _____. The events are advertised on the club's website. And events are widely advertised by posting flyers in bike shops throughout the county. Riders can registrar online at _____ .com. Events are open to nonmembers. Nonmembers are exclusively drawn to the named events. Members are required to work and help out during events and most do not participate in activities.

_____ sources of revenue reported on the Forms 990-EZ:

Revenue Sources	Tax Year 20xx	Tax Year 20xx
Program service revenue	\$ _____	\$ _____
Investment income	\$ _____	\$ _____
Totals	\$ _____	\$ _____

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The program service revenues from events in 20xx:

EVENTS (20xx)	INCOME
	\$
	\$
	\$
TOTAL INCOME	\$

The program service revenue includes other social events held at the clubhouse. Form 990-EZ for 20xx, program service revenues is \$ The sources are unknown.

The club does not file a Form 990-T, *Exempt Organization Business Income Tax Return* to report gross receipts from nonmember income. The financial statements reveal membership dues and initiation fees are \$. Other income from member's clubhouse socials is \$. Non-member income is approximately \$ or %.

Club website: .com advertisement state "event open only to past participants or family or friends of past participants". Indications are that any ATV (all-terrain vehicle), 4-wheelers an off-road motorcycle racing enthusiasts can participate in club sponsored events without being a member.

While reviewing the club's website, flyers and other internal documents provided by the organization, club events are open to the general public on a regular basis. Nonmember event entry fees represent approximately % of the club's total income.

LAW:

A club is not exempt under IRC 501(c)(7) where it regularly derives a substantial part of its income from nonmember sources.

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IRC § 501(c)(7) 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 not part of the net earnings of which inures to the benefit of any private shareholder.

Section 1.501(c)(7) of the Regulations provides that, in general, the exemption extends to social and recreation clubs supported solely by membership fees, dues and assessments. However, a club that engages in a business, such as making its social and recreational facilities open 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).

Prior to its amendment in 1976, IRC § 501(c)(7) required that social clubs be operated exclusively for pleasure, recreation and other non profitable purposes. Public Law 94-568 amended the "exclusive" provision to read "substantially" in order to allow an IRC § 501(c)(7) organization to receive up to 35 percent of its gross receipts, including investment income, from sources outside its membership without losing its tax exempt status. The Committee Reports for Public Law 94-568 (Senate Report No. 94-1318 2d Session, 1976-2 C.B. 597) further states;

(a) Within the 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 non-members, so long as the latter do not represent more than 15 percent of total receipts.

(b) Thus, a social club may receive investment income up to the full 35 percent of its gross receipts if no income is derived from non-members' use of club facilities.

(c) In addition, the Committee Report states that where a club receives unusual amounts of income, such as from the sale of its clubhouse or similar facilities, that income is not to be included in the 35 percent formula.

Revenue Ruling 66-149 holds a social club as not exempt as an organization described in IRC § 501(c)(7) where it derives a substantial part of its income from non-member sources.

Revenue Ruling 60-324 states by making its social facilities available to the general public the club cannot be treated as being operated exclusively for pleasure, recreation or other non-profitable purposes.

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Revenue Procedure 71-17 sets forth the guidelines for determining the effect of gross receipts derived from the general public's use of a social club's facilities on exemption under IRC § 501(c)(7). Where nonmember income from the usage exceeds the standard as outlined in this Revenue procedure, the conclusion reached is that there is a non-exempt purpose and operating in this manner jeopardizes the organization's exempt status.

TAXPAYER'S POSITION:

Taxpayer's position has not been provided.

GOVERNMENT'S POSITION:

The Club is not supported exclusively by membership income and therefore does not qualify for exemption as a social club described in IRC §501(c)(7) and Treas. Reg. §1.501(c)(7) which provides that in general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues, and assessments. The events are not exclusively for the pleasure of its members. Nonmember income is \$ of the total income \$ per the Club's 20xx Form 990-EZ return. Club has exceeded the 15% non-member threshold. Nonmember income far exceeds the permissible limit for organization exempt under section 501(c)(7) status.

Rev. Ruls. 66-149 and 60-324 support this position stating that a social club that opens to the public and derives a substantial part of its income from non-member sources is not exempt as an organization described in 501(c)(7).

permits nonmembers to participate unrestricted in club sponsored events. The organization has exceeded the 15% non-member threshold as outlined in Public Law 94-568, on a recurring basis during tax years ended December 31, 20xx and December 31, 20xx.

CONCLUSION

Based on the facts and circumstances of the examination, Club is not operated exclusively for members. During the examination it was determined that the club receives approximately % of their income from nonmembers. Club is not operated exclusively for members under section 501(c)(7) exempt purposes and no longer qualifies for exemption because the nonmember income has exceeded the 15% nonmember threshold on a continuing

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basis. It is recommended that Club exempt status under Section 501(c)(7) of the Code be revoked effective January 01, 20xx.

Should this revocation be upheld, Form 1120 must be filed.