



DEPARTMENT OF THE TREASURY

Internal Revenue Service
TE/GE EO Examinations
1100 Commerce Street, MC 4920 DAL
Dallas, TX 75242

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

Date: Jan 03 2018

Number: **201911007**
Release Date: 3/15/2019

Person to Contact:

Identification Number:

Contact Telephone Number:

UIL: 501.03-00

EIN:

CERTIFIED MAIL - Return Receipt Requested

Dear _____ :

This is a final revocation letter as to your exempt status under §501(c)(7) of the Internal Revenue Code. The Internal Revenue Service's recognition of your organization as an organization described in IRC §501(c)(7) is hereby revoked effective January 1, 20XX.

We have made this determination for the following reason(s):

IRC §501(c)(7) and Treas. Reg. §1.501(c)(7) exempts from income tax, clubs organized for pleasure, recreation, and other nonprofitable purposes, where substantially all activities are for such purposes and no part of the net earnings inure to the benefit of any private shareholder.

Public Law 94-568 provides that social clubs are permitted to receive up to 35% of their gross receipts from sources outside of their membership without losing their tax-exempt status, and that within that 35%, not more than 15% of gross receipts should be derived from the use of a social club's facilities or set-vices by members of the public. Your organization has exceeded the fifteen percent (15%) non-member threshold as outlined in Public Law 94-568, on a recurring basis.

As such, you failed to meet the requirements of IRC §501(c)(7) and Treas. Reg. §1.501(c)(7) and you do not qualify for exemption.

You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the year ending December 31, 20XX, and for all years thereafter.

Processing of income tax returns and assessment 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 in court, you must initiate a suit for declaratory judgment in the United States Tax Court, the United States Claim Court or the District Court of the United States for the District of Columbia before the 91st day after the date this determination was mailed to you. Contact the clerk of the appropriate court for the rules for initiating suits for declaratory judgment. 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

You may call the IRS telephone number listed in your local directory. An IRS employee there may be able to help you, but the contact person at the address shown on this letter is most familiar with your case. You may also call the Internal Revenue Service Taxpayer Advocate. The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. We 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 our assistance, which is always free, we 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,

A handwritten signature in black ink that reads "Maria Hooke". The signature is written in a cursive, flowing style.

Enclosures:
Publication 892

Maria Hooke
Director, EO Examinations



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

Date:
May 15, 2017
Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact / ID Number:

Employee ID:
Contact numbers:
Telephone:
Fax:
Manager's Name / ID Number:

Employee ID:
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).

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,

Maria Hooke
Director Exempt Organization
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	Years/Period ended 20XX

ISSUE:

Whether _____ continues to qualify for exemption under Internal Revenue code (IRC) §501(c)(7)?

FACTS:

_____ was granted tax-exemption under IRC §501(c)(7) in October, 19XX. Per the organization's Articles of Incorporation, signed with the Secretary of State for the State of _____ on December 4, 19XX, the organization was formed to foster and promote benevolent, charitable and educational projects. Form 990-E, *Short Form Return of Organization Exempt From Income Tax*, states that the organization's primary exempt purpose is to promote good fellowship among members composed of descendants of the Republic of _____.

_____ is mentioned on two (2) websites: www._____.net and www._____.com which states that the organization's purpose is to preserve the heritage of the _____ people; and, to _____.

. Exh 2.2, 8.1

A brief history is also provided on the websites:

This organization has provided over 0 years of service and contribution to the _____, _____ community. The organization was chartered and incorporated under the laws of the state of _____ on December 4, 19XX as the _____ of _____ – also known as _____.

Our purpose has and always will be to preserve the heritage of the _____ people. We will _____.

The members of _____ met once a month to discuss business matters. The minutes showed that they hosted a social hour before meetings and served cocktails and snacks. (Exh 11.1) The members got together several times throughout the year to socialize with the following activities: dinners and potlucks, Cards Day, Christmas Party, Memorial Mass, Casino Party, and an Annual Game Day with a continental breakfast.

The Board discussed the number of club rentals scheduled and how to increase rentals by attracting businesses. (Exh 11.1, 11.4, 11.5, 11.10 & 11.13)

The _____ property records show that _____ own the property located at _____, _____, _____. (Exh 10.1) The facility is advertised (Exh 1.4, 7.1) as an event and party venue on the website _____ .com:

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***DESCRIPTION OF LOCATION AND SERVICES PROVIDED FROM VENUE
REMOVED.***

The website stated that the club was available for rent seven (7) days a week (Exh 5.1, 9.1) including holidays:

***CLUB RENTAL FEES
HOLIDAYS: \$0***

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*FRIDAY OR SATURDAY: \$0 SUNDAY - THURSDAY: \$0
LONG TERM RENTALS:*

*\$0 - \$0
A SECURITY DEPOSIT IS REQUIRED ON ALL RENTALS.
MAKE YOUR RESERVATION EARLY!
ALL RATES ARE SUBJECT TO CHANGE*

In addition to the websites, the organization has pages on Facebook and Business Facebook. The examiner was unable to view the organization's Facebook; therefore, she was unable to determine if it highlighted any social events. The January 20, 20XX minutes mentioned that the Club was the first entry when searching for venues.

The organization's 20XX Form 990-EZ, *Short Form Return of Organization Exempt From Income Tax*, was received August 1, 20XX. They reported the following sources of income:

Income	20XX
Contributions	0
Dues	0
Rental Income	0
Gross Receipts	0

The organization's 20XX Form 990-T, *Exempt Organization Business Income Tax Return*, was received August 19, 20XX. It listed the rental income, \$0, as its source of unrelated business income. The rental income (unrelated business income) showed that zero percent (0%) of the organization's gross receipts came from nonmember use of their facility.

LAW:

§501(c)(7) of the Internal Revenue Code exempts from income tax 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.

§1.501(c)(7)-1(a) of the Federal Tax Regulations states that 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.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
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§1.501(c)(7)-1(b) of the Federal Tax 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). 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.

Public Law 94-568 provides that social clubs are permitted to receive up to 35% of their gross receipts from sources outside of their membership without losing their tax-exempt status, and that within that 35%, not more than 15% of gross receipts should be derived from the use of a social club's facilities or services by the general public.

In *Spokane Motorcycle Club v. United States*, 222 F.Supp. 151, the court ruled that refreshments, goods, and services furnished to members of a charitable, nonprofit corporation from business enterprise net profits constituted benefits inuring to individual members, and, therefore, corporation was not exempt from federal income tax. Judge Powell further stated, "But it is clear that when a club, otherwise exempt, engages in a business from which it derives profits from outside sources wholly disproportionate to its nontaxable purposes, and such profits inure to the benefit of its members in the nature of permanent improvements and facilities, it loses its exempt status under the definitive provisions of the statute. It should be noted that to be exempt from taxation, the club must not only be organized exclusively for pleasure, recreation and other nonprofitable purposes, but it must be operated exclusively for those purposes as well."

In *Aviation Club of Utah v. Commissioner of Internal Revenue*, 162 F.2d 984, the court upheld the position taken by the tax court in a previous ruling whereby the income received by the club from non-exempt activities was so disproportionate to the income received from exempt purposes that the club lost its exempt status. Judge Murrah invoked the same concept as that in *Spokane Motorcycle Club v. United States*, whereby if a club engages in a business from which it derives profits from outside sources wholly disproportionate to nontaxable purposes, and such profits inure to the benefit of its members in the nature of permanent improvements and facilities, the club loses its exempt status.

In Revenue Ruling 65-63, 1965-1 CB 240 an organization conducts various sports car events for the pleasure and recreation of its members and their guests. The events end up attracting the general public. The general public is admitted on a recurring basis upon payment of an admission fee. Public patronage is solicited by advertising. The Service ruled that public patronage or participation in club activities is permissible if incidental to and in furtherance of the club purposes, and if the net income therefrom does not inure to its members. Here however, the activities of the club, in permitting public patronage of its facilities, are of such a magnitude and recurrence as to constitute engaging in business and the club uses the income derived therefrom to acquire additional assets and to pay club expenses normally borne by its members. It was thus held that the organization in the instant case does not qualify for exemption under §501(c)(7) of the Internal Revenue Code.

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In Revenue Ruling 68-119, 1968-1 C.B. 268 an equestrian social club that holds an annual one-day steeplechase meet which is open to the general public is found to be tax-exempt under IRC 501(c)(7). In this case, the club is said to derive a small amount of income from nonmembers in excess of expenses attributable to their participation and attendance. If any profit results, it is turned over to charity. Other club activities are supported by member dues. Therefore, the ruling holds, the income from non-members does not inure to the club's members.

In *T.C. Memo 1962-18, Clements Buckaroos vs. Commissioner of Internal Revenue*, the organization has managed and promoted an annual one-day public event in the nature of a rodeo. All of the entry fees of the contestants with other funds of the organization are used for the payment of prize money for participants in the various events. There is no profit to the organization from such fees. In ruling that the organization is exempt from income tax, the judge specified that "traffic with outsiders was purely incidental". The judge also added that "It would, of course, be possible for the rodeo activities to become so preponderant that they could no longer be viewed as merely incidental".

In *Augusta Golf Association, Inc. vs. United States*, 338 F.Supp. 272, the court ruled, among other things, that the Association was exempt from federal income tax as a social club, despite practically all of the Association's income having been derived from "Calcutta" pools participated in by non-members. In the instant case, the social affairs at which the Calcuttas were featured were open only to members and their invited guests. The Association took a cut of 10% of the gross amount raised in these pools.

TAXPAYER'S POSITION:

Taxpayer's position has not been provided.

GOVERNMENT'S POSITION:

Based on the examination, _____, Inc. does not qualify for exemption as a social club as described in IRC §501(c)(7) and Treas. Reg. §1.501(c)(7) which extends exemptions to social and recreation clubs which are supported solely by membership fees, dues, and assessments. The organization has exceeded the fifteen percent (15%) non-member threshold as outlined in Public Law 94-568, on a recurring basis during tax years ending December 31, 20XX through December 31, 20XX as shown below:

Income	20XX	20XX	20XX	20XX	20XX
Contributions	0	0	0	0	0
Dues	0	0	0	0	0
Rental Income	0	0	0	0	0
Gross Receipts	0	0	0	0	0
% Non-member use	0%	0%	0%	0%	0%

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Rev. Rulings 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 as described in 501(c)(7).

CONCLUSION:

Based on the above facts and circumstances, and in light of the statutory law and rulings cited, does not qualify for tax-exemption under IRC §501(c)(7) and should be revoked. The proposed date of the revocation is January 1, 20XX.

Form 1120, U.S. Corporation Income Tax Return should be filed for 20XX and thereafter as long as the organization continues to be subject to income tax.