DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
1100 Commerce Street, MC 4920DAL
Dallas, TX 75242

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: May 17, 2019

EIN:

Person to Contact:

Number: **201943026**
Release Date: 10/25/2019

Identification Number:

Telephone Number:

UIL: 501.07-00

CERTIFIED MAIL – Return Receipt Requested
LAST DAY FOR FILING A PETITION WITH THE TAX COURT:

Dear :

This is a final determination that you do not qualify for exemption from Federal income tax under Internal Revenue Code (the "Code") section 501(a) as an organization described in Code section 501(c)(7), effective January 1, 20XX.

Our adverse determination as to your exempt status was made for the following reasons:

> You have not established that you are operated substantially for pleasure and recreation of its members or other non-profitable purposes and no part of the earnings inures to the benefit of private shareholder within the meaning of IRC section 501(c)(7). You have made your recreational and social facilities available to the general public. You have exceeded the non-member income test for tax year ending December 31, 20XX.

Organizations that are not exempt under section 501 generally are required to file federal income tax returns and pay tax, where applicable. For further instructions, forms, and information please visit www.irs.gov.

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: 1) United States Tax Court, 2) the United States Court of Federal Claims, or 3) the United States District Court for the District of Columbia. A petition or complaint in one of these three courts must be filed within 90 days from the date this determination was mailed to you. Please contact the clerk of the appropriate court for the rules for initiating suits for declaratory judgment. Please contact the

clerk of the appropriate court for rules and the appropriate forms for filing petitions for declaratory judgment by referring to the enclosed Publication 892. 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

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

You may be eligible for help from the Taxpayer advocate Service (TAS). (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 www.taxpayeradvocate.irs.gov or call 1-877-777-4778.

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

Sincerely yours,

Maria Hooke

Maria Hooke
Director, EO Examinations

Enclosures:
Publication 892

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

Date:
March 19, 2019
Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact:

Employee ID:
Telephone:
Fax:
Manager's Contact Information:

Employee ID:
Telephone:
Response Due Date:

CERTIFIED MAIL – Return Receipt Requested

Dear :

Why you're receiving this letter
We enclosed a copy of our audit report, Form 886-A, Explanation of Items, explaining that your organization doesn't qualify as an organization described in Internal Revenue Code (IRC) Section 501(c)(7).

This letter is not a determination of your tax-exempt status under IRC Section 501 for any period other than the tax periods above.

If you agree
If you haven't already, please sign the enclosed Form 6018, Consent to Proposed Action, and return it to the contact person shown at the top of this letter. We'll issue a final adverse letter determining that you aren't an organization described in IRC Section 501(c)(7) for the periods above.

If you disagree

1. Request a meeting or telephone conference with the manager shown at the top of this letter.

2. Send any information you want us to consider.

3. File a protest with the IRS Appeals Office. If you request a meeting with the manager or send additional information as stated in 1 and 2, above, you'll still be able to file a protest with IRS Appeals Office after the meeting or after we consider the information.

   The IRS Appeals Office is independent of the Exempt Organizations division and resolves most disputes informally. If you file a protest, the auditing agent may ask you to sign a consent to extend the period of limitations for assessing tax. This is to allow the

IRS Appeals Office enough time to consider your case. For your protest to be valid, it must contain certain specific information, including a statement of the facts, applicable law, and arguments in support of your position. For specific information needed for a valid protest, refer to Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status.

Fast Track Mediation (FTM) referred to in Publication 3498, The Examination Process, generally doesn't apply now that we've issued this letter.

4. Request technical advice from the Office of Associate Chief Counsel (Tax Exempt Government Entities) if you feel the issue hasn't been addressed in published precedent or has been treated inconsistently by the IRS.

   If you're considering requesting technical advice, contact the person shown at the top of this letter. If you disagree with the technical advice decision, you will be able to appeal to the IRS Appeals Office, as explained above. A decision made in a technical advice memorandum, however, generally is final and binding on Appeals.

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 adverse determination letter.

In the future, if you believe your organization qualifies for tax-exempt status and would like a status determination letter from the IRS, you can request a determination by filing Form 1024, Application for Recognition of Exemption Under Section 501(a), and paying the required user fee.

Contacting the Taxpayer Advocate Office is a taxpayer right
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 www.taxpayeradvocate.irs.gov or call 877-777-4778.

For additional information
You can get any of the forms and publications mentioned in this letter by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676).

If you have questions, you can contact the person shown at the top of this letter.

Sincerely,

Melvin T. Robinson

for Maria Hooke
Director, Exempt Organizations
Examinations

Enclosures:
Form 886-A
Form 4621-A
Form 6018

Issue:

Whether ( ), an organization exempt under IRC 501(c)(7) continues to qualify for exemption given the fact that substantially all of its income is from investment income?

Facts:

is a self-declared IRC 501(c)(7) organization. The organization self-declared exemption under IRC 501(c)(7) by filing Form 990s beginning for the tax year ending December 31, 20XX.

Based on the agent's observations and interview, the organization provides a place for members to socialize, participate in games, watch television and hold holiday parties for members only. The common bond is cultural. Most of the membership is comprised of immigrants. unrelated business income is from rental income received from restaurant located on the ground floor of the facility and the sale of burial plots to members only.

Form 990s for the years ending 20XX and 20XX show investment income of $ and $, respectively. The amounts shown on Form 990s as investment income were misclassified and should have been reported as rental income which was from an unrelated restaurant. The rental income accounts for 0% and 0% of the organization's gross income in 20XX and 20XX, respectively.

Law:

Internal Revenue Code Section 501(c)(7) provides exemption to 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."

Income Tax Regulation 1.501(c)(7)-1(a) states, in part, exemption is provided only to "clubs which are organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes…" and "… exemption extends to social clubs and recreation clubs which are supported solely by membership fees, dues, and assessments."

The Committee Reports for Public Law 94-568 (Senate Report No. 94-1318 2d Session, 1976-2 C.B. 597) states that it is intended that social clubs be permitted to receive up to 35% of their gross receipts, including investment income, from sources outside of their membership without losing their tax-exempt status.

Revenue Ruling 66-149 states, in part, a social club is not exempt from Federal income tax as an organization described in section 501(c)(7) of the Code where it regularly derives a substantial part of its income from nonmember sources such as, for example, dividends and interest on investments which it owns.

Taxpayer's Position:

disagrees. It believes it does meet the criteria of an exempt organization because it rented out part of its property in order to keep the operations afloat. It feels the rental of the property is to benefit the community and members. Also, it was never intended to be used for investment purposes.

Government Position:

The organization has exceeded the 35% gross receipts limitation of Public Law 94-568. Further, it has been determined that the organization has derived a substantial part of its income from non-member rental of its property to a restaurant on a continuous basis. Rev. Rul. 66-149 held that "a social club is not exempt from Federal income tax as an organization described in section 501(c)(7) of the Code where it regularly derives a substantial part of its income from nonmember sources..."

Conclusion:

Based on our review of all facts and circumstances and the legislative support referenced above, it is the government's position that the Organization's exempt status should be revoked because it regularly derives a substantial part of its income from nonmember sources such as, for example, dividends and interest on investments which it owns. Accordingly, we propose that the organization's exempt status be revoked effective January 1, 20XX, the first day of the first tax year under examination.