Department of the Treasury
Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Number: **202015023**
Release Date: 4/10/2020

Date:
January 16, 2020
Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

UIL Number: _501.07-00, 501.07-01, 501.07-05

Dear :

This letter is our final determination that you don't qualify for tax-exempt status under Section 501(c)(7) of the Internal Revenue Code (the Code). Recently, we sent you a proposed adverse determination in response to your application. The proposed adverse determination explained the facts, law, and basis for our conclusion, and it gave you 30 days to file a protest. Because we didn't receive a protest within the required 30 days, the proposed determination is now final.

You must file federal income tax returns for the tax years listed at the top of this letter using the required form (also listed at the top of this letter) within 30 days of this letter unless you request an extension of time to file.

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection (as required under Section 6110 of the Code) after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Notice 437 on how to notify us. If you agree with our deletions, you don't need to take any further action.

If you have questions about this letter, you can contact the person listed at the top of this letter. If you have questions about your federal income tax status and responsibilities, call our customer service number at 1-800-829-1040 (TTY 1-800-829-4933 for deaf or hard of hearing) or customer service for businesses at 1-800-829-4933.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosures:
Notice 437
Redacted Letter 4034, *Proposed Adverse Determination under IRC Section 501(a) Other Than 501(c)(3)*
Redacted Letter 4040, *Final Adverse Determination under IRC Section 501(a) Other Than 501(c)(3) - No Protest*

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Internal Revenue Service
P.O. Box 2508
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Date:

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:
B = state
C = date
D = year
w = number
x = number
y = number
z = number

UIL:
501.07-00
501.07-01
501.07-05

Dear :

We considered your application for recognition of exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a). We determined that you don't qualify for exemption under IRC Section 501(c)(7). This letter explains the reasons for our conclusion. Please keep it for your records.

Issues
Do you qualify for exemption under Section 501(c)(7) of the Code? No, for the reasons stated below.

Facts
You were incorporated in B on C, as a for-profit corporation under section w of the B business corporation law. Your stated purpose is "to engage in any legal act or activity for which corporations may be organized under the business corporation law." You are authorized to issue x shares of stock at no par value.

You will provide "shareholders with a place to hunt for now and future years, and to carefully preserve and protect [your] shareholders [*sic*] hunting privileges" and to "encourage wildlife to occupy, and through planned conservation management protect [your] land to prevent exploration, destruction or neglect." Your shareholders may hunt, four-wheel, snowmobile, camp, and perform other activities on your land.

Your revenues are derived entirely from the sale of timber and gas production. You have income from natural gas annually, and from timber every few years. All revenue generated is from these two sources, and you have listed no income derived from your members. Timber and gas sales have generated net profits based on given financial information. You have filed Form 1120 in the past and elected classification as an S-Corporation beginning in D, subsequently filing Form 1120-S for the next ten plus years.

Although you are authorized for x shares, currently only y shares of your stock have been issued. This translates into z memberships. You have a meeting of the shareholders bi-annually to set the value of any shares that may be transferred. The basis of the transaction price selected by the shareholders shall balance the interests of the sellers and buyers of the shares. Upon dissolution you will distribute assets to shareholders proportionately based on the number of shares held.

Law

Section 501(c)(7) of the Code provides for the exemption from federal income tax of clubs organized for pleasure, recreation, and other non-profitable 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.

Treasury Regulation Section 1.501(c)(7)-l(a) states that the exemption provided by Section 501(a) of the Code for an organization described in Section 501(c)(7) applies only to clubs which are organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, but does not apply to any club if any part of its net earnings inure 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.

Treas. Reg. Section 1.501(c)(7)-1(b) states that a club which engages in business, such as 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. An incidental sale of property will not deprive a club of its exemption.

Rev. Rul 58-589, 1958-2 C.B. 266, stipulates expanded criteria for determining whether an organization qualifies for exemption under Section 501(c)(7) of the Code. The ruling considers the significance of the assertion of Treas. Reg. Section 1.501(c)(7)-1(b) that an organization that sells real estate, timber, or other products, is not organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes. A club will not be denied exemption merely because it receives income from the general public provided such participation is incidental to and in furtherance of its general club purposes. To retain exemption a club must not enter into outside activities with the purpose of deriving profit. If such income producing activities are other than incidental, trivial or nonrecurrent, it will be considered that they are designed to produce income and will defeat exemption.

Rev. Rul. 66-149 states a social club is not exempt from federal income tax as an organization described in Section 501(c)(7) where it regularly derives a substantial part of its income from non-member sources. To the extent that income is derived from non-member sources, it inures to the benefit of the members. If such activities are other than incidental, trivial, or non-recurrent, it is considered that they are intended to produce income and are reflective of a purpose inconsistent with exemption under Section 501(c)(7) of the Code.

Public Law 94-568, 1976-2 C.B. 596, provides that a social club may receive up to 35% of its gross receipts, including investment income from sources outside its membership, without losing exemption. Within this 35% amount, not more than 15% 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% 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% of the total receipts.

Application of law
Per Treas. Reg. Section 1.501(c)(7)-1(a), substantially all of your activities are not for pleasure, recreation, or other nonprofit purposes. All of your income is derived from non-member sources, and as a result, income from non-member sources is used to defray membership costs resulting in inurement to members. Further, you are formed and operate as a for-profit entity. These reasons disqualify you from exemption under Section 501(c)(7) of the Code.

Your sales of timber and natural gas are described as prohibited sales activities in Treas. Reg. Section 1.501(c)(7)-1(b) and do not promote a social or recreational purpose. While an organization exempt under Section 501(c)(7) of the Code may conduct traditional, permissible business activities these may not constitute more than 15% of organizational revenue (see Public Law 94-568). Your sales activities are regular and not incidental, totaling well over the allowed 15% and above consideration for facts and circumstances.

Rev. Rul. 58-589 further describes how your income from the sale of timber and production of natural gas removes you from consideration as operating exclusively for purposes under Section 501(c)(7) of the Code. Participation with these sources of revenue must be incidental to and in furtherance of general club purposes and a club must not enter into outside activities with the purpose of deriving profit. As no member dues are charged, you are reliant on the timber and gas sales for your operations. This income is not trivial, incidental, or non-recurring. It is your sole source of income, is paid to you regularly and generates profit.

You are similar to the denied organization in Rev. Rul. 66-149 because your income producing activities are recurring, rather than sporadic, and produce income over the allowable limits from non-member sources. Further, your non-member income accounts for all of your income, with no member-related income with which to offset.

Conclusion
You do not qualify for exemption under Section 501(c)(7) of the Code. Your activities are supported wholly by net-income producing, non-member income which inures to your members. In addition, you are incorporated as a for-profit corporation.

If you agree
If you agree with our proposed adverse determination, you don't need to do anything. If we don't hear from you within 30 days, we'll issue a final adverse determination letter. That letter will provide information on your income tax filing requirements.

If you don't agree
You have a right to protest if you don't agree with our proposed adverse determination. To do so, send us a protest within 30 days of the date of this letter. You must include:

- Your name, address, employer identification number (EIN), and a daytime phone number
- A statement of the facts, law, and arguments supporting your position

- A statement indicating whether you are requesting an Appeals Office conference

- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization or your authorized representative

- The following declaration:

  For an officer, director, trustee, or other official who is authorized to sign for the organization: Under penalties of perjury, I declare that I have examined this request, or this modification to the request, including accompanying documents, and to the best of my knowledge and belief, the request or the modification contains all relevant facts relating to the request, and such facts are true, correct, and complete.

Your representative (attorney, certified public accountant, or other individual enrolled to practice before the IRS) must file a Form 2848, Power of Attorney and Declaration of Representative, with us if they haven't already done so. You can find more information about representation in Publication 947, Practice Before the IRS and Power of Attorney.

We'll review your protest statement and decide if you gave us a basis to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't given us a basis for reconsideration, we'll send your case to the Appeals Office and notify you. You can find more information in Publication 892, How to Appeal an IRS Decision on Tax-Exempt Status.

If you don't file a protest within 30 days, you can't seek a declaratory judgment in court later because the law requires that you use the IRC administrative process first (IRC Section 7428(b)(2).

Where to send your protest
Send your protest, Form 2848, if applicable, and any supporting documents to the applicable address:

<u>U.S. mail:</u>

Internal Revenue Service
EO Determinations Quality Assurance
Mail Stop 6403
P.O. Box 2508
Cincinnati, OH 45201

<u>Street address for delivery service:</u>

Internal Revenue Service
EO Determinations Quality Assurance
550 Main Street, Mail Stop 6403
Cincinnati, OH 45202

You can also fax your protest and supporting documents to the fax number listed at the top of this letter. If you fax your statement, please contact the person listed at the top of this letter to confirm that they received it.

You can get 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 listed at the top of this letter.

Contacting the Taxpayer Advocate Service
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 if 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.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements