



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

Release Number: 202530012
Release Date: 7/25/2025
UIL Code: 501.08-00

Date:
April 28, 2025
Taxpayer ID number (last 4 digits):
[REDACTED]
Form:
[REDACTED]
Tax periods ended:
[REDACTED]
Person to contact:
Name: [REDACTED]
ID number: [REDACTED]
Telephone: [REDACTED]
Fax: [REDACTED]
Last day to file petition with United States
Tax Court:
July 28, 2025

CERTIFIED MAIL - Return Receipt Requested

Dear [REDACTED]:

Why we are sending you this letter

This is a final determination that you don't qualify for exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a) as an organization described in IRC Section [REDACTED], for the tax periods above. Your determination letter dated [REDACTED] is revoked.

Our adverse determination as to your exempt status was made for the following reasons: You do not provide life, sick, accident or other benefits to members and a substantial part of your time and income comes from non-exempt purposes. Additionally, as determined by time and income sources, your activities consist of substantial non-member activity through gaming operations and sales of goods.

Organizations that are not exempt under IRC Section 501 generally are required to file federal income tax returns and pay tax, where applicable. For further instructions, forms and information please visit [IRS.gov](https://www.irs.gov).

What you must do if you disagree with this determination

If you want to contest our final determination, you have 90 days from the date this determination letter was mailed to you to file a petition or complaint in one of the three federal courts listed below.

How to file your action for declaratory judgment

If you decide to contest this determination, you can file an action for declaratory judgment under the provisions of Section 7428 of the Code in either:

- The United States Tax Court,
- The United States Court of Federal Claims, or
- The United States District Court for the District of Columbia

You must file a petition or complaint in one of these three courts within 90 days from the date we mailed this determination letter to you. You can download a fillable petition or complaint form and get information about filing at each respective court's website listed below or by contacting the Office of the Clerk of the Court at one of the addresses below. Be sure to include a copy of this letter and any attachments and the applicable filing fee with the petition or complaint.

You can eFile your completed U.S. Tax Court petition by following the instructions and user guides available on the Tax Court website at ustaxcourt.gov/dawson.html. You will need to register for a DAWSON account to do so. You may also file your petition at the address below:

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

The websites of the U.S. Court of Federal Claims and the U.S. District Court for the District of Columbia contain instructions about how to file your completed complaint electronically. You may also file your complaint at one of the addresses below:

US Court of Federal Claims
717 Madison Place, NW
Washington, DC 20439
uscfc.uscourts.gov

US District Court for the District of Columbia
333 Constitution Avenue, NW
Washington, DC 20001
dcd.uscourts.gov

Processing of income tax returns and assessments of any taxes due will not be delayed if you file a petition for declaratory judgment under IRC Section 7428.

The IRS office whose phone number appears at the top of the notice can best address and access your tax information and help get you answers. However, you may be eligible for free help from the Taxpayer Advocate Service (TAS) if you can't resolve your tax problem with the IRS or if you believe an IRS procedure just isn't working as it should. TAS is an independent organization within the IRS that helps taxpayers and protects taxpayer rights. Visit **TaxpayerAdvocate.IRS.gov/contact-us** or call 877-777-4778 (TTY/TDD 800-829-4059) to find the location and phone number of your local advocate. Learn more about TAS and your rights under the Taxpayer Bill of Rights at **TaxpayerAdvocate.IRS.gov**. Do not send your Tax Court petition to TAS. Use the Tax Court address provided earlier in the letter. Contacting TAS does not extend the time to file a petition.

Where you can find more information

Enclosed are Publication 1, Your Rights as a Taxpayer, and Publication 594, The IRS Collection Process, for more comprehensive information.

Find tax forms or publications by visiting **IRS.gov/forms** or calling 800-TAX-FORM (800-829-3676). If you have questions, you can call the person shown at the top of this letter.

If you prefer to write, use the address shown at the top of this letter. Include your telephone number, the best time to call, and a copy of this letter.

You may fax your documents to the fax number shown above, using either a fax machine or online fax service. Protect yourself when sending digital data by understanding the fax service's privacy and security policies.

Keep the original letter for your records.

Sincerely,

[Redacted Signature]

Lynn A. Brinkley
Director, Exempt Organizations Examinations

Enclosures:

Publication 1

Publication 594

Publication 892

cc:

[Redacted]



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

[REDACTED]

[REDACTED]

Date:
2/13/2025
Taxpayer ID number:

[REDACTED]

Form:

[REDACTED]

Tax periods ended:

[REDACTED]

Person to contact:

Name:

ID number:

Telephone:

Fax:

Address:

Manager's contact information:

Name:

ID number:

Telephone:

Response due date: 3/17/2025

CERTIFIED MAIL – Return Receipt Requested

Dear [REDACTED]:

Why you're receiving this letter

We enclosed a copy of our audit report, Form 886-A, Explanation of Items, explaining that we propose to revoke your tax-exempt status as an organization described in Internal Revenue Code (IRC) Section 501(c)(8).

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)(8) for the periods above.

After we issue the final adverse determination letter, we'll announce that your organization is no longer eligible to receive tax deductible contributions under IRC Section 170.

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.

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.

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,



Lynn A. Brinkley
Director, Exempt Organizations Examinations

Enclosures:

Form 6018

Form 4621-A

Form 886-A

Publication 892

Publication 3498

Form 4549-A

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number <i>(last 4 digits)</i>	Year/Period ended

Issue:

Whether, under the circumstances described, _____ (Taxpayer) meets the requirements for continued recognition of exemption under section 501(c)(8) of the Internal Revenue Code.

Facts:

Organizational Structure: The Taxpayer was incorporated in the State of _____ on _____. The Taxpayer is recognized by the Internal Revenue Service as tax exempt under Section 501(c)(8) of the Internal Revenue Code (IRC). The Taxpayer received their tax exemption through their parent organization the _____. The Taxpayer was added under their parent's group ruling in _____, while parent has held their group exemption since _____.

Membership:

During the interview conducted with the Taxpayer on _____, the taxpayer indicated that they do not provide benefits to members, such as life, sick, death, or other benefits. Additionally, the Taxpayer has no written policy for member benefits, such as life, sick, death, or other benefits. However, when reviewing the Taxpayer's records, they in fact paid out death benefits to a member that had passed. No information was provided on if other members had passed, and if they were provided a benefit as a result.

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
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The Taxpayer provided meeting minutes from , , and , which included membership numbers. The records show that there is an active membership with attempts to create new membership.

Activities: The Taxpayer operates a club located at , , . The facility is leased from .

A tour of the facility was conducted by the Agent for the Internal Revenue Service on . It was observed that the outside of the facility

The facility is licensed in the state of to conduct gaming. The Taxpayer (“Retailer”) entered a contract with (“Operator”) on , . The contract provides in part:

- Operator and Retailer agree to participate in the lottery program set forth in the Lottery Act (Code Section).
- Operator duties include:

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items		Schedule number or exhibit
Name of taxpayer		Tax Identification Number <i>(last 4 digits)</i>	Year/Period ended

- Retailer duties include:

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
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Form 990, Return of Organization Exempt From Income Tax: The agent determined, based on the examination of books and records, the Form 990 filed for the year under exam accurately reflected the financial activities of the organization. Income from gaming, sales of inventory (food, beverage, and membership dues), coin operations, fees, and other income were reported on Form 990. Alternatively, the Taxpayer's expense sources came from compensation, professional fees, occupancy, insurance, and other expenses. See Appendix A for a detail of income and expenses presented on Form 990.

During the visit to the Taxpayer that took place the week of , the agent found that the income from gaming, sales of inventory, and fees came from public and membership sources. The Taxpayer could not provide records to separate the income for gaming and fees between public and membership sources but did make the distinction that pull-tab sales are conducted with members only. The taxpayer did provide income from inventory sales to membership sources. The agent determined that the total amount of income coming from public sources amounted to %, which represents all non-member income producing activities (see Appendix B). Lastly, the member and non-member activities are operational roughly the same amount of time per day.

Law:

IRC Section 501(c)(8) Fraternal beneficiary societies, orders, or associations exempts from Federal income tax corporations, - (A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and (B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents.

Section 1.501(c)(8)-1 of the Income Tax Regulations states that a fraternal beneficiary society is exempt from tax only if operated under the "lodge system" or for the exclusive benefit of the members so operating. "Operating under the lodge system" means carrying on its activities under a form of organization that comprises local branches, chartered by a parent organization and largely self-governing, called lodges,

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (<i>last 4 digits</i>)	Year/Period ended

chapters, or the like. In order to be exempt, it is also necessary that the society have an established system for the payment to its members or their dependents of life, sick, accident, or other benefits.

Rev. Rul. 73-165, 1973-1 C.B. 224, discusses the necessary ratio of fraternal activity to beneficial activity required of a Section 501(c)(8) organization, and states that there is no requirement that either feature predominate so long as both are present. However, an association whose fraternal features are so insubstantial as to make it indistinguishable from an ordinary life insurance company doesn't qualify for exemption under Section 501(c)(8).

Rev. Rul. 84-48, 1984-1 CB 133, holds Section 501(c)(8) of the Code provides for the exemption from federal income tax of fraternal beneficiary societies, orders, or associations that operate under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system and that provide for the payment of life, sick, accident, or other benefits to the members of such societies or their dependents. The term "other benefits" as used in section 501(c)(8) of the Code, is limited by the type of benefit specified in that section. It is applicable only to those benefits which are of a like kind and nature to those enumerated.

Taxpayer's Position:

Taxpayer's position is not known at this time.

Government's Position:

In order to qualify for exemption under section Code Sec. 501(a) and Code Sec. 501(c)(8) if:

1. it operates under the lodge system for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and
2. it provides for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents.

Operating under the lodge system requires at a minimum, two active entities, a parent and a subordinate. Activities must be carried out under a form of organization that comprises local branches called lodges, chapters, and the like. The local branches must be chartered by the parent organization and largely self-governed. See Section 1.501(c)(8)-1 of the Income Tax Regulations. You appear to be operating under the lodge system for fraternal purposes.

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (last 4 digits)	Year/Period ended

You are similar to the organization described in Rev. Rul. 84-48 that was denied exemption under section 501(c)(8) of the Code, because, like these organizations, you have not demonstrated that you provide for the payment of life, sick, accident, or other benefits to members of such society, order, or association or their dependents. During the examination process, your organization has not demonstrated that your organization provided for the payment of life, sick, accident, or other benefits to your members or their dependents or the members and dependents of other 501(c)(8) organization. When asked whether you provide for the payment of life, sick, or accident insurance, you responded that you did not provide for the payment of life, sick, or accident insurance.

Lastly, you are unlike the organization described in Rev. Rul. 73-165 that was granted exemption under section 501(c)(8) of the Code, because, unlike these organizations, you are not operated for exempt purposes consistent with Section 501(c)(8) of the Code. Your activities consist of substantial, as determined by time and income sources, non-member activity through gaming operations and sales of goods. These facts demonstrate a substantially non-exempt purpose inconsistent with Section 501(c)(8) of the Code.

Conclusion:

Based on the facts and the law presented above, we have determined that you do not meet the requirements for tax exemption under section 501(c)(8) of the Code as a fraternal beneficiary society operating under the lodge system that provides life, sick, accident or other benefits to members. You do not provide life, sick, accident or other benefits to members and a substantial part of your time and income comes from non-exempt purposes.

Accordingly, you do not qualify for exemption as an organization described in section 501(c)(8) of the Code. You will be removed from your group exemption under your parent under section 501(c)(8) of the Internal Revenue Code effective _____, the first day of the year that we determined that you are not operated exclusively for exempt purposes. You are required to file Forms 1120 and pay Federal income tax for all years beginning after _____.

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number <i>(last 4 digits)</i>	Year/Period ended

ALTERNATIVE ISSUE

An alternative resolution has been prepared should the IRS not uphold the revocation position

Issue:

Whether the Taxpayer is liable for filing Form 990-T and for unrelated business income tax.

Facts:

The fact structure is identical to the facts presented in the primary resolution. Additionally, please see appendix A for income and expense sources, and appendix B for UNRELATED BUSINESS INCOME calculations.

Law:

IRC section 511(a)(1) provide for the imposition of unrelated business income tax — There is hereby imposed for each taxable year on the unrelated business taxable income (as defined in section 512) of every organization described in paragraph (2) a tax computed as provided in section 11. In making such computation for purposes of this section, the term “taxable income” as used in section 11 shall be read as “unrelated business taxable income”.

IRC section 512(a)(1) defines unrelated business income as follows — Except as otherwise provided in this subsection, the term “unrelated business taxable income” means the gross income derived by any organization from any unrelated trade or business (as defined in section 513) regularly carried on by it, less the deductions allowed by this chapter which are directly connected with the carrying on of such trade or business, both computed with the modifications provided in subsection (b).

IRC section 512(a)(6) defines special rules for organizations with more than 1 unrelated trade or business. In the case of any organization with more than 1 unrelated trade or business:

- A. unrelated business taxable income, including for purposes of determining any net operating loss deduction, shall be computed separately with respect to each such trade or business and without regard to subsection (b)(12),
- B. the unrelated business taxable income of such organization shall be the sum of the unrelated business taxable income so computed with respect to each such trade or business, less a specific deduction under subsection (b)(12), and

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (last 4 digits)	Year/Period ended

C. for purposes of subparagraph (B), unrelated business taxable income with respect to any such trade or business shall not be less than zero.

IRC section 513(a) GENERAL RULE. —The term “unrelated trade or business” means, in the case of any organization subject to the tax imposed by section 511, any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501 (or, in the case of an organization described in section 511(a)(2)(B), to the exercise or performance of any purpose or function described in section 501(c)(3)), except that such term does not include any trade or business —

513(a)(1) in which substantially all the work in carrying on such trade or business is performed for the organization without compensation; or

513(a)(2) which is carried on, in the case of an organization described in section 501(c)(3) or in the case of a college or university described in section 511(a)(2)(B), by the organization primarily for the convenience of its members, students, patients, officers, or employees, or, in the case of a local association of employees described in section 501(c)(4) organized before May 27, 1969, which is the selling by the organization of items of work-related clothes and equipment and items normally sold through vending machines, through food dispensing facilities, or by snack bars, for the convenience of its members at their usual places of employment; or

513(a)(3) which is the selling of merchandise, substantially all of which has been received by the organization as gifts or contributions.

Federal Tax Regulation section 1.512(a)-1(c) Dual use of facilities or personnel. —Where facilities are used both to carry on exempt activities and to conduct unrelated trade or business activities, expenses, depreciation and similar items attributable to such facilities (as, for example, items of overhead) shall be allocated between the two uses on a reasonable basis. Similarly, where personnel are used both to carry on exempt activities and to conduct unrelated trade or business activities, expenses and similar items attributable to such personnel (as, for example, items of salary) shall be allocated between the two uses on a reasonable basis. The portion of any such item so allocated to the unrelated trade or business activity is proximately and primarily related to that business activity and shall be allowable as a deduction in computing unrelated business taxable income in the manner and to the extent permitted by section 162, section 167 or other relevant provisions of the Code. Thus, for example, assume that X, an exempt organization subject to the provisions of section 511, pays its president a salary of \$20,000 a year. X derives gross income from the conduct of unrelated trade or business activities. The president devotes

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (<i>last 4 digits</i>)	Year/Period ended

approximately 10 percent of his time during the year to the unrelated business activity. For purposes of computing X's unrelated business taxable income, a deduction of \$2,000 (10 percent of \$20,000) would be allowable for the salary paid to its president.

Federal Tax Regulation section 1.513-l(a) provides the definition of unrelated trade or business. — *In general.* —As used in section 512 the term “unrelated business taxable income” means the gross income derived by an organization from any unrelated trade or business regularly carried on by it, less the deductions and subject to the modifications provided in section 512. Section 513 specifies with certain exceptions that the phrase “unrelated trade or business” means, in the case of an organization subject to the tax imposed by section 511, any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its charitable, educational or other purpose or function constituting the basis for its exemption under section 501 (or, in the case of an organization described in section 511 (a)(2)(B), to the exercise or performance of any purpose or function described in section 501(c)(3)). (For certain exceptions from this definition, see paragraph (e) of this section. For a special definition of “unrelated trade or business” applicable to certain trusts, see section 513(b).) Therefore, unless one of the specific exceptions of section 512 or 513 is applicable, gross income of an exempt organization subject to the tax imposed by section 511 is includible in the computation of unrelated business taxable income if (1) it is income from trade or business, (2) such trade or business is regularly carried on by the organization, and (3) the conduct of such trade or business is not substantially related (other than through the production of funds) to the organization's performance of its exempt functions.

Federal Tax Regulation 1.513-l(b) *Trade or business.* —The primary objective of adoption of the unrelated business income tax was to eliminate a source of unfair competition by placing the unrelated business activities of certain exempt organizations upon the same tax basis as the nonexempt business endeavors with which they compete. On the other hand, where an activity does not possess the characteristics of a trade or business within the meaning of section 162, such as when an organization sends out low cost articles incidental to the solicitation of charitable contribution, the unrelated business income tax does not apply since the organization is not in competition with taxable organizations. However, in general, any activity of a section 511 organization which is carried on for the production of income and which otherwise possesses the characteristics required to constitute “trade or business” within the meaning of section 162 and which, in addition, is not substantially related to the performance of exempt functions —presents sufficient likelihood of unfair competition to be within the policy of the tax.

Accordingly, for purposes of section 513 the term “trade or business” has the same meaning it has in section 162, and generally includes any activity carried on for the production of income from the sale of goods or performance of services. Thus, the term “trade or business” in section 513 is not limited to integrated aggregates of assets, activities and good will which comprise businesses for the purposes of certain other

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (last 4 digits)	Year/Period ended

provisions of the Internal Revenue Code. Activities of producing or distributing goods or performing services from which a particular amount of gross income is derived do not lose identity as trade or business merely because they are carried on within a larger aggregate of similar activities or within a larger complex of other endeavors which may, or may not, be related to the exempt purposes of the organization. Thus, for example, the regular sale of pharmaceutical supplies to the general public by a hospital pharmacy does not lose identity as trade or business merely because the pharmacy also furnishes supplies to the hospital and patients of the hospital in accordance with its exempt purposes or in compliance with the terms of section 513(a)(2). Similarly, activities of soliciting, selling, and publishing commercial advertising do not lose identity as a trade or business even though the advertising is published in an exempt organization periodical which contains editorial matter related to the exempt purposes of the organization. However, where an activity carried on for the production of income constitutes an unrelated trade or business, no part of such trade or business shall be excluded from such classification merely because it does not result in profit.

Federal Tax Regulation section 1.513-1(c) defines Regularly carried on

(1) *General principles.* —In determining whether trade or business from which a particular amount of gross income derives is “regularly carried on,” within the meaning of section 512, regard must be had to the frequency and continuity with which the activities productive of the income are conducted and the manner in which they are pursued. This requirement must be applied in light of the purpose of the unrelated business income tax to place exempt organization business activities upon the same tax basis as the nonexempt business endeavors with which they compete. Hence, for example, specific business activities of an exempt organization will ordinarily be deemed to be “regularly carried on” if they manifest a frequency and continuity, and are pursued in a manner, generally similar to comparable commercial activities of nonexempt organizations.

Federal Tax Regulation section 1.513-1(d) defines Substantially related

- A. *In general.* —Gross income derives from “unrelated trade or business,” within the meaning of section 513(a), if the conduct of the trade or business which produces the income is not substantially related (other than through the production of funds) to the purposes for which exemption is granted. The presence of this requirement necessitates an examination of the relationship between the business activities which generate the particular income in question — the activities, that is, of producing or distributing the goods or performing the services involved —and the accomplishment of the organizations exempt purposes.
- B. *Type of relationship required.* —Trade or business is “related” to exempt purposes, in the relevant sense, only where the conduct of the business activities has causal relationship to the achievement of exempt purposes (other than through the production of income); and it is “substantially related,” for purposes of section 513, only if the causal relationship is a substantial one. Thus, for the conduct of

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number <i>(last 4 digits)</i>	Year/Period ended

trade or business from which a particular amount of gross income is derived to be substantially related to purposes for which exemption is granted, the production or distribution of the goods or the performance of the services from which the gross income is derived must contribute importantly to the accomplishment of those purposes. Where the production or distribution of the goods or the performance of the services does not contribute importantly to the accomplishment of the exempt purposes of an organization, the income from the sale of the goods or the performance of the services does not derive from the conduct of related trade or business. Whether activities productive of gross income contribute importantly to the accomplishment of any purpose for which an organization is granted exemption depends in each case upon the facts and circumstances involved.

- C. Size and extent of activities. —In determining whether activities contribute importantly to the accomplishment of an exempt purpose, the size and extent of the activities involved must be considered in relation to the nature and extent of the exempt function which they purport to serve. Thus, where income is realized by an exempt organization from activities which are in part related to the performance of its exempt functions, but which are conducted on a larger scale than is reasonably necessary for performance of such functions, the gross income attributable to that portion of the activities in excess of the needs of exempt functions constitutes gross income from the conduct of unrelated trade or business. Such income is not derived from the production or distribution of goods or the performance of services which contribute importantly to the accomplishment of any exempt purpose of the organization.

Federal tax Regulation section 1.513-1(e) provide for Exceptions from unrelated business income — Section 513(a) specifically states that the term “unrelated trade or business” does not include —

- A. Any trade or business in which substantially all the work in carrying on such trade or business is performed for the organization without compensation; or
- B. Any trade or business carried on by an organization described in section 501(c)(3) or by a governmental college or university described in section 511 (a)(2)(B), primarily for the convenience of its members, students, patients, officers, or employees; or, any trade or business carried on by a local association of employees described in section 501(c)(4) organized before May 27, 1969, which consists of the selling by the organization of items of work-related clothes and equipment and items normally sold through vending machines, through food dispensing facilities, or by snack bars, for the convenience of its members at their usual places of employment; or
- C. Any trade or business which consists of selling merchandise, substantially all of which has been received by the organization as gifts or contributions.

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
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Waco Lodge No. 166, Benevolent. & Protective Order of Elks v. Commissioner, 42 T.C.M. (CCH) 1202 (T.C. 1981), aff'd, 696 F.2d 372 (5th Cir. 1983), held that a Section 501(c)(8) organization's income from operation of a weekly bingo game constituted unrelated business taxable income under Section 511 and Section 513. The Service asserted that the gambling activities were open to the public. The Tax Court provided that the organization's bingo games were illegal in Texas at the time the organization conducted bingo nights because they fell within the definition of lottery as defined in 4 Tex. Penal Code Ann. tit. 10, sec. 47.01(6) (Vernon 1974). As the organization's bingo games were illegal under Texas law, the bingo games didn't meet the "bingo exception" from unrelated trade or business treatment under Section 513(f) and so, the bingo games weren't excluded from the Section 513(a) definition of unrelated trade or business. The Tax Court also concluded that the bingo games didn't meet the exception from the definition of unrelated trade or business under Section 513(a)(1) because substantially all of the work performed in carrying on the bingo games was compensated.

Taxpayer's Position:

Taxpayer's position is not known at this time.

Government's Position:

The Taxpayer is subject to unrelated business income from gaming (not including pull-tab sales), fees, and sales of inventory. The activities are conducted in a manner similar to a for-profit organization. The unrelated business income activities are business activities regularly carried on as described in Section 513 of the code since the income comes from the sale of goods or performance of service.

The unrelated business income is generated by the organization when they make transactions with the public. You are not unlike the organization described in Waco Lodge No. 166, Benevolent. & Protective Order of Elks v. Commissioner, which determined gambling activities were open to the public constitutes unrelated business income. Thus, the organization will have unrelated business income from unrelated business income activities that are in excess of what is conducted with members. Appendix B has information on how unrelated business income is determined and how related expenses where allocation to determine unrelated business taxable income and associated tax. These activities were separated as separate business activities as defined in IRC section 512(a)(6), however since the income for activity relating to merchandise sales is below zero, this income was not included on Form 4549-A.

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items		Schedule number or exhibit
Name of taxpayer		Tax Identification Number <i>(last 4 digits)</i>	Year/Period ended

Conclusion:

The Taxpayer is liable for unrelated business income from gaming (not including pull-tab sales), fees, and sales of inventory. The Taxpayer is responsible for filing Form 990-T to report unrelated business income.

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (last 4 digits)	Year/Period ended

Appendix A

GROSS INCOME FROM GAMING

9a Gross income from gaming activities (See part IV, line 19)

9b Less: Direct Expenses

9c Net income or (loss) from gaming activities

GROSS SALES OF INVENTORY (less returns & allowances)

10a Gross sales of inventory, less returns and allowances

10b Less: cost of goods sold

10c Net income or (loss) from sales of inventory

MISCELLANEOUS REVENUE

11a Coin Operations

11b Fees

11c Other Income

11d All other revenue

11e Total Add lines 11a - 11d

12 **Total**

Expenses:

5 Compensation of officers, directors

7 Other Salaries and wages

10 Payroll taxes

11c Fees for services- Accounting (non-employee)

12 Advertising and promotion

13 Office Expenses

16 Occupancy

23 Insurance

24e All other expenses

25 **Total**

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
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Appendix B

		Gaming and	Food/Bar	Total
Total				
UBI				
Percentage Allocated to UBI				
Less COGS :				
Gross Profit/ UBI				
Expenses	Total Expenses from Records	Allocated Expense	Allocated Expense	
Payroll				
Payroll Taxes				
Taxes				
Personal Property Tax				
Sales Tax				
Advertising and Promotion				
Bank Service charges				
Business Licenses and Permits				
Charitable Contributions				
Credit Card Fees				
Dues and Subscriptions				
Insurance				
Miscellaneous Expense				
Office Supplies				
Paper and Cleaning Products				
Professional Fees				
Rent Expense				
Repairs and Maintenance				
Supplies				
Utilities				
Total Expenses				
Net Profit/ UBI				

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number <i>(last 4 digits)</i>	Year/Period ended

Notes and Definitions for Unrelated Business Income:

- Gaming and fee income: all income from gaming and fees per 990 Line 9a and 11b minus Tip Jar Income (Pull-Tabs) only played by members.
- Food and bar income: all income from sale of inventory per 990 Line 10a minus sales to members and membership sales provided by the Taxpayer.
- GOGS total: Total cost of goods sold per 990 Line 10b multiplied by percentage factor allocated to unrelated business income for sales of inventory (%)
- Expenses are allocated between the activities on a space basis. the agent determined that the facilities used for public activities are roughly percent of total space available for use by the organization. Additionally, of the percent used for public activities around percent of that space is used for gaming and activities and percent is used for sale of merchandise.
- Sales tax: Actual number for sales tax attributed to non-member sales by taking total sales tax of \$ minus total sales tax for member sales \$
- Credit card fees: expenses only taken for sales of inventory, since it is only attributed to sales of inventory.