JEN0256

[redacted]

PERSON TO CONTACT
[redacted]
CONTACT TELEPHONE NUMBER
[redacted]
IN REPLY REFER TO
[redacted]
DATE: JUN 23 1997

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(7) of the Internal Revenue Code and have determined that you do not qualify for exemption under that section. Our reasons for this conclusion and the facts on which it is based are explained below.

Evidence submitted indicates you incorporated in [redacted] on [redacted] as a club.

Article VI of your Bylaws state that the club will strive to maintain a minimum of [redacted] members. At no time will the organization exceed a maximum of [redacted] members. Currently there are [redacted] members.

Members are required to pay a $[redacted] initiation fee and $[redacted] monthly dues.

Income is derived from dues and contributions and expended for activities related to your functions.

The past activities have been a grand opening and a festival at [redacted]. the proposed activity of the organization will be [redacted] to adults 21 years of age and older. Both your past and present activities are open to the general public.

Section 501 (c)(7) of the Internal Revenue Code provides for exemption for 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.

Section 1.501(c)(7)-1 of the Income Tax Regulations provides that, in general, this exemption extends to social and recreational clubs which are supported solely by membership fees and assessments. A club which engages in business, such as making its social and recreational facilities available to the general public or selling products and merchandise is not organized and operated exclusively for pleasure and recreational purposes.

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[redacted]	[redacted]	[redacted]				
Date	[redacted]	[redacted]	[redacted]				

Form 1937-A (Rev. 6-80) Correspondence Approval and Clearance

Department of the Treasury / Internal Revenue Service

[redacted]

Section 1.501(c)(7) of the Income Tax Regulations provides as follows:

a) 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 revenues from members through the use of club facilities or in connection with club activities.

b) A club which engages in business, such as making its social and recreational facilities available to the general public - 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 as explained in Senate Report No. 94-1318, published in Cumulative Bulletin 1976-2, page 597, provides that a club, exempt from taxation and described in section 501(c)(7), is permitted to receive up to 35 percent of its gross receipts from a combination of investment income and receipts from nonmember use of its facilities or services, so long as the latter does not represent more than 15 percent of the total receipts. It is further stated that if an organization exceeds these limits, all of the facts and circumstances must be considered in determining whether the organization qualifies for exempt status.

Revenue Ruling 65-63, published in Cumulative Bulletin 1965-1, on page 240, holds that a nonprofit organization which, in conducting sports car events for the pleasure and recreation of its members, permits the general public to attend such events for a fee on a recurring basis and solicits patronage by advertising, does not qualify for exemption as a club organized and operated exclusively for pleasure, recreation and other nonprofitable purposes under section 501(c)(7) of the Internal Revenue Code.

In this case, it was held that the solicitation of public patronage of its activities was prima facie evidence that the club was engaged in business and was not being operated exclusively for pleasure, recreation or social purposes. The income derived from public patronage inured to the benefit of the members. The club was therefore not qualified for exemption.

[redacted]

Clarification of your activities revealed that your primary source of income has been functions open to the general public, such as your art festival and [redacted]. The combined income from each event totaled $[redacted]. This amount from nonmembers, is approximately [redacted] to [redacted] percent of your income which exceeds the 15 percent limitation permitted by organization under this section of the Code.

Social clubs are primarily supported by membership dues, payments and/or assessments. Thus, the exemption of a social club is based on the logic of allowing members to pool their funds for recreational purposes, rather than by any compelling public benefit conferred by the social club.

Your financial information does not demonstrate that income derived from the public was distributed to charity or used to pay the public's share of expenses of the fund-raising activities, but does indicate that profits from the activities were added to the club's treasury and used or held to be used for the general operating expenses of the club.

The primary purpose, past and present is fund-raising conducted with the general public, which is prima facie evidence that you are operating as a business. Based upon the facts presented, you have failed the operational test required under IRC 501(c)(7).

Therefore, we have concluded that you do not qualify for exemption from Federal income tax as an organization described in section 501(c)(7) of the Code. In accordance with this determination, you are required to file Federal income tax returns on Form 1120.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office, If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax authorization with us.

[redacted]

If you don't appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination on this matter.

Appeals submitted which do not contain all the documentation required by Publication 892 will be returned for completion.

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

Sincerely,

Paul M. Harrington

Paul M. Harrington
District Director

Enclosure: Publication 892