

**Internal Revenue Service
Director, Exempt Organizations
Rulings and Agreements**

**Department of the Treasury
P.O. Box 2508 - EODQA Room 7008.
Cincinnati, OH 45201**

Date:

Employer Identification Number:

Contact Person - I.D. Number

Contact Telephone Numbers:

Dear Sir or Madam:

We have considered your application for exemption from Federal income tax under the provisions of section 501(c)(7) of the Internal Revenue Code of 1986 and its applicable Income Tax Regulations. Based on the available information, we have determined that you do not qualify for the reasons set forth on Enclosure I.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892, "Exempt Organizations Appeal Procedures for Unagreed Issues." The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office or, if you request, at any mutually convenient District Office.

If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

If we do not hear from you within the time specified, this will become our final determination.

Sincerely,

**Director, Exempt Organizations
Rulings and Agreements**

Enclosures: 3

Enclosure I
Publication 892
Form 6018

Enclosure I

Legend:

a =

b =

c =

d =

Issues

Is the organization organized and operated substantially for social, recreational and other non-profitable purposes as described in 501(c)(7) of the Internal Revenue Code? Is there a significant commingling of members in social and recreational activities?

Facts:

You filed Articles of Organization as a Limited Liability Corporation with the State of a on b. Article II of your "Constitution" states the purpose of the organization ("Club") is, "to encourage interest in aviation; to provide safe, economical flight training and transportation for its members; to advance the knowledge of the members in aviation subjects and to bring more people the benefits and pleasure of flying."

Article V states that membership in the Club is to be limited to five unless otherwise changed by a majority vote of the members. All members have an equal interest, privileges, and obligations. Members may sell their interest in the Club to a new member subject to the other member's approval. If a member is expelled, their assets in the Club will be returned to them. From 2001 to 2003 you had five members; currently you have four members. The original five members each contributed \$5,000 toward the purchase of the club's aircraft. You own only one plane, a single-engine propeller-driven model. None of your members own any other aircraft. Members pay membership dues plus additional fees, at an hourly rate, for individual use of the aircraft. Any additional costs of maintenance and other variable expenses are shared among the membership.

Law

Section 501(c)(7) of the Internal Revenue Code exempts from Federal income tax:

"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."

Revenue Ruling 58-589, 1958-2 C.B. 266 provides the criteria or tests for determining whether an organization qualifies for exemption under section 501(c)(7) of the Code. An organization

must establish that it is organized and operated exclusively* for pleasure, recreation and other non-profitable purposes. To meet this requirement there must be personal contacts and fellowship among the members. "A **commingling** of the members must play a material part in the life of the organization."

*Public Law 94-568 substituted the word "substantially" for "exclusively."

Revenue Ruling 69-635, 1969-2 C.B. 126 holds that an automobile club whose principal activity is rendering automobile services to its members but has no significant social activities does not qualify for exemption under section 501(c)(7) of the Code. The basis for this conclusion is the fact the club had no significant **commingling** of its members.

Revenue Ruling 70-32, 1970-1 C.B. 132 holds that a flying club providing economical flying facilities for its members but having no organized social and recreation program does not qualify for exemption under section 501(c)(7) of the Code. The sole activity of the club involves the ownership, operation, and maintenance of aircraft for use by the members. Membership was open to all persons interested in flying. As the flying club had no significant commingling of its members it did not qualify for exemption under section 501(c)(7) of the Code.

Revenue Ruling 74-30, 1974-1 C.B. 137 describes a flying club that does qualify for exemption under section 501(c)(7). The club owns several small aircraft for the restricted use of its members. The club's income is derived from membership fees, dues, and the sale of flying time. The members meet regularly by formal meetings of the board and members and by informal meetings to schedule the use of the aircraft. Members are in frequent contact to assist in training, inspect the aircraft and make maintenance decisions. Small groups of members also fly together in the club's aircraft. The decision in this ruling is based on the fact that the members are jointly participating in the hobby of flying for pleasure and recreation, and that there is commingling of its members.

Applicant's position

In our letter dated c, we asked you to provide a description of all your social and recreation activities where the members all meet together. You responded that your members socialize at least quarterly, where there are organized picnics, meetings and related activities that involve members and families. Business meetings are held quarterly in addition to the social activities. You state that members get together more often for mutual sharing of club activities. The members use the assets of the club to promote flight safety and promote interest in aviation by assisting Boy Scouts and the Civil Air Patrol, and donating time to the community by providing aircraft rides for youth groups.

In a follow-up letter dated d we asked for more specific details such as dates and times of your shared activities. You replied that your activities are "intermixed" and that you did not have enough information to answer directly. You estimated 40% of the usage of the plane is devoted to promoting flight safety, sponsoring and assisting Boy Scouts and providing aircraft rides for

interested youth. You stated in your response that you were including the minutes to your last four business meetings as requested, but they were missing; you later stated that these documents would be sent by fax, but we did not receive them

We asked you to state the approximate percentage of your time and resources spent on social and/or recreational activities (outside of flying). You estimated 10% and stated it was an educated guess because "none of us are all at the events/activities all of the time." You also state that the members seldom fly together and at the most, two will fly together to ferry the plane for various reasons.

You provided a copy of your flight logbook with records from 2001 to 2004. This showed that individual members used the plane; in most instances, the logbook does not indicate the purpose of the flights. There was one reference to "Scouts."

Service's response to applicant's position

You limit the number of members to the individuals who invested \$5,000 each to purchase the Club's airplane, new members may be admitted only if a member sells his "share." As you stated, and your flying log confirms, your members seldom fly together. You state that you gather quarterly for social/recreational activities and quarterly for a membership meeting. You did not provide a copy of the minutes of membership meetings as requested. You were unable to provide documentation to establish that the members spend a significant amount of time in club-related activities that would potentially involve the entire membership. By your own statement, your members are seldom, if ever, all together for such activities. While it is not necessary for all members to participate in all activities of a social club in order to establish "significant commingling," you have a very small number of members. The fact that all members rarely meet together becomes even more significant under these circumstances. You can be compared to the flying club discussed in Rev. Rul. 70-32 (supra) that provided economical flying facilities for its members, but had little commingling of its members for social and recreational purposes.

You can be distinguished from the organization discussed in Rev. Rul 74-30 (supra) which qualified for exemption under section 501(c)(7). As discussed in the ruling, there was a constant commingling of the members through informal meetings, and during maintenance and repair of their aircraft, and by flying together in small groups. Your members meet approximately four times a year for social/recreational activities and four times for business meetings. As you only have one airplane, there is no opportunity for most of your members to fly together at the same time. You even state in your letter that group social/recreational activities are approximately 10% of your activities because "none of us are all at the events/activities all of the time." Although your members may occasionally provide airplane rides for the Boy Scouts, and in connection with Civil Air Patrol functions, you were unable to provide evidence that you are involved, as a group, in an organized program of community service activities.

Revenue Ruling 58-589 (supra) states that in order for an organization to meet the provisions of section 501(c)(7) the commingling of members must be a material part in the life of the

organization. Revenue Ruling 69-635 (supra) also states there must be a commingling of members in order to qualify for exemption under section 501(c)(7). You have not provided any written documentation to substantiate the requirement of section 501(c)(7) that you are operating substantially for social and recreational activities and that there is significant commingling among your members.

Conclusion

Based on the information submitted, it is the position of the Internal Revenue Service that you do not qualify for exemption under section 501(c)(7) of the Code inasmuch as you are not organized and operated exclusively for pleasure, recreation or other nonprofitable purposes. Your group social/recreational activities are minimal, your members generally do not fly together, and thus you have not established that there is significant commingling among your members as described in the Revenue Rulings listed above. You are organized and operated primarily to provide an economic convenience for your members by sharing expenses in the ownership and maintenance of a plane used by individual members for personal activities.