[redacted]

[redacted]

CERTIFIED MAIL

AUG 24 1988

Gentlemen:

We have considered your application for recognition of exemption as a Social Club described in section 501 (c)(7) of the Internal Revenue Code of 1954.

Information submitted establishes that you were incorporated under the non-profit laws of the State of [redacted] on [redacted].

Your stated purposes are:

> For the purpose of promoting hunting and fishing by its members including related activities and the acquring and holding of a club house and other necessary paraphernalia and property to be used in furthering the purpose of the corporation.

According to your application (Package 1024), the club's activities are as follows:

> [redacted] is a hunting and fishing club. It is used for fishing in the Spring and Summer and hunting in the Fall. It is also a place to get away for the weekend. Many weekends are spent there mowing the lawn and fixing up the house.

Your income is from club dues from members of the club and from money taken in during hunting season. Your expenses are for utilities, groceries, and the overall expenses/maintenance of the clubhouse, which is mutually owned by the members.

An analysis of the financial data you submitted shows that from [redacted] through [redacted] your total income was $[redacted]. You furnished us with a breakdown of member/non-member income. During this period you received $[redacted] ([redacted]%) from members and $[redacted] ([redacted]%) from non-members or general public.

| Code | [redacted] | Reviewer [redacted] | Reviewer | Reviewer | Reviewer | Reviewer | Reviewer |
|---|---|---|---|---|---|---|---|
| Surname | | | | | | | |
| Date | 8-24-88 | 8-24-88 | | | | | |

[redacted]

Section 501 (c)(7) of the Internal Revenue Code exempts from Federal income tax clubs organized for pleasure, recreation, and other non-profitable purposes, sustantially all of the activities of which are for such purposes and no parts of the net earnings of whic', 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 recreation clubs which are supported solely by membership fees, dues and assessments. However, a recreational facility available to the general public is not organized and operated exclusively for pleasure, recreation and other non-profitable purposes.

Revenue Ruling 69-220, 1969-1 C.B. 154 held that a club which entered into business leases for rental or real property, and used the income to defray expenses and to improve and expand the facilities, was not exempt under Section 501(c)(7) because it regularly engaged in a business ordinarily carried on for profit and its earnings inured to the benefit of its members in the form of improved and expanded facilities.

In United States vs Fort Worth Club of Fort Worth Texas, 345 2d 52 (1965) modified and reaffirmed 348 F 2d 891 (1965), the court cited a series of cases, establishing that, in order to be exempt under 501(c)(7), a club's outside profit must be strictly incidental to club activities, not as a result of outside business, and either negligible or non-recurring.

Revenue Ruling 58-589, 1959-2,267, held that a club will not be denied exemption merely because it receives income from the general public; that is, persons other than members and their bonafide guests, or because the general public on occasion is permitted to participate in its affairs, provided such participation is incidental to and in furtherance of its general club purposes and it may not be said that income therefrom is inuring to members. This is generally true where the receipts from non-members are no more than enough to pay their share of the expenses.

Revenue Ruling 68-119, 1968-1,268 held that an equestrian club that holds one steeplechase per year will not necessarily lose its exemption if it derives income from transactions with other than bona fide members or if the general public on occasion is permitted to participate in its affairs, provided such participation is incidental to and in furtherance of its general club purposes and income therefrom does not inure to members.

Revenue Ruling 71-17, published in Internal Revenue Cumulative Bulletin 1971-1, page 683, indicated that, as an audit standard, a social club's annual income from outside sources should not be more than 5% of the total gross receipts of the organization.

[redacted]

Public Law 94-568 liberalized this standard. The intent of this law, as explained in Senate Report No. 94-1318, published in Cumulative Bulletin 1976-2, page 597, is that a club exempt from taxation and described in Section 501(c)(7), is to be permitted to receive up to 35% of its gross receipts from a combination of investment income and receipts from non-members (from the use of its facilities or services) so long as the latter does not represent more than 15% of total receipts. It is further stated that if an organization exceeds this limits, all of the facts and circumstances must be considered in determining whether the organization qualifies for exempt status. However, the amendment was not intended to allow social clubs to receive, even within the allowable guidelines, income from the active conduct of business not traditionally carried on by social clubs (Senate Report No. 94-1318 2nd Session, 1976-2 C.B. 596).

Income from the general public (non-members) is prima facie evidence that your club is engaging in business as previously cited in section 501(c)(7)-1(b) of the Income Tax Regulations. This is borne out by the fact that [redacted]% of your total income from [redacted] to [redacted] was from non-members. It is clear that the club's outside profit is not incidental to the club's activities. The club's activities are resulting in substantial income which is neither negligible or non-recurring

Further, since the income is being used to defray expenses that would otherwise have to be paid for by the members, this activity results in prohibited inurement of benefits.

Based on the foregoing, we hold that you are not operated exclusively for pleasure, recreation and other nonprofitable purposes; and that a portion of your net earnings inures to the benefit of your members. Therefore, we conclude that you do not qualify for exemption under Section 501(c)(7) or any other Section of the Internal Revenue Code.

Since you have not been granted tax exempt status, you are required to file Federal income tax return on Form 1120.

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal giving the facts, law and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office or if you request, at any mutually convenient District Office. If we do not hear from you within 30 days of the date of this letter, this determination will become final.

Sincerely yours,

[redacted]

District Director

Enclosure: Publication 892