[redacted]

[redacted]

CERTIFIED MAIL

APR 0 1 1993

Gentlemen:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

The information submitted indicates that you were incorporated under the laws of [redacted] on [redacted].

Your purposes as stated in your Articles of Incorporation are: to encourage, perpetuate and standardize the art of western style square dancing and round dancing; and to promote good will fun and fellowship among square and round dancers.

Membership in the Club will be by invitation. Club membership for new members shall be extended only to those candidates having completed Mainstream and Plus classes.

Classes will be offered,to beginner dancers by the Club for a nominal fee. Student dancers must have reached their 14th birthday. Class members under 16 shall be accompanied by an adult who is a Club or Class member. Students must be sponsored by one or more club members in good standing. Members are responsible for providing a class partner for each student they sponsor. Upon completion of all class sessions, the Membership Committee shall review all students progress and may invite those completing Mainstream and Plus training to become members of the Club. Class members deemed to require additional instruction will be invited to attend future classes.

Income is derived from an annual dinner/dance, club dues, club dances, raffles, class dues and the sale of badges. The profits from the annual dinner-dance are used to help defray the cost of the caller for your monthly dances. Attendees of your monthly dances are asked to contribute $[redacted] per couple towards the callers' fees.

[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, substantially all of the services of which are for such purposes and no part of the net earnings of which inure to the benefit of any private shareholder.

Section 1.501(c)(7)-1 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 non-profitable purposes, but does not apply to any club if any part of its net earnings inures to the benefit of any private shareholder. In social clubs, 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.
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> (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 non-profitable 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.

The Service has consistently held, and has been upheld by the courts in the position that "other non-profitable purposes" must be similar to pleasure and recreation. (Revenue Ruling 69-635, 1969-2 C.B. 126; Revere Automobile Club v. Commissioner, 181 F. 2d 928 (1950), (conducting race rides with the public is not an activity similar to pleasure and recreation

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 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 do 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 58-589, 1958-2 C.B. 266, holds 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 bona fide guests, or because the general public on occasion is permitted to participate in its affairs, provided such

[redacted]

participation is incidental to and in furtherance of the 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 58-119, published in Cumulative Bulletin 1958-1, page 268, holds that a club will not necessarily lose its exempt status if it derives income from other bona fide members and their guests, 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 the income therefrom does not inure to members. The equestrian club considered in this ruling held an annual steeplechase which was open to the general public. Prize money was paid from entry fees paid by participants, and general expenses of the meet were paid from admissions and sale of programs and refreshments. The club distributed any net proceeds from the meet to charity. Therefore, it was held the meet was not operated to make a profit, and the income from non-members did not inure to the benefit of members. The club's exemption was not jeopardized by non-member participation in its annual meet.

further in liberalizing the amount of non-member income that could be received by social clubs. Congressional Committee Reports state that the amendment (public law 94-568) was not intended to permit social clubs to receive, even within the allowable guidelines for outside income, income from the active conduct of businesses not traditionally carried on by social clubs. (Senate Report #. 94-1318 2d Session, 1976-2 C.B. 596)

Revenue Ruling 69-[illegible] published in Cumulative Bulletin 1969-1, 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 non-profitable purposes under Section 501(c)(7) of the Internal Revenue Code of 1954.

Revenue Procedure 71-17, 1971-1 C.B., 683, establishes recordkeeping requirements for social clubs, to separate non-member income. If these requirements are met certain presumptions as to member vs. non-member income may be made as outlined in the Revenue Procedure.

Advertising to encourage the public to attend your monthly dinner, and holding classes with non members from September to May is prima facie evidence that your club is operating in business with the general public as previously cited in section 1.501(c)(7)-1(b) of the income tax regulations. This is borne out by the fact that [redacted] of your total income for [redacted] was from non-member sources which exceed the amount allowable under the guidelines of public law 94-568.

[redacted]

The nonmember income received is used to pay the expenses of the club. More than [redacted]% of the total income received was used to pay for the dollars. Even if nonmembers do not participate, the expenses of the club would remain the same. The financial information submitted does not demonstrate that income from the public was set aside or distributed to charity or used to pay the public's share of expenses of the club. Therefore, the income received from nonmembers is subsidizing the operation of the club and is inuring to club members.

On the basis of the evidence presented, the requirements for exemption of a social and recreational club defined in the Code and Income Tax Regulations, and the interpretation of the Code and Regulations cited in the Revenue Ruling noted above, we hold that you do not qualify for exemption under Section 501(c)(7) of the Code.

In accordance with that determination, you are required to file Federal income tax returns on Form 1120.

If you do not accept our findings, we recommend that you request a conference with a member of our Appeals Office or 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 one 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