Internal Revenue Service Department of the Treasury

District
Director

[redacted]

Person to Contact:
[redacted]
Telephone Number:
[redacted]
Refer Reply to:
[redacted]
Date:

MAY 2 1 1989

[redacted]

CERTIFIED MAIL

Dear Sir/Madam:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(7) of the Internal Revenue Code of 1986 and the information submitted therewith.

The information submitted indicates that you were formed as an association by the adoption of your organizational document on [redacted].

Your stated purpose indicates that your organization is formed for the purposes of fellowship, membership education and commitment to the strengthening of the rural electrification program through its example in the [redacted] - state areas and nationally.

Membership is made up of [redacted] representatives from [redacted], [redacted] from [redacted], and [redacted] from [redacted]. All activities of the committee are open to any and all persons from your [redacted] - state rural electric cooperative.

The activities include a cookbook sale, a health fair for cholesterol testing, sponsorship and participation in a bake sale and handmade craft fair, presentation of educational information concerning nutrition and a microwave cooking presentation.

Income is produced from the sale of the cookbooks, bake sales, a craft fair, and interest earned.

The distribution of funds has been and is intended to be made to organizations that are nonprofit and will benefit persons or groups in your electric cooperative [redacted] - state service areas.

Section 501(c)(7) of the Code exempts from Federal income tax 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.

[redacted] 2/6/89 [redacted] 4/27/89

[redacted]

Section 1.501(c)(7)-1(a) of the income tax regulations states that 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. The Service has consistently held, and has been upheld by the courts in the position that "other nonprofitable purposes" must be similar to pleasure and recreation. (Revenue Ruling 69-635, 1969-2 C.B. 126; Keystone Automobile Club v. Commissioner 181 F. 2d 402 (1950).

Public Law 94-568, as explained in Senate Report No. 93-1318, 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 form a combination of investment income and receipts from nonmembers (from the use of its facilities or services) so long as the latter do not represent more than 15% of the total receipts, it is further stated if an organization exceeds these limits, all of the facts and circumstances must be considered in determining whether the organization qualifies for exempt status.

Further, in liberalizing the amount of nonmember 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 No. 940-1318) 2d Session, 1976-2 C.B. 596.)

Revenue Ruling 68-119, published in Cumulative Bulletin 1968-1, 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 purpose 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 that the meet was not operated to make a profit, and the income from nonmembers did not inure to the benefit of members. The club's exemption was not jeopardized by nonmember participation in its annual meet.

In Aviation Club of Utah v. Commissioner, 162 F. 2d 984 (1947), it was held that a club which makes its facilities open to the public without restriction, and the purpose is to increase its funds for enlarging its facilities or otherwise benefiting its members, is not operating as an exempt social club.

[redacted]

Revenue Ruling 65-63, 1965-1 C.B. 140 held that a club that permitted the public to attend its activities for a fee on a recurring basis and solicited for public patronage by advertising was not operated exclusively for pleasure, recreation, or social purposes and did not qualify for exemption.

Revenue Ruling 60-324, 1960-2 C.B. 173 states that a club that makes its facilities available to the general public (including other organizations) for a fee, in a manner which is other than incidental to or in furtherance to its own social purposes, will not be entitled to exemption.

You receive income from nonmembers from the sale of your cookbooks, bake sales, and interest. Since your functions are open to the public, anyone can attend. Therefore, you are not able to provide accurate and complete records of nonmember income from the cookbook and bake sales.

Your income is used to benefit organizations that are nonprofit and will benefit persons or groups in your electric cooperative [redacted] - state service areas.

You have exceeded the limits of nonmember income that a social club is permitted to receive and the facts and circumstances show that net earnings from nonmembers have been used to benefit members, constituting inurement of benefit prohibited by section 501(c)(7) of the Code.

We therefore hold that you are not qualified for exemption from Federal income tax as an organization described in section 501(c)(7) of the Code.

Section 501(c)(4) of the Code provides for the recognition of exemption of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

Section 1.501(c)(4)-1(b) of the regulations states that "local" is used in the same sense as in the case of benevolent life insurance associations exempt under IRC 501(c)(12).

Membership is open to employees of your electric cooperative [redacted] - state service areas. Since your activities are limited by the borders of [redacted], you are not purely local in character.

[redacted]

You are therefore, not qualified for exemption from Federal income tax as an organization described in section 501(c)(4) of the Code as a local association of employees.

Since you have not established exempt status, you are not relieved of the requirements for filing 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 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 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