



Department of the Treasury
Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Release Number: **201806011**
Release Date: 2/9/2018
UIL Code: 501.07-00
501.07-05

Date: November 17, 2017

Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

Dear

This letter is our final determination that you don't qualify for tax-exempt status under Section 501(c)(7) of the Internal Revenue Code (the Code). Recently, we sent you a proposed adverse determination in response to your application. The proposed adverse determination explained the facts, law, and basis for our conclusion, and it gave you 30 days to file a protest. Because we didn't receive a protest within the required 30 days, the proposed determination is now final.

You must file federal income tax returns for the tax years listed at the top of this letter using the required form (also listed at the top of this letter) within 30 days of this letter unless you request an extension of time to file.

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection (as required under Section 6110 of the Code) after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Notice 437 on how to notify us. If you agree with our deletions, you don't need to take any further action.

If you have questions about this letter, you can contact the person listed at the top of this letter. If you have questions about your federal income tax status and responsibilities, call our customer service number at 1-800-829-1040 (TTY 1-800-829-4933 for deaf or hard of hearing) or customer service for businesses at 1-800-829-4933.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosures:

Notice 437

Redacted Letter 4034, *Proposed Adverse Determination under IRC Section 501(a) Other Than 501(c)(3)*

Redacted Letter 4040, *Final Adverse Determination under IRC Section 501(a) Other Than 501(c)(3) - No Protest*



Department of the Treasury
Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Date: August 4, 2017

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

UIL:

B = Name

501.07-00

C = Organization

501.07-05

D = Year

E = Month/Year

x dollars = Amount

y dollars = Amount

z dollars = Amount

Dear :

We considered your application for recognition of exemption from federal income tax under Section 501(a) of the Internal Revenue Code (the Code). Based on the information provided, we determined that you don't qualify for exemption under Section 501(c)(7) of the Code. This letter explains the basis for our conclusion. Please keep it for your records.

Issues

Do you qualify for exemption under Section 501(c)(7) of the Code? No, for the reasons stated below.

Facts

According to your Form 1024, you formed in your state as an unincorporated association in E . You provided your constitution but it is not signed and dated showing it was adopted.

Article 1 Section 2 of your constitution states that the objects of your club are:

- To encourage and promote quality in breeding of purebred B.
- To urge members and breeders to accept the standard of breed as approved by C.
- To protect and advance the interest of the breed by encouraging sportsmanlike competition at dog shows, obedience trials, and field trials.
- To conduct dog shows, obedience trials, field trials, and any other event events eligible under C.

You are a membership organization open to all, Your primary purpose listed in your bylaws is to be representative of the breeders, exhibitors, and B enthusiasts in your geographic area but there is no requirement to join your club to participate in your events. Membership fees are x dollars per year. You host two types of

ongoing events open to your members and nonmembers. Anyone can participate in these events. Your members serve as the event committee to ensure safety and continuity under the auspices of C. The first type of event consists of lure coursing tests and trials. These are designed to mimic open field rabbit hunts. This event uses a pulley system with string and plastic bags to represent the rabbit and its path. The second type of event consists of conformation shows and matches. This event focuses on the unique characteristics of B including its structure and movement and provides the events' attendees the opportunity to learn about B.

Your financial information shows the receipts from these events constitute the majority of your financial support. In D, your total revenue for these events was y dollars. Of that amount, z dollars came from non-club members, making your non-club member income % of your total revenue.

Law

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

Treasury Regulation Section 1.501(c)(7)-1(a) states that the exemption provided by Section 501(a) of the Code for an organization described in Section 501(c)(7) of the Code 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 inure 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 revenue from members through the use of club facilities or in connection with club activities.

Treas. Reg. Section 1.501(c)(7)-1(b) states that a club which engages in business, such as making its social and recreational facilities available to the general public or by selling real estate, timber, or other products, is not organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, and is not exempt under Section 501(a) of the Code. 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. However, an incidental sale of property will not deprive a club of its exemption.

Public Law 94-568, 1976-2 C.B. 596, provides that a social club may receive up to 35 percent of its gross receipts, including investment income, from sources outside its membership without losing exemption. Within this 35 percent amount, not more than 15 percent of the gross receipts should be derived from the use of a social club's facilities or services by the general public. This means that an exempt social club may receive up to 35 percent of its gross receipts from a combination of investment income and receipts from nonmembers so long as the latter do not represent more than 15 percent of the total receipts.

Revenue Ruling 66-149, 1966-1 C.B. 146 states a social club is not exempt under section 501(c)(7) of the Code if it regularly derives a substantial part of its income from nonmember sources, such as dividends and interest on investments which it owns.

Revenue ruling 69-219, 1969-1 CB 153 states that a social club that regularly holds its golf course open to the general public and charges established green fees that are used for maintenance and improvement of club facilities is not exempt under Section 501(c)(7) of the Code.

In *Polish American Club Inc. v. Commissioner* 33 T.C.M 925 the Court held that making club facilities available to the general public, for a fee, represented a substantial activity disqualifying the Club from exemption under Section 501(c)(7) of the Code.

Application of law

You are not described under Section 501(c)(7) of the Code because you are not organized and operated for pleasure, recreation, or other nonprofitable purposes. The purpose listed in your bylaws is to be representative of the breeders, exhibitors, and B enthusiasts in your geographic area. but there is no requirement to join your club to participate in your events. Your primary activity is hosting ongoing events consisting of which are lure coursing tests and trials and conformation Shows and matches which are open to both your members and nonmembers. Your revenue primarily comes from these events and in D nonmember revenue consisted of % of your total revenue which greatly exceeds 15% limitation for nonmembers set forth in Public Law 94-568. The fees you collect from club members and non-club members are used to pay the expenses of putting on your events. In addition, you are not organized in accordance with Section 501(c)(7) of the Code. You did not submit a conformed signed copy of your constitution showing the date it was formally adopted.

You are not described in Treas. Reg. Section 1.501(c)(7)-1(b) because you are not primarily supported by membership income. Your events are open to the general public for a fee and these events take place throughout the year. The public patronage of your events is not incidental and you depend on nonmember income to fund your events. In addition, recurring activities, available to the general public for a fee, are considered to be business operations, similar to Revenue Ruling 69-219.

You are similar to the organizations described in Revenue Ruling 66-149 and *Polish American Club Inc. v. Commissioner* because you regularly derive non-club member income from your events which are open to the general public.

Conclusion

You are not organized and operated in accordance with Section 501(c)(7) of the Code. Your events are open to the general public for a fee with your nonmember income exceeding the allowable 15% for non-club member income as part of the larger 35% revenue allowance. You also have not provided a conformed organizing document showing that it has been properly adopted. Accordingly, we conclude that you are not exempt under Section 501(c)(7) of the Code.

If you don't agree

You have a right to file a protest if you don't agree with our proposed adverse determination. To do so, you must send a statement to us within 30 days of the date of this letter. The statement must include:

- Your name, address, employer identification number (EIN), and a daytime phone number
- A copy of this letter highlighting the findings you disagree with
- An explanation of why you disagree, including any supporting documents
- The law or authority, if any, you are relying on

- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization, or your authorized representative
- One of the following declarations:

For an officer, director, trustee, or other official who is authorized to sign for the organization:

Under penalties of perjury, I declare that I examined this protest statement, including accompanying documents, and to the best of my knowledge and belief, the statement contains all relevant facts and such facts are true, correct, and complete.

For authorized representatives:

Under penalties of perjury, I declare that I prepared this protest statement, including accompanying documents, and to the best of my knowledge and belief, the statement contains all relevant facts and such facts are true, correct, and complete.

Your representative (attorney, certified public accountant, or other individual enrolled to practice before the IRS) must file a Form 2848, *Power of Attorney and Declaration of Representative*, with us if he or she hasn't already done so. You can find more information about representation in Publication 947, *Practice Before the IRS and Power of Attorney*.

We'll review your protest statement and decide if you provided a basis for us to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't provided a basis for reconsideration, we'll forward your case to the Office of Appeals and notify you. You can find more information about the role of the Appeals Office in Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*.

If you don't file a protest within 30 days, you can't seek a declaratory judgment in court at a later date because the law requires that you use the IRS administrative process first (Section 7428(b)(2) of the Code).

Where to send your protest

Please send your protest statement, Form 2848, if needed, and any supporting documents to the applicable address:

U.S. mail:

Internal Revenue Service
EO Determinations Quality Assurance
Room 7-008
P.O. Box 2508
Cincinnati, OH 45201

Street address for delivery service:

Internal Revenue Service
EO Determinations Quality Assurance
550 Main Street, Room 7-008
Cincinnati, OH 45202

You can also fax your statement and supporting documents to the fax number listed at the top of this letter. If you fax your statement, please contact the person listed at the top of this letter to confirm that he or she received it.

If you agree

If you agree with our proposed adverse determination, you don't need to do anything. If we don't hear from you within 30 days, we'll issue a final adverse determination letter. That letter will provide information on your income tax filing requirements.

You can find all forms and publications mentioned in this letter on our website at www.irs.gov/formspubs. If you have questions, you can contact the person listed at the top of this letter.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosure:
Publication 892