DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
1100 Commerce Street, MC 4920
Dallas, TX 75242

TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

Date: SEP - 8 2017

Release Number: **201806012**
Release Date: 2/9/2018
UIL Code: 501.07-00

Person to Contact:
Identification Number:
Contact Telephone Number:
In Reply Refer to:

LAST DAY FOR FILING A PETITION WITH THE TAX COURT:

CERTIFIED MAIL - Return Receipt Requested

Dear :

This is a Final Adverse Determination Letter as to your exempt status under Section 501(c)(7) of the Internal Revenue Code. Your exemption from Federal income tax under section 501(c)(7) of the Code is hereby revoked effective January 1, 20xx.

Our adverse determination as to your exempt status was made for the following reason(s):

You have not demonstrated that you are operated exclusively for exempt purposes within the meaning of Internal Revenue Code § 501(c)(7) and Treasury Regulations 1.501(c)(7)-1. Exempt clubs are organized for pleasure, recreation, and other non-profitable purposes. The exemption extends to social and recreation clubs that are supported solely by membership fees, dues; and assessments.

Enforcing restrictive covenants does not fulfill a non-profitable purpose for a social and recreational club as described in under IRC section 501(c)(7).

You are required to file Federal income tax returns on Form 1120. These returns should be filed With the appropriate Service Center for the year ending December 31, 20xx, and for all years thereafter.

Processing of income tax returns and assessments of any taxes due will not be delayed if you file a petition for declaratory judgment under section 7428 of the Internal Revenue Code.

If you decide to contest this determination in court, you must initiate a suit for declaratory Judgment in the United states Tax Court, the United States Claim Court or the District Court of the United States for the District of Columbia before the 91st day after the date this Determination was mailed to you. Contact the clerk of the appropriate court for the rules for Initiating suits for declaratory judgment.

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect you taxpayer rights. We can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for our assistance, which is always free, we will do everything possible to help you. Visit taxpayeradvocate.irs.gov or call 1-877-777-4778.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

Maria Hooke
Director, EO Examinations

Enclosure: Publication 892

Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
Exempt Organizations Examinations

Date:
March 21, 2017
Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:
Telephone:
Fax:
Manager's Name/ID Number:

Manager's Contact Number:

Response due date:

Certified Mail – Return Receipt Requested

Dear :

Why you are receiving this letter
We propose to revoke your status as an organization described in section 501(c)(7) of the Internal Revenue Code (Code). Enclosed is our report of examination explaining the proposed action.

What you need to do if you agree
If you agree with our proposal, please sign the enclosed Form 6018, *Consent to Proposed Action – Section 7428*, and return it to the contact person at the address listed above (unless you have already provided us a signed Form 6018). We'll issue a final revocation letter determining that you aren't an organization described in section 501(c)(3).

If we don't hear from you
If you don't respond to this proposal within 30 calendar days from the date of this letter, we'll issue a final revocation letter. Failing to respond to this proposal will adversely impact your legal standing to seek a declaratory judgment because you failed to exhaust your administrative remedies.

Effect of revocation status
If you receive a final revocation letter, you'll be required to file federal income tax returns for the tax year(s) shown above as well as for subsequent tax years.

What you need to do if you disagree with the proposed revocation
If you disagree with our proposed revocation, you may request a meeting or telephone conference with the supervisor of the IRS contact identified in the heading of this letter. You also may file a protest with the IRS Appeals office by submitting a written request to the contact person at the address listed above within 30 calendar days from the date of this letter.
The Appeals office is independent of the Exempt Organizations division and resolves most disputes informally.

For your protest to be valid, it must contain certain specific information including a statement of the facts, the applicable law, and arguments in support of your position. For specific information needed for a valid protest, please refer to page one of the enclosed Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*, and page six of the enclosed Publication 3498, *The Examination Process*. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process. Please note that Fast Track Mediation referred to in Publication 3498 generally doesn't apply after we issue this letter.

You also may request that we refer this matter for technical advice as explained in Publication 892. Please contact the individual identified on the first page of this letter if you are considering requesting technical advice. If we issue a determination letter to you based on a technical advice memorandum issued by the Exempt Organizations Rulings and Agreements office, no further IRS administrative appeal will be available to you.

Contacting the Taxpayer Advocate Office is a taxpayer right
You have the right to contact the office of the Taxpayer Advocate. Their assistance isn't a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate can't reverse a legally correct tax determination or extend the time you have (fixed by law) to file a petition in a United States court. They can, however, see that a tax matter that hasn't been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate assistance. If you prefer, you may contact your local Taxpayer Advocate at:

Internal Revenue Service
Office of the Taxpayer Advocate

For additional information
If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Maria Hooke
Director, EO Examinations

Enclosures:
Report of Examination
Form 6018-A
Publication 892
Publication 3498

Name of Taxpayer

ISSUE:

Whether
qualifies for exemption under Internal Revenue Code (IRC) section 501(c)(7)?

FACTS:

was incorporated in the state of on October 5, 19xx. received the exemption under IRC Section 501(c)(7) on October 23, 19xx.

was formed for social and recreational purpose of the homeowners of the development defined in Article 1 of their Bylaws. operates and maintains the swimming pool, recreational area, and other related facilities (to be known as the), and other recreational and social facilities for use of members of the corporation, their families and guests.

The membership of is limited to the homeowners of the development defined in Article 1 of their Bylaws. The homeowners of the development automatically become members of .

Per Articles of Incorporation and Bylaws, has power to enforce CC &R of the development. Articles of Incorporation (AOI), Article II, Section 4 states:

> To exercise the power vested in this by body by , a corporation, which said powers are set forth in that certain Amend Declaration of Conditions, Covenants, Restrictions, Easements and Charges, dated November 26, 19xx, made by said , and recorded in the office of the County Recorder of the County of , State of , on November 29, 19xx.

Bylaws at Article 1, Section 1, Paragraph D states:

> Together with any and all other real property which may hereafter through the operation of conditions, covenants, restrictions, easements, reservations, or charges pertaining to the same be placed under the jurisdiction of this corporation.

The plans to continue enforcing CC & R of the homeowners of the development.

LAW:

Internal Revenue Code

IRC section 501(c)(7) provides exemption from income taxes for 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.

Revenue Rulings

Rev. Rul. 69-281, 1969-1 C.B. 155, holds that a club whose membership is limited to homeowners in a housing development and that provides recreational facilities that afford opportunities for fellowship and social commingling is exempt from Federal income tax under section 501(c)(7) of the Code. Although the club was incorporated by a housing developer, it is not controlled by him nor operated as a commercial venture for his benefit.

Rev. Rul. 75-494, 1975-2 C.B. 214, states that a club providing social and recreational facilities, whose membership is limited to homeowners of a housing development, will be precluded from qualifying for exemption under section 501(c)(7) of the Code by owning and maintaining residential streets, enforcing restrictive covenants, or providing residential fire and police protection and trash collection service.

GOVERNMENT'S POSITION:

Revenue Ruling 75-494 states that an organization enforcing restrictive covenants does not qualify for the exemption under IRC Section 501(c)(7). has power, and enforces CC &R of the development where their members come from. plans to continue enforcing the CC & R of the development, which includes enforcement of collection of the membership fee.

Based on the examination, the organization does not qualify for exemption as a social club described in IRC §501(c)(7).

TAXPAYER'S POSITION:

Per initial interview with the officers, and subsequent telephone discussion, no longer wishes to be exempt under section 501(c)(7), thus agreeing with the government position.

CONCLUSION:

The organization does not qualify for exemption from federal income tax under IRC § 501(c)(7).

The proposed date of the revocation is January 1, 20xx.