

[REDACTED]

EP/EO:1

SF/EO: [REDACTED]

ETIN [REDACTED]

10 SEP 1981

Gentlemen:

We have considered your application for exemption from Federal income tax as an organization described in sections 501(c)(3) and 501(c)(6) of the Internal Revenue Code of 1954.

The information submitted discloses that you were incorporated under the nonprofit corporation laws of the State of [REDACTED] on [REDACTED].

Section 501(c) of the Internal Revenue Code of 1954 describes certain organizations exempt from income tax under section 501(a) and reads, in part, as follows:

"(3) Business leagues, chambers of commerce, real estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual."

"(4) 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."

The specific and primary purposes as stated in your Articles of Incorporation are to engage in any lawful act or activity for which a corporation may be organized under the Non-profit Mutual Benefit Corporation Law. More specifically, the corporation is to maintain, manage, and operate the condominium and condominium property located at [REDACTED].

Your primary activity is the maintenance of an office memorandum for the benefit of the office unit owners. Such activities shall include landscape maintenance, window cleaning, parking lot maintenance, security, fire and liability insurance, accounting, service and trash pickup.

Section 1.501(c)(6) of the Internal Revenue Code, as amended, is as follows:

"A business league is an association of persons having no common business interest, the purpose of which is to promote such common interest...it is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business or distinguished from the performance of particular services for individual persons."

We have concluded that you do not qualify for exemption from Federal income tax as an organization described in section 501(c)(6) of the Internal Revenue Code.

The Internal Revenue Service takes the position that in order for an organization to qualify for exemption from Federal income tax as a social welfare organization described in section 501(c)(4) of the Code, it must be primarily engaged in promoting in some way the common good and general welfare of the community as a whole.

The Income Tax Regulations section 1.501(c)(4)-1(a) states that a league or organization described in section 501(c)(4) may be exempt if it is not organized or operated for profit and it is operated exclusively for the promotion of social welfare. The Regulations describe social welfare activities as promoting in some way the common good and general welfare of the people of the community. An organization coming within the purview of this section is one which is operated exclusively for the purpose of bringing about civic betterments and social improvements.

Internal Revenue Code 501(c)(4), Internal Revenue Regulations 1.501(c)(4)-1, page 139, provides that an organization created by the unit owners of a common unit housing project to provide for the management, maintenance and care of the common areas of the project, as defined by State statute, with the membership assessments paid by the unit owners does not qualify under section 501(c)(4) of the Code. The services provided constitute private inurement within the purview of section 501(c)(4) of the Code.

This ruling may be distinguished with Revenue Ruling 75-1, which provides that a homeowners' association, to qualify for exemption under section 501(c)(4) of the Code, (1) must serve a "community" which bears a reciprocal, non-exclusive relationship, to or with community interests in government, (2) it must not conduct activities directed to the exterior maintenance of private residences, and (3) the common areas included in common unit housing must be for the use and enjoyment of the general public.

[REDACTED]

After careful consideration of the evidence submitted, we have concluded that you are not primarily engaged in promoting the common good and general welfare of the people or the community and, therefore, you are not operating exclusively for the promotion of social welfare. Accordingly, we hold that you do not qualify for exemption from Federal income tax as a social welfare organization described in section 501(c)(4) of the Internal Revenue Code of 1954.

Contributions made to you are not deductible by the donors as charitable contributions as defined in section 170(c) of the Code.

You have the right to protest this determination if you believe it is incorrect. Protest instructions are contained in Publication 413 enclosed.

If we do not hear from you within the time specified, this letter will become our final determination in this matter.

You are required to file Federal income tax returns annually, with your district director.

If you agree to the adverse action shown above, please sign and return one copy of the enclosed Form 9012, Consent to Proposed Adverse Action, within ten days of this letter. You should retain a copy for your records.

Sincerely yours,

District Director

Enclosures:
Publication 401
Form 9012