



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

Release Number: **201736027**
Release Date: 9/8/2017
UIL Code: 501.04-07

Date:
June 16, 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)(4) 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:
April 21, 2017
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

V = Name of state law
W = Formation date
X = State

UIL: 501.04-07

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)(4) 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)(4) of the Code? No, for the reasons stated below.

Facts

You were incorporated on W in the State of X. Your Articles of Incorporation state, in pertinent part, the following purposes:

The specific and primary purpose of this corporation is to be a condominium development management association formed, organized and operated under the V Act to provide for the acquisition, construction, management, maintenance, and care of property owned by this corporation, property commonly owned by the members of this corporation, and property within this corporation privately owned by its members (collectively referred to as "association property").

The X Secretary of State's website indicates that your corporate status is suspended and that you are currently not in good standing with the state.

The members of the condominium association are the owners of its ten dwelling units. Each unit owner also owns an undivided one-tenth interest in the association's other property (the "Common Areas").

In your Form 1024, Schedule B, response for activities, you state:

The Homeowners Association is maintaining the common area and the exterior of the building. The association is paying for gardening and landscaping, insurance, utilities for the common area, waste disposal and repairs to the exterior of the building.

Upon dissolution your assets, if any, will be divided equally among the owners.

Law

Section 501(c)(4) of the Internal Revenue Code provides that 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 and no part of the net earnings of such entity inures to the benefit of any private shareholder or individual may be exempt from federal income tax.

Treasury Regulation section 1.501(c)(4)-1 provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements and is not an action organization as set forth in paragraph (c)(3) of Regulation section 1.501(c)(3)-1.

In Revenue Ruling 74-17, 1974-1 C.B. 130, an organization formed by the unit owners of a condominium housing project to provide for the management, maintenance, and care of the common areas of the project with membership assessments paid by the unit owners does not qualify for exemption under section 501(c)(4) of the Code. Condominium ownership involves ownership in common by all condominium unit owners of a great many so-called common areas, the maintenance and care of which necessarily constitutes the provision of private benefits for the unit owners. Since the organization's activities are for the private benefit of its members, it cannot be said to be operated exclusively for the promotion of social welfare.

Rev. Rul. 74-99, 1974-1 C.B. 131, states that to qualify for exemption under Section 501(c)(4) a homeowners association must meet the following requirements to ensure that community benefit is primary:

- It does not perform exterior maintenance on private dwellings, and
- Most of the facilities maintained are open to the general public rather than only to the members.

Application of law

You are not described under Section 501(c)(4) of the Code because you are not operated exclusively for the promotion of social welfare. You are operated primarily for the benefit of your association members, managing, maintaining, and caring for property commonly owned by the members of this corporation, and property within this corporation privately owned by its members.

You do not meet the requirements of Treasury Regulation section 1.501 (c)(4)-1 because you are not primarily engaged in promoting the common good and general welfare of the people of the community. The sole beneficiaries of your activities are the unit owners, your members. You have not provided any evidence that you engage in promoting in any way the common good and general welfare of the people of the community.

You are identical to the organization that was denied exemption in Rev. Rul. 74-17. You are, like that organization, a condominium housing project that provides for the management, maintenance, and care of the common areas of the project with membership assessments paid by the unit owners. Since, like the members of the condominium association described in the Revenue Ruling, your members have joint ownership of your common areas, the maintenance and care of them necessarily constitutes the provision of private benefits for your members. Therefore, since your activities primarily benefit your members, you cannot be said to be operated exclusively for the promotion of social welfare.

You do not meet the requirements of Rev. Rul. 74-99 because you perform exterior maintenance on private dwellings which are association property owned in common by the members, and you own no non-residential facilities which might be open to the general public. These factors show your purposes and activities are not exclusively promoting social welfare and are not primarily promoting the common good and general welfare of the community. Instead, you are furthering the private interests of your members.

In addition, your net assets upon dissolution will be divided equally among your members. This fact further illustrates that you are serving the private interests of the member owners, not the wider community.

Conclusion

Because you operate only for the benefit of your members and not for the social welfare or common good of the community in general, you do not qualify for exemption under section 501 (c)(4) 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