



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
PO Box 2508
Cincinnati, OH 45201

Date:
04/29/2025
Employer ID number:

Person to contact:

Release Number: 202530010
Release Date: 7/25/2025
UIL Code: 501.04-00, 501.04-07

Dear :

This letter is our final determination that you don't qualify for exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a) as an organization described in IRC Section 501(c)(4). 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 the federal income tax forms for the tax years shown above within **30 days** from the date of this letter unless you request an extension of time to file. For further instructions, forms, and information, visit www.irs.gov.

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection after deleting certain identifying information, as required by IRC Section 6110. Read the enclosed Letter 437, Notice of Intention to Disclose - Rulings, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Letter 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 call the contact person shown above. If you have questions about your federal income tax status and responsibilities, call our customer service number at 800-829-1040 (TTY 800-829-4933 for deaf or hard of hearing) or customer service for businesses at 800-829-4933.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosures:
Letter 437
Redacted Letter 4034
Redacted Letter 4038



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PO Box 2508
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Date:
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Person to contact:

Name:
ID number:
Telephone:
Fax:

Legend:

B = Date
C = State

UIL:

501.04-00
501.04-07

Dear _____ :

We considered your application for recognition of exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a). We determined that you don't qualify for exemption under IRC Section 501(c)(4). This letter explains the reasons for our conclusion. Please keep it for your records.

Issues

Do you qualify for exemption under IRC Section 501(c)(4)? No, for the reasons stated below.

Facts

You were established on B in C as a mutual benefit corporation. Your Articles of Incorporation state that you were formed to manage a common interest development. Both your application and Articles state that you are formed for purpose of functioning as homeowners association to manage the maintenance and preservation of a condominium development. Your application also states you were formed for the purpose of seeking exemption from a specific state fee.

Your community consists of _____ condominium units and common areas. Your members are the individual homeowners of the properties. Each homeowner owns their respective property, including the land and any structures on it, subject to any covenants, conditions, and restrictions that may be in place. Regarding voting rights, you operate on a one-property, one-vote basis. Each homeowner, regardless of the size or value of their property, is entitled to one vote in association matters. Additionally, in the future you may also own and maintain common areas, such as parks, sidewalks, streets, or community facilities. The ownership of these common areas is typically held collectively by you on behalf of all members.

Your Bylaws stipulate that you, rather than individual owners, bear the responsibility for maintenance, repair, modification, replacement, and alteration of the common area of the condominium development. The items delineated in the exhibit state that there is a requirement for you to perform maintenance on the condominium

building. This maintenance includes the application of paint, stain, or waterproofing to the exterior surface, upkeep of the building's exterior stucco surfaces, as well as the repair and replacement of roofs, gutters, and downspouts of the building.

You said have implemented restrictions on access to your facilities and common areas, but you didn't describe the nature of the restrictions. You indicated that the restrictions are in place to ensure the safety, security, and enjoyment of these areas for your homeowners and their authorized guests. Access to your facilities and common areas is typically limited to homeowners and their invited guests, and your governing documents outline the rules and regulations related to their use.

Your revenue is derived from member assessments to cover their portion of common expenses.

Law

IRC Section 501(c)(4) provides for the exemption from federal income tax 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.

IRC Section 501(c)(4)(A) provides for the exemption from federal income tax of organizations not organized for profit but operated exclusively for the promotion of social welfare.

IRC Section 501(c)(4)(B) provides that Section 501(c)(4)(A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

Treasury Regulation Section 1.501(c)(4)-1(a)(1) states an organization may be exempt if: (i) it is not operated for profit and (ii) it is operated exclusively for promoting social welfare.

Treas. Reg. Section 1.501(c)(4)-1(a)(2)(i) 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.

Revenue Ruling 69-280, 1969-1 CB 152, describes an organization was formed to provide maintenance of exterior walls and roofs of homes of members who owned houses in a development. It was held that the organization was operated primarily for the private benefit of members and not operated primarily for the common good and general welfare of the people of the community. The services provided to members included maintenance of the exterior walls and roofs of the individual units. If a person purchases a unit in the housing development, he is required to become a member of the organization. The organization is supported entirely by annual dues charged members. The dues are based on the estimated expenses of the organization plus an amount for reserves to cover large expenditures, such as replacement of roofs

Rev. Rul. 74-17, 1974-1 C.B. 130, describes an organization that was 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 as defined by state statute with membership assessments paid by the unit owners does not qualify for

exemption under IRC Section 501(c)(4). 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, held that a homeowners association, to qualify for exemption under section 501(c)(4) of the Code, (1) must serve a "community" which bears a reasonable recognizable relationship to an area ordinarily identified as governmental, (2) it must not conduct activities directed to the exterior maintenance of private residences, and (3) the common areas or facilities it owns and maintains must be for the use and enjoyment of the general public; association of such areas as roadways and parklands, sidewalks and streetlights, access to, or the enjoyment of which is extended to members of the general public, as distinguished from controlled use or access restricted to the members of the homeowners association.

In Flat Top Lake Association v. United States, 868 F.2d 108 (1989 4th Circuit), the Court held that a homeowner's association did not qualify for exemption under IRC Section 501(c)(4) when it did not benefit a "community" bearing a recognizable relationship to a governmental unit and when its common areas or facilities were not for the use and enjoyment of the general public.

Application of law

You are not described in IRC Section 501(c)(4) and Treas. Reg. Section 1.501(c)(4)-1 because you are not operated primarily for the promotion of social welfare. You are formed to provide maintenance of privately owned condominium units for the benefit of your members. The common areas and facilities are inaccessible by the general public. Section 501(c)(4)(B) provides that you aren't considered to be promoting social welfare as described in Section 501(c)(4)(A) if your net earnings inure to the benefit of any private shareholder or individual. Your activities exclusively benefit your members and their guests and are not for the social welfare of the public. Accordingly, you are precluded from exemption under Section 501(c)(4).

You are not described in Treas. Reg. Section 1.501(c)(4)-1(a)(2)(i) because your only activity is gathering funds for the repair and maintenance of six condominium units for the exclusive use and benefit of your members and their guests. Treas. Reg. 1.501(c)(4)-1(a)(1) defines social welfare as primarily being engaged in promoting in some way the common good and general welfare of the people of the community. Your focus lies not in promoting the common good and general welfare of the community, but rather in meeting the needs of the condominium owners that occupy the building for which you provide maintenance services.

Like the organization described in Rev. Rul. 69-280, your maintenance of the condominium building through activities such as painting, staining, waterproofing, as well as providing upkeep to the roofs, gutters, and downspouts, benefits your members and not the common good and general welfare of the broader community.

Rev. Rul. 74-17 provides an example of an organization that failed to qualify for exemption from federal income tax because it was formed solely to provide for the management and maintenance of condominium housing project. Like that organization, you are a condominium association formed to manage and maintain the commons areas of a building. The common areas are only available to the persons residing in the building and their guests. And like the organization described in Rev. Rul. 74-17, you too are operating for the private interests of your members.

Rev. Rul. 74-99 delineates the requirements that must be satisfied for a homeowners association to qualify for exemption under IRC Section 501(c)(4). A homeowners association is mandated to serve a "community" that exhibits a reasonable identifiable connection to an area that is conventionally recognized as governmental. Since your activities are predominantly focused on providing upkeep to spaces that are inaccessible to the public, you do not serve a "community."

Similar to the organization in Flat Top Lake Association, you do not serve a "community" which bears a reasonable recognizable relationship to an area ordinarily identified as governmental and you maintain areas that are for the exclusive use of your member property owners, rather than the general public.

Conclusion

You are formed to provide services for the benefit of your members and not for the social welfare or common good of the community. Accordingly, you do not qualify for exemption under IRC Section 501(c)(4).

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.

If you don't agree

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

- Your name, address, employer identification number (EIN), and a daytime phone number
- A statement of the facts, law, and arguments supporting your position
- A statement indicating whether you are requesting an Appeals Office conference
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization or your authorized representative
- The following declaration:

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

Under penalties of perjury, I declare that I have examined this request, or this modification to the request, including accompanying documents, and to the best of my knowledge and belief, the request or the modification contains all relevant facts relating to the request, 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 they haven'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 gave us a basis to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't given us a basis for reconsideration, we'll send your case to the Appeals Office and notify you. You can find more information in Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status.

If you don't file a protest within 30 days, you can't seek a declaratory judgment in court later because the

law requires that you use the IRC administrative process first (IRC Section 7428(b)(2)).

Where to send your protest

Send your protest, Form 2848, if applicable, and any supporting documents to the applicable address:

U.S. mail:

Internal Revenue Service
EO Determinations Quality Assurance
Mail Stop 6403
PO Box 2508
Cincinnati, OH 45201

Street address for delivery service:

Internal Revenue Service
EO Determinations Quality Assurance
550 Main Street, Mail Stop 6403
Cincinnati, OH 45202

You can also fax your protest 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 they received it.

You can get the forms and publications mentioned in this letter by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676). If you have questions, you can contact the person listed at the top of this letter.

Contacting the Taxpayer Advocate Service

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

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements