



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

Date:
6/26/2025
Employer ID number:

Form you must file:

Tax years:

Person to contact:
Name:
ID number:
Telephone:

Release Number: 202538026
Release Date: 9/19/2025
UIL Number: 501.04-00, 501.04-06, 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



**Department of the Treasury
Internal Revenue Service**

Date:
05/09/2025
Employer ID number:

Person to contact:
Name:
ID number:
Telephone:
Fax:

Legend:

B = Date
C = State
D = Number
E = Name

UIL:

501.04.00
501.04-06
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) as an organization operating as a homeowners' association? No, for the reasons stated below.

Facts

You were formed on B, by incorporating in the state of C as a non-profit corporation with a stated purpose to provide for architectural control, maintenance and preservation of the Condominium Units and Common Elements, and to promote the health, safety and welfare of the residents. You oversee D condo units in a single housing development building, located in E. The lot owners are the sole members of your association.

You represent that you are responsible for the building maintenance which includes roof siding, plumbing, sewer, waste removal, and lighting; building appliances which include boiler, washer, dryer, and water heaters; and general exterior maintenance including fencing, sidewalks, patios, landscaping, and alleyways.

You represent that certain of these exterior areas are maintained for aesthetic compliance with E. You represent that "The public benefits from historical neighborhood designation in its urban setting. Exterior lighting benefits the public as it enhances public safety, given the urban location. The roof and siding must be well-kept in accordance with the historical neighborhood designation. This benefits the public from aesthetic and neighborhood continuity perspectives."

The only common area you maintain for public access/benefit is a public through-way created by the alleyway and adjacent sidewalk which connects the main street to the back alley. However, you represent that general exterior maintenance (fencing, sidewalks, patios, landscaping, alleyway) and building maintenance (roof, siding, plumbing, sewer, waste removal, lighting) are for both public and private usage. You further represent in the information request that the “[p]ublic benefits from sidewalk maintenance, fencing, landscaping and the alleyway. The alleyway and adjacent sidewalk connect the main street to the back alley creating a public through-way. The landscaping and fencing benefit the public by keeping the exterior of the building well-groomed and the street-view free from clutter.”

You acknowledge that that usage of the building appliances (boiler, washer/dryer, water heaters) is private due to the building appliances being located inside the building and further that “the patios are located internal to the fencing and are primarily for member benefit for outdoor enjoyment. The fencing also benefits the members by creating privacy from passers-by using the sidewalk.”

You represent that you are exclusively funded by dues assessed to the members of the association who are the sole property owners being served by the association. Your expenses include occupancy, sewer line, boiler, and repair expenses.

You stated in your application that “Individual owners own each of the properties covered by the HOA. Each owner has 1 vote per property owned. Rules are created or amended by a majority vote of the owners.” You also represent that “Every condominium owner, his family members, guests and licensees shall have a right and easement of enjoyment in and to the Common Elements. The association may charge reasonable admission and other fees for the use of any facility which is part of the common elements. The association may also limit the number of guests or invitees of each owner which may use the Common elements and also limit which unit owners have a right of use.”

Law

IRC Section 501(c)(4) allows exemption to civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare. In general, to qualify for tax exemption as a social welfare organization described in Section 501(c)(4), an organization (1) must not be organized or operated for profit, (2) must be operated exclusively for the promotion of social welfare, and (3) no part of the organization’s net earnings may inure to the benefit of any private shareholder or individual.

Treasury Regulation Section 1.501(c)(4)-1(a)(2) 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 held that a nonprofit organization formed to provide maintenance of exterior walls and roofs of homes of members who own houses in a development is not exempt as a social welfare organization under Section 501(c)(4). The organization in Rev. Rul. 69-280 was a nonprofit membership corporation formed to provide services for the homeowners in a housing development. The services consisted of painting exterior walls and repairing roofs. If a person purchased a unit in the housing development, he was required to become a member of the organization. The organization was supported entirely by annual dues charged to

members. The dues were based on the estimated expenses of the organization plus an amount for reserves to cover large expenditures, such as replacement of roofs. The IRS concluded that this organization was not exempt because it is performing services that its members would otherwise have to provide for themselves. Therefore, 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.

Rev. Rul. 74-17 held that an organization does not qualify for exemption under Section 501(c)(4) where it 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. 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. Rev. Rul. 74-17 held that 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 held that in order to qualify for exemption under section 501(c)(4), a homeowners association: (1) must serve a "community" which bears a reasonable relationship to an area ordinarily identified as a governmental unit; (2) it must not conduct activities directed to the exterior maintenance of private residences; and (3) the common areas or facilities it owns must be for the use and enjoyment of the general public.

In Flat Top Lake Association v. U.S., 868 F.2d (4th Cir. 1989), the Court held that a homeowners association did not qualify for exemption under 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. The organization in Flat Top Lake Association had 375 lots in the development with 80 families residing there. The organization did undertake certain quasi-governmental tasks including constructing a bridge, maintaining common areas such as a road, a park, and a lake, and providing waste disposal for residents. The organization also paid for a "conservator of the peace" to perform law enforcement duties. Despite this, the court held that this was not a "community" because it is a private environment for its members and cannot claim a tax exemption for benefitting itself.

In Rancho Santa Fe v. U.S., 589 F. Supp 54 (S.D. Cal. 1984), the court interpreted Rev. Rul. 74-99 and held that a homeowners' association serving residents of a housing development of 3,000 homeowners constituted a community and qualified for exemption under section 501(c)(4). Of the 600 acres of land within the development, 465 acres, consisting of parks, hiking trails, open space, athletic fields, a public parking lot, playgrounds, and a community club house, were available to the general public on an unrestricted basis. The remaining 135 acres, consisting of a golf course and tennis courts, was restricted to only the members of the association. The organization also loaned out its facilities free of charge to public service organizations and schools. The court found that the homeowners' association performed the functions of a governmental entity and brought about civic betterments and social improvements on an unrestricted basis that would be missed by the community without the activities of the organization. Thus, the court concluded that the benefits to the organization benefited the social welfare of the general public of the community thereby meeting the requirements of section 501(c)(4).

Application of law

You were formed and are operated to maintain private condominiums. You are not operated exclusively for the

promotion of social welfare within the meaning of Treas. Reg. Section 1.501(c)(4)-1(a)(2) because you are operated exclusively for the private benefit of your members rather than for the benefit of the community as a whole.

You do not meet the three-prong test promulgated by Revenue Ruling 74-99 for a homeowners association to qualify for exemption under section 501(c)(4). The first prong of the test is that you must serve a “community” which bears a reasonable relationship to an area ordinarily identified as a governmental unit. You are a condominium association of D units where the only public access is an alleyway connecting two streets. You are like the organization in Top Lake Association which also did not meet this prong of the test, despite having 375 lots, constructing a bridge, having a law enforcement officer, and maintaining roads, a park, and a lake.

You also do not meet the second prong of the test because your primary activity is to provide maintenance and operational services for the benefit of the D condominium owners and residents. You conduct activities directed to the exterior maintenance of private residences, such as roof inspection, lawn maintenance, light installation, and keeping the exterior in compliance with historical guidelines.

Your position is that by maintaining the exterior of the building, you provide the public aesthetically. Not only is this an incidental public benefit because it is something the owners would do on their own, it is in accordance with local requirements, and it is far away from concrete public benefits such as a park or athletic field, but it also means that one of the few public benefits you claim is prohibited by the second prong of the test.

Further, you fail the third prong of the test because your common areas or facilities are not used or enjoyed by the generic public with the exception of a small public walkway. An alley that may be used by the public is too incidental a public benefit because the alley is primarily for the benefit of people living in the condo. This would be akin to a road in a subdivision that connected members of a homeowners association.

You are unlike the organization described in Rancho Santa Fe vs. U.S. because you do not offer facilities or other amenities to the general public on an unrestricted basis. You do not perform the functions of a governmental entity, nor do you provide social benefit to the general public that may constitute social welfare activities within the meaning of IRC Section 501(c)(4).

Additionally, you are like the organization described in Revenue Ruling 69-280 because you operate primarily for the private benefit of your members rather than for the community. Your income is entirely from membership dues and the great majority of your expenses are used to and enjoyed by the condo owners rather than the general public. Plumbing repairs, building maintenance including washer, dryer, and water heaters; boiler replacement, roof inspection, and sewer line replacement are items that can be serviced and/or replaced by the owners of each of the individual condominiums. The only common area you maintain for public access is a public through-way. You primarily maintain the exterior of the condominium buildings including exterior lighting, fencing, sidewalks, and patios for cosmetic reasons. These items are restricted and can only be assessed by members and their limited guests, indicating that these benefits are not for the general public or a vital public venue such as parks or recreational facilities.

You also are like the organization described in Revenue Ruling 74-17 because your organization primarily serves the private interest of the condominium owners. Your organization does assist with some exterior

lighting, landscaping, and the walk through, but this assistance is not your primary function. Your primary function is the maintenance of the building where the condominiums are located, the maintenance of appliances in each condominium, and restricted exterior maintenance including patios, fencing, and landscaping. The primary function listed above minimally serves the community as a whole and does not focus on the social welfare of the community except for cosmetic purposes.

Conclusion

Based on the information submitted, you are not organized and operated exclusively for exempt purposes within the meaning of IRC Section 501(c)(4). You are organized and operated primarily for the private interests of your members and do not promote the social welfare of the community as a whole. Accordingly, you do not qualify for exemption under 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