



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

Date:
07/10/2025
Employer ID number:

Form you must file:

Tax years:

Person to contact:
Name:
ID number:
Telephone:

Release Number: 202540017
Release Date: 10/3/2025
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



**Department of the Treasury
Internal Revenue Service**

Date:
05/23/2025
Employer ID number:

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

Legend:

B = Date
C = State
D = Number

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 reason stated below.

Facts

You were formed on B by incorporating in the state of C as a nonprofit corporation. Your Certificate of Formation states that your purpose is to improve, beautify, maintain, manage and operate the common area and facilities within your property.

You have D homes in your association and the owners of these homes are your members. Your Bylaws state that common areas are held for the common use and enjoyment of your homeowner members. Your common areas include lawn/grass, common driveway, and access areas that are behind a coded gate making these areas only accessible to your members and their guests, and inaccessible to the public.

You are solely funded by membership dues and your sole expenses are occupancy 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.

Treasury Regulation Section 1.501(c)(4)-1(a)(1) states an organization may be exempt if it is not organized or operated for profit and it is operated exclusively for the promotion of 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 72-102, 1972-1 C.B. 149, provides that a nonprofit organization formed by a real estate developer to administer and enforce covenants to preserve the appearance of a housing development and to maintain streets, sidewalks, and common areas for use of the residents is exempt under IRC Section 501(c)(4). The Rev. Rul. described what may constitute a community, which may be exemplified in a neighborhood, precinct, subdivision, or housing development. By administering and enforcing covenants, and owning and maintaining certain non-residential, non-commercial properties of the type normally owned and maintained by a municipal government, the organization contemplated by the Rev. Rul. is serving the common good and the general welfare of the people of the entire development.

Rev. Rul. 74-99, 1974-1 C.B. 131, modified Rev. Rul. 72-102 and clarifies the circumstances under which a homeowners' organization may qualify for exemption under IRC Section 501(c)(4). Several factors lead to the prima facie presumption that homeowners' associations are essentially and primarily formed and operated for the individual business or personal benefit of their members, and, as such, do not qualify for exemption under Section 501(c)(4). However, the ruling goes on to state that a homeowner's association may in certain circumstances overcome the presumption and qualify for recognition of exemption under Section 501(c)(4) by (1) serving 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.

Rev. Rul. 80-63, 1980-1 C.B. 116, clarifies Rev. Rul. 74-99, by providing answers to specific questions as to whether the conduct of certain activities will affect the exempt status under IRC Section 501(c)(4) of otherwise qualifying homeowners' associations. The ruling states, in relevant part, that: 1) The term 'community' does not embrace a minimum area or a certain number of homeowners; and 2) A homeowners' association, which represents an area that is not a community may not qualify for exemption if it restricts the use of its common areas and recreational facilities to only members of the association.

In Lake Petersburg Association v. Commissioner, T.C. Memo 1974-55; 33 T.C.M. (CCH) 259 (T.C. 1974), the association was an idea presented by the Petersburg Chamber of Commerce to help stimulate the economy in the surrounding area. A group of businessmen contributed capital and acquired capital from other sources such as the City, the Chamber and two banks, to obtain funding to purchase property and develop it. They formed an association, which required prospective owners to become dues-paying members. The dues helped finance the development of the lake and recreational facilities on said property. Use of the assets was limited to members and their guests. The Association's basis for their argument is that the organization was created to stimulate the economy and make it a better place to live, thereby fulfilling the requirement of a social welfare organization under Section 501(c)(4) of the Code. The respondent argued that it was operated primarily for the benefit of its members and therefore did not qualify. The Court found that regardless of the original intent, the actual benefit went to the members and any economic benefits to the Petersburg citizens were "indirect and remote."

In Flat Top Lake Association v. United States, 868 F.2d 108 (1989 4th Circuit), the Court held that a homeowners' association did not qualify for exemption under IRC Section 501(c)(4) because it did not benefit a

“community” bearing a recognizable relationship to a governmental unit and 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(a)(1) because you are not organized or operated exclusively for the promotion of social welfare, nor do you promote the common good and general welfare of the people of a community.

You are not similar to the organization contemplated by Rev. Rul. 72-102, as modified by Rev. Rul. 74-99, because you do not extend the use and enjoyment of your common areas to members of the general public. You restrict the use and enjoyment of your common areas exclusively to your members. Therefore, your activities do not primarily promote in some way the common good and general welfare of the people of a community as Treas. Reg. Section 1.501(c)(4)-1(a)(2)(i) requires.

You do not meet the requirements of Rev. Rul. 74-99 and Rev. Rul. 80-63 because use and access to your common elements are not extended to members of the general public. Because members of the general public are prohibited from the use and enjoyment of your common elements, you do not bestow a community benefit.

You are similar to Lake Petersburg Association and Flat Top Lake Association which both state that an organization won't qualify for exemption under IRC Section 501(c)(4) if their services aren't for the public at large or of a public character. Your activities are primarily for the convenience of your members, and any benefits to the entire community are indirect and remote.

Conclusion

Based on the information submitted, we conclude that you are not an organization described in IRC Section 501(c)(4). You are not a “community” within the meaning of the regulations and because your common areas are behind a coded gate, the general public does not benefit from your operations. You primarily operate for the benefit of your members, who are homeowners in your association. Therefore, you fail to 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