



Department of the Treasury  
Internal Revenue Service  
Independent Office of Appeals

Date: JUL 11 2025

Form:

Tax periods ended:

Person to contact:

Name:

Employee ID number:

Telephone:

Hours:

Employer ID number:

Uniform issue list (UIL):

501.04-00

501.04-07

Release Number: 202540019

Release Date: 10/3/2025

**Certified Mail**

Dear :

**Why you are receiving this letter**

This is a final adverse 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).

We made the determination for the following reasons:

you benefit your members, rather than the public, by providing exterior maintenance to their property.

You've waived your right to contest this determination under the declaratory judgment provisions of IRC Section 7428 by your execution of Form 906, Closing Agreement Covering Specific Matters, an executed copy of which is being sent to you under separate cover.

After removing identifying information, this letter and the previously sent proposed adverse determination letter will be made available for public inspection under IRC Section 6110.

In a separate mailing to you, we provided Letter 437, Notice of Intention to Disclose. Please review Letter 437 and the attached documents describing our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Letter 437.

Organizations that are not exempt under IRC Section 501 generally are required to file federal income tax returns and pay tax, where applicable.

If you have questions, contact the person at the top of this letter.

Sincerely,

Danny Werfel  
Commissioner  
By

Enclosures:  
IRS Appeals Survey

cc:

Christopher R. Martin, CFE  
Appeals Team Manager



Department of the Treasury  
Internal Revenue Service

Date: 11/06/2023

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

**Legend:**

B = STATE

C = DATE

D = MEASUREMENT

E = 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 reasons stated below.

**Facts**

You were formed as a nonprofit corporation in B on C as a homeowners association.

Your purpose, as stated in your articles of incorporation, is to further the interest of the owners of property subject to your Declaration. You have the power:

- to fix, levy, and collect assessments and other charges to be levied against the property subject to the Declaration of any other property for which the corporation by rule, regulation, declaration, or contract has a right or duty to provide such services.
- to engage in activities which will actively foster, promote, and advance the common interest of all owners of property subject to your Declaration. to provide or contract for services benefitting the property subject to the Declaration, including, without limitation, garbage removal and any and all supplemental municipal services as may be necessary or desirable.

Your By-Laws state your board of directors has the power to:

- prepare and adopt in accordance with the declaration of annual budgets in which there shall be established contribution of each owner of the common expenses.
- levy and collect assessments from the owners to fund the common expenses.
- provide for the operation, care, upkeep, and maintenance of the area of common responsibility.
- make or contract for the making of repairs, additions, and improvements to or alterations of the common properties in accordance with the Declaration and By-Laws.
- enforce by legal means the provisions of the Declaration, By-Laws and the rules adopted by it and bringing any proceedings which may be instituted on behalf of or against the owners concerning you.
- pay the cost of all services rendered to you or its members and not chargeable directly to specific owners.

Your Declaration states that all lot owners must be members and pay their portion of the expenses. Your Declaration is intended to establish an association to administer responsibilities with respect to the common properties and the front yards of lots subject to the Declaration and to administer and enforce the provisions of the Declaration and By-Laws. The subdivision is D divided into E. Your Declaration defines front yards as the portion of the lot laying between the street toward which the dwelling faces and the line formed by the dwelling's exterior and any fence running generally parallel to the street. In the case of a corner lot, the term shall also include any portion of the lot lying between the side street and the line formed by the side of the dwelling and any fence or privacy gate running generally parallel to the street toward which the dwelling faces or the side street.

Properties subject to your Declaration shall be held, sold, transferred, used, and conveyed subject to the easements, restrictions, covenants, and conditions herein, which shall run with the title of the property. The common properties are those areas which by the Declaration, any Supplemental Declaration or other applicable covenants or contract become your responsibility, including, but not limited to, the front yards of lots. These properties are all real and personal property which you own, lease or otherwise hold possessory or use rights for the common use and enjoyment of the owners, which may include easements.

The common expenses shall be the actual and estimated expenses incurred or anticipated to be incurred by the association for the general benefit of all owners including any reasonable reserves for repairs and replacements as the board may find necessary. Your board has the right to adopt rules regulating the use and enjoyment of the common properties including limiting the number of guests who may use the common properties, suspending owners use of any amenities, and to charge admission fees to use the amenities.

Your Declaration gives you the right to enter and execute contracts with any party for the purpose of providing management, maintenance, or other material services to you and the owners consistent with your purpose and the Declaration. Maintenance includes all landscaping, including the front yard of lots. If an owner fails to perform proper maintenance of property, you may perform other maintenance and assess all cost incurred against the owner. You may carry insurance for lots and bill the owner for the cost accrued.

## Law

IRC Section 501(c)(4) 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(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.

Rev. Rul. 69-280, 1969-1 C.B. 152, holds that a nonprofit organization formed to provide maintenance of exterior walls and roofs of members' homes in a development is not exempt from Federal income tax under IRC Section 501(c)(4).

Rev. Rul. 74-99, 1974-1 C.B. 131, held that a homeowners association, in order to qualify for exemption under IRC Section 501(c)(4), must, in addition to otherwise qualifying for exemption under Section 501(c)(4), satisfy the following requirements: (1) It must engage in activities that confer benefit on a community comprising a geographical unit which bears a reasonably recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district thereof; (2) It must not conduct activities directed to the exterior maintenance of private residences; and (3) It owns and maintains only common areas or facilities such as roadways and parklands, sidewalks and street lights, access to, or the use and enjoyment of which is extended to members of the general public and is not restricted to members of the homeowners' association.

Rev. Rul. 80-63, 1980-1 C.B. 116, clarifies Rev. Rul. 74-99, and provides answers to specific questions as to whether the conduct of certain activities will affect the exempt status under Section 501(c)(4) of otherwise qualifying homeowners' associations. The ruling states that: 1) the term 'community' does not embrace a minimum area or a certain number of homeowners, 2) a homeowners' association may not receive an exemption if it represents an area that is not a community and it restricts the use of its recreational facilities to only members of the association, 3) an affiliated recreational organization operated totally separate from the homeowners' association may be exempt so long as there is no benefit flowing back to any member.

In Flat Top Lake Association v. United States (1989 4th Circuit), 868 F.2d 108, the Court held that a homeowners' 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.

In Indian Lake Property Owners Association v. Director of Revenue, 813 S.W.2d 305 (1991) the court held that: (1) homeowners' association that enforced subdivision covenants, maintained subdivision roads, and provided security and trash collection services to residences within subdivision was not "civic organization" entitled to sales and use tax exemption, and (2) to qualify as "civic organization," organization's purposes and functions must be concerned with and relate to citizenry at large. The case further discusses Flat Top Lake by stating, "Clearly Congress believed that an organization cannot serve social welfare if it denies its benefits to the general public. Implicitly Congress recognized that a true "community" functions within a broader national fabric. Service to such a community thereby furthers the national interest by expanding potential, by opening opportunities to all citizens who may find themselves within the bounds of that particular community." The denial of exemption was affirmed.

## Application of 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. You do not meet the requirements of this section because your sole activity benefits your members who are residential property owners in the subdivision. You do not show you provide benefits to the community as a whole, as described in the rulings below. Securing member funds to pay for the maintenance and preservation of residents in a specified area does not promote the common good and general welfare of the people of the community. Therefore, you do not meet the exemption requirements of Section 501(c)(4). See Treas. Reg. Section 1.501(c)(4)-1(a)(2)(i).

You are similar to the organization described in Rev. Rul. 69-280 in that you provide for the maintenance of common areas of the whole subdivision including lot owner maintenance.

You are not a "community" as described in Rev. Rul. 74-99 and Rev. Rul. 80-63. In these rulings the general public significantly benefited from the organization's operations. The housing development that you maintain, which consists of less than \_\_\_\_\_ homes, does not bear a recognizable relationship to an area ordinarily identified as a governmental subdivision. Also, the enjoyment of your common area is intended for your members as evidenced by your organizing documents stating your actives are for the common interest of all owners of property and their guests. Your board has the right to regulate the use and enjoyment of the common properties including limiting the number of guests who may use the common properties, suspending owners use of any amenities, and to charge admission fees to use the amenities. Thus, any use of your common property used by the general public is insubstantial.

You are similar to the organizations in Flat Top Lake Association, and Indian Lake Property Owners Association, above, where the general public did not significantly benefit from the activities of the organizations.

Court documents for Indian Lake Property Owners Association state that an organization "cannot serve social welfare if it denies its benefits to the general public." Similar to the Indian Lake case, you are not serving the public. Clearly, you are denying benefits to the public by having services and amenities available only to your lot owners and their guests. The usage of the services and amenities by the general public is minimal and incidental. This is not in accordance with a IRC Section 501(c)(4). Based on these fact patterns, tax-exempt status should be denied as you do not meet the qualifications for exemption.

The lack of public benefit is closely aligned with those as seen in Flat Top Lake v. U.S.A. You limit the common areas to members and their guests. As stated, the organization "operates for the exclusive benefit of its members and does not serve a 'community' as that term relates to the broader concept of social welfare." The courts denied exemption to these aforementioned organizations. Since you are operating in a similar fashion, you do not qualify for exemption under IRC Section 501(c)(4).

## Conclusion

Based on the information provided, you are operating for the benefit of your members, who represent lot owners within your subdivision, and not for the general public. Lot owners are required to pay their yearly common expenses which cover personal maintenance of the front yards of the subdivision and any other

maintenance or amenities you are responsible for maintaining. If an owner does not pay the required fees, their rights to service and amenities can be suspended and liens can be issued. Although the public has limited access to the services and amenities, the public access is a byproduct of providing services and amenities to the individual homeowners of your subdivision. Since you are established to provide your members with services and amenities, you are established to serve the private interests of your members. Therefore, 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](http://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](http://www.taxpayeradvocate.irs.gov) or call 877-777-4778.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements