



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

Date:
07/31/2025
Employer ID number:

Form you must file:

Tax years:

Person to contact:

Release Number: 202550045
Release Date: 12/12/2025
UIL Code: 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:
06/11/2025
Employer ID number:

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

Legend:

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

UIL:
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 in B on C as a non-profit corporation. Your Articles of Incorporation state that your purpose is "maintenance of shared access road".

You consist of E homeowners that live on D and are considered your members. You state these E owners of each lot are given one vote in all proceedings. You are funded from the dues and bi-annual assessments collected from the homeowners of D that are required as a result of owning property there. In addition to the bi-annual assessment, you may levy any special assessment necessary to meet costs of any item of construction, repair, or maintenance. The maintenance includes any storm, water management facilities, upkeep, repair and replacement of the road, mowing and trimming along the area adjacent to the road, and any other necessary purpose. You consider D to be a private road.

You provided the following additional information regarding your activities:

- You are formed by the property owners on D to only oversee any maintenance and costs associated with D. You do not provide any exterior maintenance to the homes of the property owners on D.
- Your overall activities and operation will be governed by your Bylaws, Draft of Declaration of Easement and Draft of Declaration of Covenants.

- Lot owners own to the center of D, some own to one side, or to the other side, depending how each person's deed was constructed years ago.
- You do not own D or any additional property such as common areas or facilities.
- D is mostly restricted to the E residents and their guests. It is a private road that ends at the last property owner, it is not a through street and the public does not use it for access.

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 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 74-99, 1974-1 C.B. 131, states 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.

Revenue Ruling 80-63, 1980 CB 116 provides additional clarification for Rev. Rul. 74-99, above. It explains the term "community" does not embrace a minimum area or a certain number of homeowners. Instead, whether a particular homeowners' association meets the requirements of conferring benefit on a community must be determined according to the facts and circumstances of the individual case. For instance, if the association owns and maintains common areas and facilities for the use and enjoyment of the general public as distinguished from areas and facilities whose use and enjoyment is controlled and restricted to members of the association then it may satisfy the requirement of serving a community.

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) 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. 1.501(c)(4)-1 because you are not operated primarily for the promotion of social welfare. Since your only activity consists of the maintenance of the private road that leads to the residences of D, and you are solely funded by your members who are the property owners of D to conduct this activity, you are operated to serve the private interests of your members and their guests.

You are not operated in a manner described in Revenue Rulings 74-99 and 80-63. You do not promote the common good and general welfare of the people in the community, but rather promote the interests and the convenience of the E lot owners on D, a road with no access. Your activities are aimed at the maintenance of areas that serve a limited, rather than broad, class of people. You are operated for the private interests of your members, E lot owners on D, and not for the common good and general welfare of the people of the community. Therefore, you do not qualify for exemption under IRC Section 501(c)(4).

Like in Flat Top Lake Association, you do not serve a "community" which bears a reasonable recognizable relationship to an area ordinarily identified as governmental in order to qualify for exemption as a homeowners' association under IRC Section 501(c)(4). You maintain a road that is privately owned by your members and provides no through access. As a result, the road is primarily used by E lot owners on D and their invited guests, rather than the general public. Accordingly, you do not qualify for exemption as a homeowners' association under Section 501(c)(4).

Your position

You have continued to stipulate that the road that you are responsible for maintaining is open and used by the general public. You state each of the lot owners can access the road to go to their properties, as well as their guests, United States Postal Service, trash company, delivery drivers, and the public can use the road to go to any of the lot owners. The road is also used by township personnel, fire protection, and EMS services. It has access to a heavily forested area. In the event of a forest fire, the access road needs to be maintained properly for the Fire Department to access.

You have referenced Revenue Ruling 72-102, 1972-1 C.B. 149. You infer that you are similar to the organization described in this ruling in that the benefits described to homeowners and private individuals in this ruling are incidental and that the overall balance of benefits tilt in the favor of the general public.

Our response to your position

Organizations that are exempt under IRC Section 501(c)(4) must be operated exclusively for the promotion of social welfare. In addition, Treas. Reg. Section 1.501(c)(4)-1(a)(2)(i) states 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. You have not provided evidence that you are exclusively formed for the promotion of social welfare. Your only activity is the maintenance and upkeep of the road that leads to the residences of those who have organized you. While the road may provide access to lot owners, guests, delivery drivers, etc., in order to travel to the residences of the lot owners, maintenance of a road that is primarily restricted and used by the lot owners on said road, does not promote social welfare and primarily benefits only the residents who live along the road.

Also, Rev. Rul. 72-102 is modified by both Rev. Ruls. 74-99 and 80-63, two rulings that were previously highlighted above. Specifically, Rev. Rul. 80-63 states that if an organization distinguishes common areas enjoyed by the general public from common areas enjoyed by members of the association, then it may satisfy the requirement of serving a community and thus receive exemption. However, you are not operating in a similar fashion as your activities are primarily benefitting the E lot owners of D, and do not maintain areas distinguished by the general public to satisfy that you are conducting activities for the benefit of the entire community. Finally, you have not provided sufficient evidence that indicates that because you maintain this road with limited access, it provides a substantial benefit to the general public.

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). Rather, you are organized and operated primarily for the private interests of your members by maintaining a private access road, 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