

Internal Revenue Service

Department of the Treasury

District  
Director

P.O. Box 1680, GPO Brooklyn, N.Y. 11202



Date: MAR 25 1989  
Person to Contact:

Contact Telephone Number:

Refer Reply to:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption under section 501(c)(4) of the Internal Revenue Code.

The evidence presented reveals that your Certification of Incorporation was filed on [REDACTED].

The purposes for which the corporation is formed are as follows according to the Certificate of Incorporation and By-Laws:

a) To provide for the maintenance, preservation and architectural control of the residence lots and common area of the residential community known as the [REDACTED] in the Village of [REDACTED], Town of [REDACTED], County of [REDACTED], [REDACTED] and to promote the health, safety, and welfare of the residents therein.

b) The organization is formed to provide maintenance of exterior walls and roofs of the homes of members who own units in the development.

The organization conducts activities directed to the exterior maintenance of private residences, as well as the preservation and architectural control of such units.

Section 501(c)(4) of the Internal Revenue Code 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.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it primarily engages in promoting in some way the common good and general welfare of the people of the community.

The concept of social welfare implies a service or program directed at benefitting the community rather than a private group of individuals.

Revenue Ruling 74-99, 1974-1 C.B. 131 states that a homeowners association must, in addition to otherwise qualifying for exemption under section 501(c)(4) of the Code, 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;...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 69-280, 1969-1 C.B. 152, states 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) of the Code.

Revenue Ruling 74-99, 1974-1 C.P. 131, also states that a homeowners association must serve a community which bears a reasonable recognizable relationship to an area ordinarily identified as governmental; it must not conduct activities directed to the exterior maintenance of private residences; and the common areas or facilities it owns and maintains must be for the use and enjoyment of the general public.

Revenue Ruling 74-17, 1974-1 C.P. 130, states that an organization 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.

Since the organization provides maintenance of exterior walls and roofs of homes of members who own houses in a development, it is not exempt under Section 501(c)(4) of the Code.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(4) of the Code and propose to deny your request for exemption under that section.

We have also determined that you fail to qualify for exempt status under any other subsection of IPC 501(c).

It appears that your organization may elect to file under section 528 to receive certain tax benefits which, in effect, permit the exclusion of exempt function income from gross income. The election to file under section 528 is to be made by filing Form 1120-H, U.S. Income Tax Return for Homeowners Associations. However, if you do not elect to file under section 528, you are required to file Federal income tax returns on Form 1120.

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time, this determination will become final.

Sincerely yours,



District Director

Enclosure: Publication 892

cc:

