

Internal Revenue Service  
District Director

Department of the Treasury

Person to Contact:

Telephone Number:

Refer Reply to:

EIN:

Date:

Dear Sir or Madam:

We have considered your application for exemption from Federal income tax as an organization described in section 501(c)(4) of the Internal Revenue Code of 1986.

On August 2, 1991, you submitted Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code. At your request, that application was withdrawn from consideration on [REDACTED], when you submitted Form 1024, Application for Recognition of Exemption Under Section 501(c), seeking recognition as an organization described in section 501(c)(4) of the Code.

The information submitted discloses that you were incorporated under the nonprofit corporation laws of the State of [REDACTED] on [REDACTED].

Per your Articles of Incorporation you are formed "to maintain road easements, adjoining slope easements and bridle paths within any area owned by the members" of [REDACTED]. You have indicated that the general public does not have access to any of your common areas.

Section 501(c) of the Code describes certain organizations exempt from income tax under section 501(a) and reads, in part, as follows:

"(4) 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."

Section 1.501(c)(4)-1(a) of the Income Tax Regulations provides that a civic league or organization described in section 501(c)(4) of the Code may be exempt if it is not organized or operated for profit and is operated exclusively for the promotion of social welfare. The Regulations describe social welfare as promoting in some way the common good and general welfare of the people of the community. A section 501(c)(4) organization is one which is operated primarily for the purpose of bringing about civic betterments and social improvements.

Revenue Ruling 74-17, 1974-1 C.B. 130, provides 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 the membership assessments paid by the unit owners does not qualify for exemption from Federal income tax under section 501(c)(4) of the Code. The services provided constitute private benefits not within the purview of section 501(c)(4).

This ruling may be distinguished from Revenue Ruling 74-99, 1974-1 C.B. 131, which provides that, to qualify for exemption under section 501(c)(4), a homeowners association must (1) serve a "community" which bears a reasonable recognizable relationship to an area ordinarily identified as governmental, (2) not conduct activities directed to the exterior maintenance of private residences, and (3) make the common areas or facilities it owns and maintains available for the use and enjoyment of the general public.

The Internal Revenue Service takes the position that in order for an organization to qualify for exemption from Federal income tax as a social welfare organization described in section 501(c)(4) of the Code, it must be primarily engaged in promoting in some way the common good and general welfare of the community as a whole.

Since you provide services to your membership similar to those described in Revenue Ruling 74-17 rather than serve in a capacity similar to a governmental unit as described in Revenue Ruling 74-99, you are not considered to be an organization described in section 501(c)(4) of the Code.

Accordingly, we hold that you are not entitled to exemption from Federal income tax as an organization described in section 501(c)(4) of the Code.

Further, you are not qualified for exemption from Federal income tax as an organization described in any other paragraph of section 501(c) of the Code including section 501(c)(3).

You are required to file income tax returns annually with your district director.


Contributions made to you are not deductible as charitable contributions as defined in section 170(c) of the Code.

If you are in agreement with this proposed determination, we request that you sign and return the enclosed agreement Form 6018, Consent to Proposed Adverse Action. Please note the instructions for signing on the reverse side of this form.

If you are not in agreement with this proposed determination, we recommend that you request a hearing with our office of Regional Director of Appeals. Your request for a hearing should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a hearing. The hearing may be held at the office of Regional Director of Appeals or, if you request, at a mutually convenient District Office. A self-addressed envelope is enclosed.

If we do not hear from you within 30 days from the date of this letter, and you do not protest this proposed determination in a timely manner, it will become our final determination in this matter.

Sincerely yours,

  
District Director

Enclosures:  
Publication 892  
Form 6018  
Self-addressed envelope