



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D. C. 20224

OFFICE OF THE CHIEF COUNSEL

December 01, 2011

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Dear _____ :

This letter responds to your request for information dated November 02, 2011, regarding the requirements for qualification of an organization as a homeowners association under section 528 of the Internal Revenue Code.

Section 2.04 of Rev. Proc. 2011-1, 2011-1 I.R.B. 1, 7, provides that the Internal Revenue Service may issue an "information letter," the purpose of which is to call attention to a well-established interpretation or principle of tax law, without applying it to a specific set of facts. Accordingly, the following discussion is provided for general information purposes only and does not constitute a ruling.

Section 528 of the Code provides that a homeowners association is an organization that is a condominium management association, a residential real estate management association, or timeshare association that is organized and operated to provide for the acquisition, construction, management, maintenance, and care of association property. Section 528(c)(1)(B) provides that 60 percent or more of the income of such organization for the taxable year must consist solely of amounts received as membership dues, fees, or assessments from owners of residential units in the case of a condominium management association.

In your letter you note that the organization in question is a 100 percent commercial condominium which receives no income from residential units. Accordingly, if an organization does not meet the 60 percent of income from residential units required by section 528(c)(1)(B) of the Code, then that association cannot elect section 528 treatment by filing Form 1120-H, U.S. Income Tax Return for Homeowners Associations. Instead, that organization should file Form 1120, U.S. Corporation Income Tax.

We note that in your letter you received conflicting advice from the Internal Revenue Service on whether this organization can qualify as a homeowners association under section 528 with one response correctly informing you that the organization does not qualify and another office incorrectly stating that the organization is required to and has been filing Form 1120-H.

This letter has called attention to certain general principles of tax law. It is intended for informational purposes only and does not constitute a ruling. If you have any additional questions, please contact our office at .

Sincerely,

Paul F. Handleman
Chief, Branch 5
Office of Associate Chief Counsel
(Passthroughs & Special Industries)