



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

OFFICE OF THE CHIEF COUNSEL

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The Honorable Francis Rooney
Member, U.S. House of Representatives
1039 Southeast 9th Avenue, Suite 308
Cape Coral, FL 33990

Attention:

Dear Representative Rooney:

I apologize for the delay responding to your inquiry, dated March 25, 2019, on behalf of your constituent, . asked for clarification on the laws on voting rights in a cooperative water utility. Under Section 6103 of the Internal Revenue Code (the Code), we are prohibited by law from disclosing tax returns and return information relating to specific taxpayers. However, based on the information submitted that this organization is a nonprofit, member-owned cooperative, we can provide general information about cooperative organizations, which may be described in Section 501(c)(12) of the Code.

Section 501(a) of the Code exempts from federal income taxation organizations described in Section 501(c). Section 501(c)(12) describes benevolent life insurance associations of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, electric companies, or "like" organizations. An organization that furnishes light or water to its members on a cooperative basis may qualify tax-exempt status as a "like" organization described in Section 501(c)(12). Rev. Rul. 67-265, 1967-2 C.B. 205. Under the Code, a Section 501(c)(12) organization must receive 85 percent or more of its income from members for the sole purpose of meeting losses and expenses each year.

The Code does not define the term "member" or require a Section 501(c)(12) organization to provide specific voting rights to its members. However, under common law, one of the principles of a Section 501(c)(12) organization is democratic control by its members. *Puget Sound Plywood, Inc. v. Comm'r*, 44 T.C. 305, 308 (1965). As

described by the court in *Puget Sound*, the principle of democratic control “is effected by having the worker-members themselves periodically assemble in democratically conducted meetings at which each member has one vote and one vote only.” *Puget Sound Plywood, Inc. v. Comm’r*, 44 T.C. 305, 308 (1965).

For additional information about Section 501(c)(12) cooperative organizations, please refer to Internal Revenue Manual Section 7.25.12, Organizations Exempt Under IRC 501(c)(12) (available at www.irs.gov/irm/part7/irm_07-025-012) or a 2002 IRS Exempt Organizations continuing professional education article, General Survey of I.R.C. 501(c)(12) Cooperatives and Examination of Current Issues, available at www.irs.gov/pub/irs-tege/eotopice02.pdf.

I hope this information is helpful. Following Section 2.04 of Revenue Procedure 2019-1, 2019-1 IRB 1, an information letter is advisory only and has no binding effect on the Internal Revenue Service. If you have any questions, please contact me or at

Sincerely,

James Zelasko
Branch Chief, EO Branch 2
Employee Benefits, Exempt Organizations, and
Employment Tax (CC:EEE)