



Department of the Treasury  
Internal Revenue Service  
P.O. Box 2508  
Cincinnati, OH 45201

Date: May 11, 2017

Employer ID number:

Contact person/ID number:

Contact telephone number:

Telephone number after May 18, 2017:

Form you must file:

Tax years:

Number: **201731017**  
Release Date: 8/4/2017

**UIL: 501.04-00**

Dear \_\_\_\_\_ :

This letter is our final determination that you don't qualify for tax-exempt status under Section 501(c)(4) of the Internal Revenue Code (the Code). 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 federal income tax returns for the tax years listed at the top of this letter using the required form (also listed at the top of this letter) within 30 days of this letter unless you request an extension of time to file.

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection (as required under Section 6110 of the Code) after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Notice 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 contact the person listed at the top of this letter. If you have questions about your federal income tax status and responsibilities, call our customer service number at 1-800-829-1040 (TTY 1-800-829-4933 for deaf or hard of hearing) or customer service for businesses at 1-800-829-4933.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements

Enclosures:

Notice 437

Redacted Letter 4034, *Proposed Adverse Determination under IRC Section 501(a) Other Than 501(c)(3)*

Redacted Letter 4040, *Final Adverse Determination under IRC Section 501(a) Other Than 501(c)(3) - No Protest*



**Department of the Treasury**

**Internal Revenue Service**

P.O. Box 2508

Cincinnati, OH 45201

Date: May 15, 2017

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

**Legend:**

P = State

Q = Name

R = Date of formation

**UIL:**

501.04-00

Dear \_\_\_\_\_ :

We considered your application for recognition of exemption from federal income tax under Section 501(a) of the Internal Revenue Code (the Code). Based on the information provided, we determined that you don't qualify for exemption under Section 501(c)(4) of the Code. This letter explains the basis for our conclusion. Please keep it for your records.

**Issues**

Do you qualify for exemption under Section 501(c)(4) of the Code? No, for the reasons stated below.

**Facts**

You were incorporated in the State of P on R. Your formation document states that you are organized as a trade association.

You maintain the common areas of the Q industrial park. Each member of your Board is required to be an owner of a lot located in the Q industrial park and current in the payment of assessments. If the owner of a lot is a corporation, partnership, or other legal entity, a designated agent of that entity is eligible to serve as a member of your Board.

You provide for the operation, care, upkeep, maintenance and improvement of the common areas of the Q industrial park. Specifically, you pay for water, waste removal, electricity, telephone and other necessary utility services of the common areas. You are also responsible for landscaping, gardening, snow removal, painting, cleaning, tuck-pointing, maintenance, repair and replacement of the common areas. You prepare, adopt and distribute the annual budget, levy and collect assessments, employ and dismiss personnel necessary for the maintenance of the common area, and obtain adequate insurance. You also pay for other materials, supplies, furniture, labor, services, maintenance, repairs, or structural alterations which your Board is required to secure or pay for, pursuant to your Bylaws, which are necessary or proper for the maintenance and operation of the property, as a first class commercial condominium building.

You are funded by association fees of the members.

## Law

Section 501(c)(4) of the 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.

Treasury Regulation Section 1.501(c)(4)-1(a)(2)(i) provides, in part, 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.

Rev. Rul. 73-306, 1973-2 C.B. 179, provides that an organization formed for the purpose of promoting the common interest of tenants who reside in a particular apartment complex does not qualify for exemption under Section 501(c)(4) of the Code. Any person regularly living in the complex was eligible for membership. The organization represented its member-tenants in negotiations with the management of the complex in order to secure better maintenance and services, as well as reasonable rents. The ruling holds that the organization was not described in Section 501(c)(4) because it operated essentially to benefit its members and, thus, was not primarily engaged in activities that promote the common good and general welfare of the community.

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

Rev. Rul. 80-63, 1980-1 C.B. 116, clarified Rev. Rul. 74-99 and states that by providing facilities only for the use of its members, the association was operating for the private benefit of its members, and not for the promotion of social welfare within the meaning of Section 501(c)(4) of the Code.

In Contracting Plumbers Cooperative Restoration Corp. v. United States, 488 F.2d 684 (2d Cir. 1973), cert. denied, 419 U.S. 827 (1974), plumbers working in New York City were responsible for the cuts they made in the city streets. Prior to the organization's existence, the city had repaired the cuts and billed the plumbers individually in what proved to be a highly inefficient system. The organization was formed to restore the city streets. It only repaired cuts made by its members. The joint effort of the plumbers reduced their liability and their expenses, and more efficiently repaired the city streets. While the court found that the program provided substantial benefits to the public, it concluded that the organization primarily served the private economic interests of its members and, thus, could not be considered exempt under Section 501(c)(4) of the Code.

## Application of law

You are not described in Section 501(c)(4) of the Code because you are not operated for the promotion of social welfare. You are operated for the benefit and convenience of your members.

You do not meet the requirements of Treas. Reg. Section 1.501(c)(4)-1(a)(2)(i) because you are not primarily engaged in promoting, in some way, the common good and general welfare of the people of the community. You do not bring about civic betterment and social improvements to the community as a whole.

The primary beneficiary of your activities is your members. Like the organization described in Rev. Rul. 73-306, you are operating to benefit your members and not primarily engaged in activities that promote the

common good and general welfare of the community and, thus, not exempt under Section 501(c)(4) of the Code.

You are not serving the community as a whole and your facilities are not for the use and enjoyment of the general public, causing you to fail to qualify for exemption under Section 501(c)(4) of the Code, as described in Rev. Rul. 74-99 and Rev. Rul. 80-63.

Providing services for your members, who are owners of lots in the Q industrial complex, is not a Section 501(c)(4) activity. The services you provide confer a sufficient amount of private benefit on your members, who are the owners of the lots in the Q industrial park. Even if you were to substantially benefit the community, you would fail to qualify for exemption because you primarily benefit private interests. See Contracting Plumbers.

### **Conclusion**

Based on the information submitted, we conclude that you are not an organization described in Section 501(c)(4) of the Code because you are not operated exclusively for the promotion of social welfare and your activities privately benefit your members.

### **If you don't agree**

You have a right to file a protest if you don't agree with our proposed adverse determination. To do so, you must send a statement to us within 30 days of the date of this letter. The statement must include:

- Your name, address, employer identification number (EIN), and a daytime phone number
- A copy of this letter highlighting the findings you disagree with
- An explanation of why you disagree, including any supporting documents
- The law or authority, if any, you are relying on
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization, or your authorized representative
- One of the following declarations:

**For an officer, director, trustee, or other official who is authorized to sign for the organization:**

Under penalties of perjury, I declare that I examined this protest statement, including accompanying documents, and to the best of my knowledge and belief, the statement contains all relevant facts and such facts are true, correct, and complete.

**For authorized representatives:**

Under penalties of perjury, I declare that I prepared this protest statement, including accompanying documents, and to the best of my knowledge and belief, the statement contains all relevant facts 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 he or she hasn'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 provided a basis for us to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't provided a basis for reconsideration, we'll forward your case to the Office of Appeals and notify you. You can find more information about the role of the Appeals Office in Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*.

If you don't file a protest within 30 days, you can't seek a declaratory judgment in court at a later date because the law requires that you use the IRS administrative process first (Section 7428(b)(2) of the Code).

### **Where to send your protest**

Please send your protest statement, Form 2848, if needed, and any supporting documents to the applicable address:

U.S. mail:

Internal Revenue Service  
EO Determinations Quality Assurance  
Room 7-008  
P.O. Box 2508  
Cincinnati, OH 45201

Street address for delivery service:

Internal Revenue Service  
EO Determinations Quality Assurance  
550 Main Street, Room 7-008  
Cincinnati, OH 45202

You can also fax your statement 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 he or she received it.

### **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.

You can find all forms and publications mentioned in this letter on our website at [www.irs.gov/formspubs](http://www.irs.gov/formspubs). If you have questions, you can contact the person listed at the top of this letter.

Sincerely,

Jeffrey I. Cooper  
Director, Exempt Organizations  
Rulings and Agreements

Enclosure:  
Publication 892