



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
PO Box 2508
Cincinnati, OH 45201

Date: 4/14/2022

Employer ID number:

Person to contact:

Release Number: 202227012

Release Date: 1/8/2022

UIL: 501.04 00, 501.04 06, 501.04 07

Dear _____ :

This letter is our final determination that you don't qualify for exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a) as an organization described in IRC Section 501(c)(4). 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 the federal income tax forms for the tax years shown above within **30 days** from the date of this letter unless you request an extension of time to file. For further instructions, forms, and information, visit www.irs.gov.

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

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosures:

Letter 437

Redacted Letter 4034

Redacted Letter 4038



Department of the Treasury
 Internal Revenue Service
 PO Box 2508
 Cincinnati, OH 45201

Date: 02/15/2022

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

- B = State
- C = Date
- D = Name 1
- E = Organization 1
- F = Name 2
- G = Name 3
- L = Organization 2
- h = Number
- j = Number
- k = Number

UIL:

- 501.04-00
- 501.04-06
- 501.04-07

Dear _____ :

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

Issues

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

Facts

You were formed in the state of B on C as a Limited Liability Company. Your Certificate of Formation is silent regarding your purpose. According to your By-Laws, your mission is to promote progress, improvements, civic activities and environmental achievement with your members, as a fully functioning corporation and in cooperation with park management, to aid residents in problems regarding community safety and any other issues that regard the community, as a whole. Your mission also includes educating and informing your members and public servants and to work for legislative actions.

With the assistance from the President of I, you were formed as a subsidiary of I. Your membership is made up of homeowners from a manufactured home community, called D. D consists of two sections, F and G. The F section is a family section for people of all ages and consists of h lots, while the G section is exclusively for

people at least j years old and consists of k lots. The homeowners own the manufactured home they live in, but lease the plot of land each home sits on from a community owner, E.

You were formed to ensure the B laws are followed by E, with respect to the residents of D. Homeowners lease the land their homes are set up on. As such, the rights and obligations for homeowners are described in the B laws. You conduct monthly meetings to help protect the members investment. You inform your members of any impending changes that will impact the community. You also prepare monthly a newsletter to be shared with all residents. Your Executive Committee is responsible for evaluation of the documentation submitted by E for the proposed yearly rent increases. The Executive Committee will file arbitration and pay associated fees in the event of disagreement between the members and E.

Your organization was not formed to own and maintain common green areas, streets and sidewalks and to enforce covenants to preserve the appearance of the development. All homes are on leased land, and you were formed to represent the homeowners when dealing with E.

There are two classes of voting rights within your membership. The first class of voting rights includes all homeowners in the community in regard to voting on the purchase of the property under the right of first offer should the community be offered for sale by E. In this class, the owner, or owners of each home in the community is entitled to one vote on all matters related to the purchase of the property. The second class of voting rights includes only members that have paid membership fees to you. The payment of membership fees entitles the member to vote in all elections and to hold office in your organization. The paid members also receive your assistance when they have disputes with E regarding the rental agreement and/or rules and regulations. Your By-Laws states if you purchase the property from E in the future, your membership will become mandatory for all homeowners.

You described the geographic area that you serve as similar to a housing development with the exception the land is leased by the homeowner and the home is owned by the tenant. The community is not located in any incorporated area of a town/city.

Law

IRC Section 501(c)(4) 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 and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes. Further, exemption shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

Treasury Regulation Section 1.501(c)(4)-1(a)(2)(i) states 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.

Revenue Ruling 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 IRC Section 501(c)(4). The organization represented its member-tenants in negotiations with the management of the complex 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 IRC Section 501(c)(4), a homeowner association (1) must serve a "community" which bears a reasonably recognizable relationship to an area ordinarily identified as a 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. 75-199, 1975-1 C.B. 160, held that where the benefit from an organization is limited to the organization's members (except for some minor and incidental benefit to the community as a whole), the organization is not operated exclusively for the promotion of social welfare with the meaning of IRC Section 501(c)(4).

In Flat Top Lake Association, Inc. v. United States, 868 F.2d 108 (1989 4th Circuit), the court held that a homeowners association did not qualify for exemption under IRC Section 501(c)(4) because it did not benefit a "community" bearing a recognizable relationship to a governmental unit and its common areas or facilities were not for the use and enjoyment of the general public.

Application of law

You are not a social welfare organization exempt under IRC Section 501(c)(4) because your activities and/or services are limited to the homeowners who reside in F and G. You are not operated exclusively for the promotion of social welfare within the meaning of Treas. Reg. Section 1.501(c)(4)-1(a)(2)(i) because you operated exclusively for the private benefit of your members rather than for the benefit of the community as a whole. Therefore, you are not organized and operated exclusively for the promotion of social welfare as required by Section 501(c)(4).

You are similar to the organizations in Rev. Rul. 73-306 and Rev. Rul. 75-199 because you limit your benefits and services to your members by representing them in rent arbitration and disputes with E. Both organizations in these Revenue Rulings did not qualify under IRC Section 501(c)(4) because their activities were not promoting the common good and general welfare of the community.

You do not meet the qualifications for exemption as an IRC Section 501(c)(4) homeowners association described in Rev. Rul. 74-99 since the geographic area you serve is described more like a housing development. You are like the organization in Flat Top Lake Association, Inc. Although you do not own and maintain common areas for the exclusive use of your members or conduct any activities directed to the exterior maintenance of members' residences, you do not serve a "community" which bears a reasonable recognizable relationship to an area ordinarily identified as governmental.

Conclusion

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

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.

If you don't agree

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

- Your name, address, employer identification number (EIN), and a daytime phone number
- A statement of the facts, law, and arguments supporting your position
- A statement indicating whether you are requesting an Appeals Office conference
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization or your authorized representative
- The following declaration:

For an officer, director, trustee, or other official who is authorized to sign for the organization:
 Under penalties of perjury, I declare that I have examined this request, or this modification to the request, including accompanying documents, and to the best of my knowledge and belief, the request or the modification contains all relevant facts relating to the request, 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 they haven'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 gave us a basis to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't given us a basis for reconsideration, we'll send your case to the Appeals Office and notify you. You can find more information in Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status.

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

Where to send your protest

Send your protest, Form 2848, if applicable, and any supporting documents to the applicable address:

U.S. mail:

Internal Revenue Service
 EO Determinations Quality Assurance
 Mail Stop 6403
 PO Box 2508
 Cincinnati, OH 45201

Street address for delivery service:

Internal Revenue Service
 EO Determinations Quality Assurance
 550 Main Street, Mail Stop 6403
 Cincinnati, OH 45202

You can also fax your protest 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 they received it.

You can get the forms and publications mentioned in this letter by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676). If you have questions, you can contact the person listed at the top of this letter.

Contacting the Taxpayer Advocate Service

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or if you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 877-777-4778.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements