



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

Date:
04/12/2023
Employer ID number:

Form you must file:

Tax years:

Person to contact:

Release Number: 202327017
Release Date: 7/7/2023
UIL Number: 501.07-00

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)(7). 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.

We sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosures:
Letter 437
Redacted Letter 4034
Redacted Letter 4038

cc:



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

Date: 02/08/2023

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

B = State of Incorporation
C = Date of Incorporation
D = Neighborhood
F = Date Application Filed
g percent = Expenditures

UIL:

501.07-00

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)(7). 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)(7)? No, for the reasons stated below.

Facts

You incorporated in B on C. According to your Articles of Incorporation, you were formed for the following purposes:

- To maintain, construct upon and improve the common areas as shown on the plat of D as recorded in the Probate Office of your county.
- To own, operate, lease, sell, trade, or otherwise deal with such property as may be necessary or convenient to carry out your purpose. You will be responsible for newly acquired real property ad valorem taxes and all insurance requirements.
- To construct building or other structures that benefit your members by providing safety, recreation, enjoyment, and community.
- To organize neighborhood events, neighborhood watches, neighborhood directories, social media accounts, charity events and to promote a welcoming positive neighborhood.
- To accept new members.
- To purchase liability insurance for the members.
- Any other lawful purpose.

According to your Bylaws, you are an organized group of the property owners in the D who work together to perform the objectives of the neighborhood. Your membership consists of property owners within D who have paid their annual dues.

You submitted Form 1024 on F. According to your application:

You have purchased a General Liability insurance policy that covers all your members from any liability lawsuits that could arise from any person being injured on the roads, boat ramp, boat dock or any other common areas of the neighborhood.

You maintain the boat docks, boat ramps, residential streets, and common areas. This includes removing and disposing of debris such as leaves, limbs, litter, etc. All these areas are for the benefit of the members and require ongoing maintenance. In addition, you are working to improve the front entrance to the neighborhood property.

There are no regulations and rules for the owners. The roads, boat dock, ramps and other common areas are owned by each property owner in the neighborhood, and it is reflected on every deed.

You promote positive neighborhood relationships by welcoming new members, maintaining a neighborhood directory and providing information concerning emerging neighborhood issues. You plan and aid in the development of group fellowship activities among the members to foster those relationships. These activities include an neighborhood parties, small parties, neighborhood walks, and yard sales.

You have developed a Neighborhood Watch Program in conjunction with the local police department for the safety of your members and their property.

You are funded by member dues and community fundraisers from an annual charity drive. You may also receive grants in the future.

You provided documentation that in the year of your formation, you paid for liability insurance for your members, which accounted for over g percent of your total expenditures for the year.

Law

IRC Section 501(c)(7) exempts from federal income tax, clubs organized for pleasure, recreation, and other non-profitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder.

Treasury Regulation Section 1.501(c)(7)-1(a) states that the exemption provided by IRC Section 501(a) for organizations described in IRC Section 501(c)(7) applies only to clubs which are organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, but does not apply to any club if any part of its net earnings inure to the benefit of any private shareholder. In general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues, and assessments.

Rev. Rul. 58-589, 1958-2 C.B. 266, stipulates expanded criteria for determining whether an organization qualifies for exemption under IRC Section 501(c)(7). An organization must establish (1) that it is a club both organized and operated exclusively for pleasure, recreation and other non-profitable purposes and (2) that no part of its net earnings inures to the benefit of any private shareholder or individual. To meet the first requirement, there must be an established membership of individuals, personal contacts, and fellowship. A commingling of the members must play a material part in the life of the organization.

Rev. Rul. 75-494, 1975-2 C.B. 214, provides that a club providing social and recreational facilities, whose membership is limited to homeowners of a housing development, will be precluded from qualifying for exemption under IRC Section 501(c)(7) by owning and maintaining residential streets, enforcing restrictive covenants, or providing residential fire and police protection and trash collection service.

Application of law

You are not described under IRC Section 501(c)(7) or Treas. Reg. Section 1.501(c)(7)-1(a) because substantially all of your activities are not for pleasure, recreation, or other non-profit purposes. In addition to maintaining privately-owned residential roads, boat docks, ramps, and other common areas for your members, you also purchase liability insurance on your members' behalf. These activities represent benefits to members and are not in furtherance of an exempt purpose under IRC Section 501(c)(7).

Accordingly, you are similar to the nonexempt organization described in Rev. Rul. 58-589, supra, held not to meet the definition of "club" in IRC Section 501(c)(7), as a substantial part of your activities are not devoted to providing opportunities for your members to engage in fellowship and commingling. You are not organized substantially for pleasure, recreation, or other non-profitable purposes as required by IRC Section 501(c)(7).

You are similar to the organization described in Rev. Rul. 75-494 in that a substantial part of your activities are devoted to the maintenance of privately-owned residential streets, boat docks, ramps, and other common areas.

Conclusion

You do not qualify for exemption under IRC Section 501(c)(7) as your activities are not substantially for the pleasure and recreation of your members. You maintain privately-owned residential streets, boat docks and ramps, and pay for property liability insurance for your members. An organization which conducts these activities is not operated substantially for pleasure, recreation, and other non-profitable purposes; and its net earnings are benefitting the private interests of its members. For these reasons, you do not qualify for exemption under IRC Section 501(c)(7).

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.

We sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

cc: