



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

Date:
06/12/2023
Employer ID number:

Tax years:

Person to contact:

Number: **202336028**
Release Date: 9/8/2023

UIL: 501.04-00, 501.04-06

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:
March 22, 2023
Employer ID number:

Person to contact:
Name:
ID number:
Telephone:
Fax:

Legend:

M = date
N = state
P = area

UIL:
501.04-00
501.04-06

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 on M in N. Your Articles of Incorporation state that your specific purposes shall be to own and operate a water supply system, furnish domestic water to your members, your members shall own plots within P plat, provide and maintain for the P reserve, and some of your members have an alternate source of water. All plat owners in the plat of P have an interest which is referred to as the "corporate service area". You will not issue capital stock, but will issue membership certificates to your members.

You will have two classes of members because some of the plats of P are not owned by your corporation. Class I members are lot owners in P serviced by your water system, and Class II members are lot owners in P not serviced by your water system. You say there are rights and responsibilities for both classes of members. You describe Class I members' right to receive water owned by your corporation, right to enjoy P reserve, and right to vote on matters affecting P reserve or the water system. You describe Class I members' responsibilities to pay charges and assessments as determined by the board to be necessary, and they shall be bound by these Articles of Incorporation and Bylaws as they pertain to both P reserve and your water system. You describe Class II members' right to enjoy P reserve, and right to vote on matters that pertain to P reserve. You describe Class II members' responsibilities to pay charges and assessments as determined by the board to be necessary as they pertain to P reserve.

Each lot owner within the corporate service area shall be a member of your corporation, and membership shall follow ownership of property. Class I members are entitled to one vote per lot owned in the corporate service area established by the Board. Class I members are obligated to enter into a water purchase agreement with your corporation and will have to pay a pro-rata share of all expenses incurred by the corporation for maintaining and improving the water system. If a member becomes delinquent with this expense, these charges become a lien on the property, and you can foreclose. You can suspend an owner's water service for the delinquent charges until arrears have been paid in full.

You stated that % of your time is appropriated for maintaining the water system. Your sources of support are from membership fees and gross receipts. The membership fees and gross receipts are used to pay the water manager's salary, utilities for water management and pump house, and water testing fees.

You provided additional information regarding your activities which indicated your board was dedicated to maintaining safe, reliable drinking water for all your members by conducting tests for various contaminants according to N department of health requirements.

Law

IRC Section 501(c)(4) provides for the exemption from federal income tax of organizations not organized for profit but operated exclusively for the promotion of social welfare. 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 Regulations Section 1.501(c)(4) -1(a)(1) states a civic league or organization may be exempt as an Organization described in IRC Section 501(c)(4) if it is not organized or operated for profit, and it is operated exclusively for the promotion of social welfare.

Treas. Reg. Section 1.501(c)(4)-1(a)(2)(i) provides 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 that is operated primarily for the purpose of bringing about civic betterments and social improvements.

Revenue Ruling 66-148, 1966-1 C.B. 143, describes a nonprofit organization formed for the purpose of establishing and maintaining a system for the storage and distribution of water in order to increase underground water levels in a community is exempt from federal income tax under Section 501(c)(4). Membership in the organization is available to any water user in the community who agrees to pay an assessment based upon the number of gallons of water pumped from the user's private well. However, the increase in the level of the underground water table which results from the organization's activities benefits all residents of the community whose wells are supplied by the raised water table, regardless of whether they are members and regardless of whether they pay anything to the organization.

Revenue Ruling 74-99, 1974-1 C.B. 132, provides a homeowners' association, to qualify for exemption under Section 501(c)(4), (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.

Lake Petersburg Assn v C.I.R., 33 TCM 259 (1974), describes an organization that constructed a man-made lake with funds received from its members. Upon paying a membership fee, each member became entitled to lease lots near the lake, for which each member was required to pay a lot assessment plus an annual lot rental fee. The organization was found to operate primarily for the benefit and use of its members and that its activities were not directed toward the social welfare of the entire community. The lake directly benefited only those people who were members and who therefore could enjoy the facilities and environment that the lake provided. Accordingly, it was concluded the organization was operated primarily for the benefit of its members rather than for the benefit of the entire community.

Application of law

You are not operated exclusively for the promotion of social welfare purposes under IRC Section 501(c)(4). Providing a water supply in service to your members, in return for a membership fee to cover costs associated with this service, does not promote social welfare of the community.

You do not meet the requirement outlined in Treas. Reg. Section 1.501(c)(4)-1(a)(1). You are not a civic league operated exclusively for social welfare purposes - you are formed primarily for the benefit of your members which does not promote social welfare. You do not meet the requirement outlined in Treas. Reg. Section 1.501(c)(4)-1(a)(2)(i). You provide benefits to your members, that pay a membership fee, for the maintenance of their water system. While in general activities directed toward providing safe water benefits the public any benefit here to the community as a whole is minor and incidental. Your activities are not geared towards and do not bring about civic betterments and social improvements for the community, instead, you are primarily operating for the convenience and benefit of your member lot owners in P reserve.

Unlike the organization in Rev. Rul. 66-148, you are only furnishing domestic water service to your members for a fee. The organization that qualified in the ruling had activities that benefitted all residents of the community regardless of members status. While you share similar activities, the only beneficiaries of your activities are your members owning and living on plots in P. As you are operating solely for the benefit of your members who pay for those services, and not the community at large, you are not promoting social welfare under IRC Section 501(c)(4).

Rev. Rul. 74-99 describes factors under which an association of homeowners could qualify under IRC Section 501(c)(4). As you are an aggregate of property-owning members paying fees for services needed for their homes you serve a similar purpose to a homeowners' association. An organization of this nature must serve a community which, as stated in that ruling, is not simply an aggregation of homeowners bound together in a structured unit. You only serve the owners of plots of land within P rather than the community at large. It must not conduct activities directed to the improvement of exterior residences as this conveys a direct private benefit on the homeowner versus the community – the services you provide are for the convenience of your members only and thereby serve their personal benefit. Finally, areas maintained must be for the use of the general public. Other than some incidental benefit to the community, the benefits you offer are limited only to your members for clean drinking water. Therefore, you are unlike an organization of this type that received exemption under Section 501(c)(4).

Like the organization described in Lake Peterson, a substantial part of your activities is to serve the private interests of your members. Your water supply system will serve and benefit only those people who are members. Accordingly, you are operated primarily for the benefit of your members rather than for the benefit of the entire community and do not qualify for IRC Section 501(c)(4).

Conclusion

Based on the information provided, we conclude that you are not described in IRC Section 501(c)(4). You were not formed for an overall community benefit or for social welfare purposes but rather to provide services to your members. Accordingly, you do not qualify for recognition of exemption under Section 501(c)(4).

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