



**Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities**

Date:
08/08/2025
Employer ID number:

Form you must file:

Tax years:

Person to contact:

Release Number: 202551047
Release Date: 12/19/2025
UIL Code: 501.04-00, 501.04-07

Dear [REDACTED]:

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

Date:
06/16/2025
Employer ID number:

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

Legend:

B = Date
C = State
D = Subdivision
E = Number
F = Number

UIL:
501.04-00
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) as an organization operating as a homeowners' association? No, for the reasons stated below.

Facts

You were formed on B as a mutual benefit corporation in the state of C with a stated purpose of community improvement within D, a subdivision adjacent to a lake. You oversee and maintain the public areas of D. You said these common areas are spread throughout D.

The homeowners in D are your sole members. You charge voluntary dues to your members to cover the maintenance costs of the common areas. There are currently E paid members and F unpaid members. If the members don't pay the dues, they are not permitted to access all of the common areas. The roadway is owned by the county and there are no sidewalks.

You maintain three main common areas in D. One common area is a park which requires upkeep of grass, picnic tables, swings, and slides. A second area is a park with a beach, boat ramp, and boat storage that is not open to non-association members and guests due to liability concerns for the members and the general public. Members who have not paid their annual dues are also not granted access to this common area. The second park requires upkeep of the swings, fire pit, picnic tables, beach, boat ramp, and boat storage. You have erected

signage that identifies the name of the second park and indicates that the park is a no trespassing area. The third common area is a path leading to a stream that gains access to the lake.

Your Bylaws state that members desiring to park their boats or boat trailers in the recreation area will be assessed an annual parking fee. Only members who have paid their annual dues are eligible to park their boats or boat trailers in the recreation areas.

Your activities include maintenance to association property, including lawn service and landscaping. You also pay the state and local property taxes associated with the common property. Your primary activity is conducting homeowners' association meetings and board of directors' meetings.

Most of your revenue is from membership dues. Your largest expenses over the last few years include parking lot resealing, boat dock repairs, landscaping, shoreline erosion mitigating, beach area maintenance, and insurance.

Law

IRC Section 501(c)(4) provides that civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes and no part of the net earnings of such entity inures to the benefit of any private shareholder or individual may be exempt from federal income tax.

Treasury Regulation Section 1.501(c)(4)-1(a)(1) states that an organization may be exempt if it is not operated for profit, and it is operated exclusively for the promoting 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 which is operated primarily for the purpose of bringing about civic betterments and social improvements.

Revenue Ruling 72-102, 1978-1 CB 149, describes a non-profit organization formed to preserve the appearance of a housing development and to maintain streets, sidewalks, and common areas for use of the residents that is found to be exempt under IRC Section 501(c)(4). The ruling describes what may constitute a community, which may be exemplified in a neighborhood, precinct, subdivision, or housing development. It states that by administering and enforcing covenants, and owning and maintaining certain non-residential, non-commercial properties of the type normally owned and maintained by municipal governments, this organization is serving the common good and the general welfare of the people of the entire development.

Rev. Rul. 74-99, 1974-1 C.B. 131, clarifies the circumstances under which a homeowners' organization like the one described in Rev. Rul. 72-102 may qualify for exemption under IRC Section 501(c)(4). According to Rev. Rul. 74-99 several factors lead to the prima facie presumption that homeowners' associations are essentially and primarily formed and operated for the individual business or personal benefit of their members, and, as such, do not qualify for exemption under IRC Section 501(c)(4). However, the ruling goes on to state that a homeowners association may in certain circumstances overcome the presumption and qualify for recognition of exemption under IRC Section 501(c)(4) by (1) serving 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.

Commissioner v. Lake Forest, Inc., 305 F. 2d 814 (4th Cir., 1962) denied exemption to a social welfare organization because the organization did not benefit the public at large, nor was its contribution of a public character. The case involved a non-profit membership housing cooperative that provided low-cost housing to its members. In denying exemption as a social welfare organization, the court found that although the organization's activities were available to all citizens eligible for membership, "[I]ts contribution is neither to the public at large nor of a public character." The court looked to the benefits provided and not to the number of persons who received benefits through membership. In this case, benefits were largely directed to certain individuals rather than the general public, so the organization did not qualify as a social welfare organization.

Rancho Santa Fe Association v. U.S., 589 F. Supp. 54 (S.D. Cal. 1984), held that a housing development functioning as a public municipality, constituted an independent community under Section 1.501 (c)(4)-1 of the Treasury Regulations, and that the homeowners' association representing the property owners within the housing development bestowed benefits on the entire community. Therefore, the association was exempt under Section 501(c)(4) even though the public was restricted from certain recreational facilities. Of note, the Rancho Santa Fe development was significant in size, separated geographically from the central area of a large city (San Diego, California), and had its own post office and zip code. In addition, the organization performed the functions of a governmental entity, and it brought about civic betterments and social improvements on an unrestricted basis that would be sorely missed by the community without the activities of the organization. In sum, out of the 600 acres owned directly by the Association, 465 of these acres were available for use by the general public on an unrestricted basis. The remaining 135 acres were available to all the members of the Rancho Santa Fe community and to the general public, but only when the public used the inn located in Rancho Santa Fe. The court summarized, "The critical factor is that the Association benefits the community it serves and represents on an unrestricted basis."

In Flat Top Lake Association v. United States, 868 F.2d 108 (4th Circuit 1989), the Court confirmed the denial of Section 501(c)(4) status to a homeowners' association that maintained a private lake accessed by a private road, open only to lot owners in a 375-lot residential subdivision surrounding the lake. Citing Rev. Rul. 74-99, the Court stated that "Clearly Congress believed that an organization cannot serve social welfare if it denies its benefits to the general public ... Wholly private activity, however meritorious, confers no such benefit which would render [exemption] appropriate."

Application of law

You seek recognition of tax-exempt status under IRC Section 501(c)(4), which requires an organization to be operated exclusively to promote social welfare. An organization seeking tax-exempt status under Section 501(c)(4) must be operated exclusively to promote social welfare within the meaning of Section 501(c)(4). 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. See Commissioner v. Lake Forest, Inc. In contrast, there is a prima-facie presumption that homeowners' associations are essentially and primarily formed and operated for the individual business or personal benefit of their members. To overcome this presumption a homeowners' association must satisfy a three-prong test: (1) it 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. 74-99. Whether it operates primarily to promote in some way the common good and general welfare of the people of the community is a question of facts and circumstances, see Rev. Rul. 80-63.

You are not as described in IRC Section 501(c)(4) and Treas. Reg. Section 1.501(c)(4)-1(a)(1) because your core functions are to benefit the private interests of your members, and your activities do not primarily promote the social welfare of the community. You are a homeowners' association (HOA) formed and operated for the specific purpose of governing, improving, and maintaining the common areas of D, which is a subdivision of a larger community. The common areas include two parks and a path leading to a stream. While you are not a gated community, you restrict access to a portion of your common areas to dues paying members only. Specifically, you entirely restrict public access to your second park which includes the beach and boat dock with an attached parking area. This purpose primarily benefits your members and does not serve a "community" which bears a reasonably recognizable relationship to an area ordinarily identified as a governmental unit.

You do not bear a reasonable resemblance to a government unit. You differ from the organization in Rancho Santa Fe Association. Whereas the organization in Rancho Santa Fe Association governed an independent community that was significant in size and separated geographically from the central San Diego, your organization is a subdivision within a larger community that only has E dues paying members. Additionally, in contrast to the organization in Rancho Santa Fe Association which maintained its own post office, zip code, you are not engaged in civic or quasi-governmental functions.

Furthermore, the common areas owned and maintained by you are not sufficiently available for the use and enjoyment of the public. Thus, you are not described in IRC Section 501(c)(4) and Treas. Reg. 1.501(c)(4)-1(a)(1). While you do provide the public with partial access to some of your common areas, you completely restrict the public from accessing your second park which includes the beach area, boat dock, and boat parking area. You restrict these common areas only to dues paying members. You only allow for the public to access one park and the path that leads to the lake. Thus, you are like the organizations in Lake Forest, Inc. and Flat Top Lake Association where the Court determined that they did not qualify for exemption because their contributions were not for the public at large or of a public character.

You do not fall under the description provided in Treas. Reg. 1.501(c)(4)-1(a)(2)(i), as your primary objective does not pertain to enhancing the common good and general welfare of a community. While you are not solely dedicated to the exterior maintenance of private residences, your activities are not primarily dedicated to advancing social welfare beyond the boundaries of D, but rather to serve the interests of individuals who qualify as dues paying members and possess specific authorization to access the entirety of your common areas. Consequently, you do not engage in bringing about civic betterments and social improvements of a community.

Conclusion

Based on the information submitted, you are not operated exclusively for social welfare purposes within the meaning of IRC Section 501(c)(4). You do not bear a reasonable resemblance to a governmental unit. You do not promote social welfare or provide a benefit to the community because you restrict public access to your facilities and you are organized and operated primarily for the private interests of your members. Accordingly, you do not qualify for 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