

[REDACTED]

CERTIFIED MAIL

[REDACTED]

[REDACTED]

[REDACTED]

FEB 04 1995

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code and have determined that you do not qualify for tax exemption under that section. Our reasons for this conclusion and the facts on which it is based are explained below.

The evidence submitted indicates that you were formed [REDACTED], within [REDACTED] to provide governance and management in the use and operation of the common elements of [REDACTED].

The information submitted in support of your application indicates that [REDACTED] is a commercial office condominium facility located in [REDACTED]. Each unit of the condominium facility is individually owned.

You indicate in your application that this condominium facility is zoned for professional service businesses and includes physicians, attorneys, accountants, representatives of insurance, banking, manufacturers, government, contracting managers and miscellaneous other service businesses. All of these businesses are members of the association.

Income to your organization is from membership dues which are collected twice a year from each unit owner.

Expenses for your organization include utilities, trash collection, insurance, and maintenance and repairs, accounting and management fees, bank service charges and an association social function.

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.

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
	[REDACTED]	[REDACTED]	[REDACTED]				
Surname	[REDACTED]	[REDACTED]	[REDACTED]				
Date	12-21-94	12-29-94	2/1/95				

[REDACTED]

Section 1.501(c)(4)-1(a)(2)(i) of the Federal Income Tax Regulations 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 for the purpose of bringing about civic betterment and social improvements.

Section 1.501(c)(4)-1(a)(2)(ii) of the regulations provides that an organization is not operated primarily for the promotion of social welfare if its primary activity is carrying on a business with the general public in a manner similar to organizations which are operated for profit.

Revenue Ruling 74-17, 1974-1, C.B. 130, concerns an organization formed by the unit owners of a condominium housing project to provide for the management, maintenance and care of the common areas of this project. This ruling held that the organization did not qualify for exemption under section 501(c)(4) since the organization's activities are for the private benefit of its members, the condominium owners, and is not operated exclusively for the promotion of social welfare.

In Commissioner v. Lake Forest, Inc., 305 F. 2d 814 (4th Cir. 1962), the court held that a cooperative housing corporation was not exempt as a social welfare organization since its activities were of the nature of an economic and private cooperative undertaking.

Section 528(c)(1) of the Internal Revenue Code defines a "homeowners association" which is a condominium management association or a residential real estate management association if:

1. The organization is organized and operated to provide for the acquisition, construction, management, maintenance and care of association property.
2. 60% of the gross income of the organization consists of amounts received from membership dues.
3. Substantially all of the units must be used by the owners for residential and not business purposes.

Our review of the information submitted in your application indicates that like the organization described in Revenue Ruling 74-17, your organization's primary activities include providing services such as trash collection, maintenance and repairs, utilities and accounting and management services for your members, who are all engaged in commercial businesses and professions. The services you provide primarily benefit your members rather than the general community as a whole. Therefore your organization is not promoting social welfare within the meaning of section 501(c)(4).

[REDACTED]

In addition, Income Tax Regulation 1.501(c)(4)-1(a)(2)(ii) provides that since the primary activity of your members is to operate for-profit businesses or provide services for a fee with the general public, your organization is not operated exclusively for the promotion of social welfare because your activities are for the private benefit of your members rather than the community as a whole.

Your organization also does not qualify for consideration under section 528 of the Code as a homeowner's association since your member's units are used for business rather than residential purposes, as required for exemption under section 528.

Therefore, we have concluded that you do not qualify for exemption from Federal income tax as an organization described in section 501(c)(4) or 528 of the Internal Revenue Code. In accordance with this determination you are required to file Federal income tax returns on Form 1120.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, he or she will need to file a power of attorney or tax information authorization with us.

If you don't appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination on this matter.

Appeals submitted which do not contain all the documentation required by Publication 892 will be returned for completion.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

[REDACTED]

District Director

Enclosure: Publication 892

Internal Revenue Service

Department of the Treasury

District
Director

██
Person to Contact:

██
Telephone Number:

██
Refer Reply to:

██
Date:

AUG 11 1994

██
CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(6) of the Internal Revenue Code and have determined that you do not qualify for tax exemption under that section. Our reasons for this conclusion and the facts on which it is based are explained below.

The evidence submitted indicates that you were formed ██████████, within ██████████ to provide governance and management in the use and operation of the common elements of ██████████.

The information submitted in support of your application indicates that ██████████ is a commercial office condominium facility located in ██████████. Each unit of the condominium facility is individually owned.

You indicate in your application that this condominium facility is zoned for professional service businesses and includes physicians, attorneys, accountants, representatives of insurance, banking, manufacturers, government, contracting managers and miscellaneous other service businesses. All of these businesses are members of the association.

Income to your organization is from membership dues which are collected twice a year from each unit owner.

Expenses for your organization include utilities, trash collection, insurance, and maintenance and repairs, accounting and management fees, bank service charges and an association social function.

[REDACTED]

Section 501(c)(6) of the Internal Revenue Code provides for exemption of business leagues, chambers of commerce, real estate boards, boards of trade, and professional football leagues, which are not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)-1 of the Income Tax Regulations states that a business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. Its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual members.

Thus, for an organization to achieve business league status, the following requirements must be met. Section 1.501(c)(6) of the income tax regulations requires a business league to be an association (1) of persons having a common business interest; (2) whose purpose is to promote the common business interest; (3) not organized for profit; (4) that does not engage in a business ordinarily carried on for profit; (5) whose activities are directed to the improvement of business conditions in one or more lines of business as distinguished from the performance of particular services for individual persons; (6) of the same general class as a chamber of commerce or board of trade.

Revenue Ruling 59-391, published in Cumulative Bulletin 1959-2, holds that an organization whose membership is so restricted that each member represents a different trade, business, occupation or profession does not qualify for exemption under section 501(c)(6) of the Code. This revenue ruling states that because these members have no common business interest and their activities are not directed to the improvement of business conditions in one or more lines of business, the organization does not qualify as a business league.

Revenue Ruling 70-244, 1970-1, C.B. 182, holds that an organization of business and professional persons of a community that provides luncheon facilities for for its members but has no specific program directed to improvement of business conditions in one or more lines of business is not a business league under section 501(c)(6).

[REDACTED]

In Engineering Club of San Francisco v. U.S., U.S. Court of Appeals, 9th Circuit; 85-1965, 6-6-86, Reversing District Court, 8501, USTC, 9432, 609 F. Supp 519, the court reviewed the criteria needed for an organization to be exempt as a business league under section 501(c)(6). The organization in this case, the Engineers Club of San Francisco, demonstrated that it was an association of persons having a common business interest, that its purposes were to promote this common business interest and that it was not operated for profit. Thus, the court determined that the organization met the first three requirements described in regulation 1.501(c)(6) to demonstrate that it qualified as a business league.

The fourth criteria for exemption under this section requires that a business league does not engage in activities ordinarily conducted for profit. The court determined that since the business activity being conducted by this organization was incidental to the organization's exempt purposes, the organization continued to meet the requirements for exemption under section 501(c)(6).

In reviewing the fifth requirement for exemption, that activities must be directed to the improvement of business conditions in one or more lines of business as distinguished from the performance of particular services for individual persons, the court determined that one of the chief activities of this organization was to provide food and beverage services for its members. The court stated that "Although we recognize that food and beverage service also confers a general benefit on the engineering profession, the food and beverage service and particularly the luncheon trade, is a service performed for individual persons and organizations rather than the engineering profession as a whole."

The final requirement for exemption under section 501(c)(6) is that "a business league must be an organization as the same general class as a chamber of commerce or board of trade." In National Muffler Dealers Ass'n v. United States, 79-1, USTC 9264, 440 US. (472), 489-92, 99 S. Ct. at 1308-1309 (1979), the Supreme Court traced the genesis and confirmed the significance of the sentence in the regulation that "a business league is an organization of the same general class as a chamber of commerce or board of trade."

Our review of the application submitted indicates that like the organization described in Revenue Ruling 59-391, your membership consists of professional individuals that are engaged in various businesses, occupations and professions, none of which promote the common business interest within a single industry or profession. Your activities are also not directed to the improvement of business conditions in one or more lines of business.

[REDACTED]

The primary activity of your organization of providing utilities, trash removal, insurance and other stated services indicates that your primary purpose, like the organization described in Engineers Club of San Francisco, is to provide particular services for individual persons and organizations rather than a specific profession or industry as a whole. You have also not demonstrated that your activities are similar to a chamber of commerce or board of trade since you have not shown that you have any specific programs for improving conditions in one or more lines of business like the organization described in Revenue Ruling 70-244.

Therefore, we have concluded that you do not qualify for exemption from Federal income tax as an organization described in section 501(c)(6) of the Code. In accordance with this determination, you are required to file Federal income tax returns on Form 1120.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax authorization with us.

If you don't appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination on this matter.

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If you have any questions, please contact the person whose name and telephone phone number are shown in the heading of this letter.

Sincerely,

[REDACTED]

District Director

Enclosure: Publication 892