



**Department of the Treasury
Internal Revenue Service**

P.O. Box 2508
Cincinnati, OH 45201

Release Number: **201928016**
Release Date: 7/12/2019
UIL: **501.00-00, 501.07-00**

Date:
April 16, 2019
Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

Dear _____ :

This letter is our final determination that you don't qualify for tax-exempt status under Section 501(c)(7) of the Internal Revenue Code (the Code). 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 federal income tax returns for the tax years listed at the top of this letter using the required form (also listed at the top of this letter) within 30 days of this letter unless you request an extension of time to file.

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection (as required under Section 6110 of the Code) after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Notice 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 contact the person listed at the top of this letter. If you have questions about your federal income tax status and responsibilities, call our customer service number at 1-800-829-1040 (TTY 1-800-829-4933 for deaf or hard of hearing) or customer service for businesses at 1-800-829-4933.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosures:

Notice 437

Redacted Letter 4034, *Proposed Adverse Determination under IRC Section 501(a) Other Than 501(c)(3)*

Redacted Letter 4040, *Final Adverse Determination under IRC Section 501(a) Other Than 501(c)(3) - No Protest*



Department of the Treasury
Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Date:

February 15, 2019

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

B = State

C = Date

UIL:

501.00-00

501.07-00

Dear _____ :

We considered your application for recognition of exemption from federal income tax under Section 501(a) of the Internal Revenue Code (the Code). Based on the information provided, we determined that you don't qualify for exemption under Section 501(c)(7) of the Code. This letter explains the basis for our conclusion. Please keep it for your records.

Issues

Do you qualify for exemption under Section 501(c)(7) of the Code? No, for the reasons stated below.

Facts

You were incorporated on C under the laws of the state of B. Your Articles of Incorporation state that you are organized for the "administration and operation of property owned on a condominium basis or by a homeowner [sic] association."

Your Bylaws state that each unit owner is a member. The membership terminates upon the sale or other disposition of the member's unit, at which time the new owner shall automatically become a member. Members are required to pay monthly dues, which covers current and future maintenance expenses.

There are three buildings in your condominium complex, with a total of seven units. You indicated that each of the seven units has an equal ownership interest in the common elements of the condominium complex.

You provided a list of your activities and percentage of time spent on each. Your activities include quarterly meetings (%), annual meetings (%), monthly bookkeeping (%) and acquiring bids (%).

The meetings you hold address the homeowners' concerns. These concerns include, but are not limited to, lot/lawn maintenance, snow removal, and building repairs/maintenance. Unit owners share ideas involving any maintenance or budgetary expense issues.

The monthly unit owner dues are used for current expenses with percent of the dues each year accruing for any future major capital expenditures. The Treasurer and/or President pay monthly expenses and track monthly income of each unit owner's association dues.

Your revenue comes from the unit owners' monthly dues. Your current expenditures include lot/lawn care, snow removal, electricity, and garbage. Future expenses include major capital improvements, such as building repairs and maintenance.

Law

Section 501(c)(7) of the Code provides for the exemption from federal income tax of 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.

Revenue Ruling 58-589, 1958-2 CB 266, sets forth the criteria for exemption under Section 501(c)(7) of the Code and provides that a club must have a membership of individuals, personal contacts, and fellowship. A commingling of members must play a material part in the activities of the organization.

Rev. Rul. 69-635, 1969-2 CB 126, holds that an automobile club whose principal activity is rendering automobile services to its members but has no significant social activities, does not qualify for exemption under Section 501(c)(7) of the Code. The rendition of automobile services was not in the nature of pleasure and recreation within the meaning of Section 501(c)(7) and commingling of members did not play a material part in the activities of the organization.

Rev. Rul. 75-494, 1975-2 C.B. 214, states 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 Section 501(c)(7) of the Code by owning and maintaining residential streets, enforcing restrictive covenants, or providing residential fire and police protection and trash collection service.

Application of law

Your primary activity is coordinating and providing homeowners with lot/lawn maintenance, snow removal, building repairs, and maintenance. A social club is not organized for exempt purposes if it provides services to members rather than social activities. You are not operating for pleasure, recreation, and other non-profitable purposes, precluding you from exemption under Section 501(c)(7) of the Code.

To be operated for the purposes described in Section 501(c)(7) of the Code, an organization must promote fellowship as a social club. A social club is generally denoted as having membership and personal contact, comingling, fellowship, and the sharing of interests and goals. Therefore, the comingling of the members must play a material part in the life of a tax-exempt social club, as described in Rev. Rul. 58-589 and 69-635. In your case, membership is automatic based on ownership in a condominium unit in your development. It is not evident that your meetings promote fellowship, comingling, or personal contact between members. Accordingly, you do not qualify for exemption under Section 501(c)(7).

As stated in Rev. Rul. 75-494, an organization that maintains residential property and administers covenants for preserving the architecture and appearance of a housing development may not qualify under Section 501(c)(7) of the Code. Since your primary objective is to oversee maintenance and provide adequate reserves for repair and replacements of the elements of the property, you do not qualify for exemption under Section 501(c)(7).

Conclusion

Based on the information provided, we conclude that you are not organized or operated for pleasure, recreation, or other non-profitable purposes and there is no commingling of your members. Accordingly, you do not qualify for recognition of exemption under Section 501(c)(7) of the Code.

If you don't agree

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

- Your name, address, employer identification number (EIN), and a daytime phone number
- A copy of this letter highlighting the findings you disagree with
- An explanation of why you disagree, including any supporting documents
- The law or authority, if any, you are relying on
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization, or your authorized representative
- One of the following declarations:

For an officer, director, trustee, or other official who is authorized to sign for the organization:

Under penalties of perjury, I declare that I examined this protest statement, including accompanying documents, and to the best of my knowledge and belief, the statement contains all relevant facts and such facts are true, correct, and complete.

For authorized representatives:

Under penalties of perjury, I declare that I prepared this protest statement, including accompanying documents, and to the best of my knowledge and belief, the statement contains all relevant facts 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 he or she hasn'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 provided a basis for us to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't provided a basis for reconsideration, we'll forward your case to the Office of Appeals and notify you. You can find more information about the role of the Appeals Office in Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*.

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

Where to send your protest

Please send your protest statement, Form 2848, if needed, and any supporting documents to the applicable address:

U.S. mail:

Internal Revenue Service
EO Determinations Quality Assurance
Room 7-008
P.O. Box 2508
Cincinnati, OH 45201

Street address for delivery service:

Internal Revenue Service
EO Determinations Quality Assurance
550 Main Street, Room 7-008
Cincinnati, OH 45202

You can also fax your statement 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 he or she received it.

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.

You can find all forms and publications mentioned in this letter on our website at www.irs.gov/formspubs. If you have questions, you can contact the person listed at the top of this letter.

Sincerely,

Director, Exempt Organizations
Rulings and Agreements

Enclosure:
Publication 892