



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

Number: **202124011**
Release Date: 6/18/2021

UIL Number: 501.00-00, 501.07-00

Date:
03/25/2021
Employer ID number:

Form you must file:

Tax years:

Person to contact:
Name:
ID number:
Telephone:

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 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 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:

Notice 437

Redacted Letter 4034

Redacted Letter 4038



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

Date:
02/02/2021
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

B = State
Y = Date

UIL:

501.00-00
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 were incorporated in the state of B on C. You are incorporated as a mutual benefit corporation for the purpose of pleasure, recreation, and other similar non-profitable purposes, in the context of a social and recreational club as those terms are used in IRC Section 501(c)(7). Your Articles of Incorporation state that your members are residents of a particular neighborhood. You collect annual road fees from your members which are used to maintain the roads and electric gate.

According to your Bylaws you have an annual meeting to elect a committee of members for the following year, to determine and approve the work necessary to properly maintain the road, gate, light, and signs, to determine and approve the per parcel assessment, and to discuss and act upon any other pertinent matters presented by members.

In your application, you described your activities as:

- A. Provide and maintain a private paved road for the members for their exclusive use, and for the enhancement of property value.
- B. To provide and maintain a locked gate and thereby restrict the use of the private roads to members.
- C. To provide and maintain a light at the intersection for adequate night visibility.
- D. To provide for general maintenance and overall safety of the road.
- E. To provide liability insurance for all roads within the Association boundaries. Liability insurance also must cover the electric gate and all members of the elected board.

Membership is not optional but rather a requirement of living in the neighborhood. Members are charged dues based on anticipated road fees each 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 exemption 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 inures to the benefit of any private shareholder.

Revenue Ruling 75-494, 1975-2 CB 214, states that a club providing social and recreational facilities, whose membership is limited to homeowners of a housing development, owns and maintains residential streets which are not part of its social facilities, administers and enforces covenants for the preservation of the architecture and appearance of the housing development is not operated exclusively for pleasure, recreation, and other non-profitable purposes as required by IRC Section 501(c)(7).

In Keystone Automobile Club v. Commissioner, 181 F.2d 402 (3rd Cir. 1950), the United States Court of Appeals 3rd Circuit defined the word "club" to include some type of mingling of people together as well as a common object. In this case, the court held that the club was not exempt under IRC Section 101(9) [now Section 501(c)(7)] for multiple reasons, including that they saw no evidence of the commingling of members.

Application of law

You are not described under IRC Section 501(c)(7) or Treas. Reg. Section 1.501(c)(7)-1(a) because your only activity of maintaining a private road in a gated community does not further a social or recreational purpose.

You are similar to the organization described in Rev. Rul. 75-494 in that your principal activity is to maintain a residential street not used for any social or recreational facility.

As in Keystone Automobile Club, your purpose is to provide benefits for your members, and does not provide any comingling for your members. Accordingly, you do not qualify for exemption under IRC Section 501(c)(7).

Conclusion

You do not qualify for recognition of tax exemption under IRC Section 501(c)(7) because maintaining a private residential road does not further social or recreational purposes. Similarly, you do not conduct any comingling programs. For these reasons you do not qualify for exemption under 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 Decision 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
P.O. 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