

JUN 18 1998

Dear Sir/Madam:

We have considered your application for recognition of exemption from Federal income tax under Section 501(c)(4) of the Code for social welfare organization.

The information submitted indicates you were organized

As stated in your Articles, your purposes are to create an agency to which should be delegated and assigned the powers of maintaining and administering the community properties as facilities and administering and enforcing covenants and restrictions and collecting and disbursing the assessment and charges created.

of your state common properties are not and shall not be dedicated for use by the general public, but are dedicated subject to the reservations and exceptions to the common use and enjoyment of the owners in Your letter dated has confirmed that the general public does not have access to any of the common areas. All land within the subdivision is privately owned with the exception of the roadway rights of way.

Your income is derived from membership dues (assessments levied by Your expenses are for snow removal and repairs of all common roadways and the maintenance of all areas within the roadway right-of-ways. No funds are available for individual lot maintenance.

Section 501(c)(4) of the Code provides for recognition of exemption of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the 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.

Revenue Ruling 72-102, 1972-1 CB 149, states that 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 is exempt under Section 501(c)(4) of the Code. Membership is required of all owners of real property in the development and assessments are levied to support the organization's activities. It was maintained by a municipal government, the organization served the common good and general welfare of the people of the community.

Revenue Ruling 74-99, 1974-1 CB 131, modified 72-102, supra, by stating guidelines under which a homeowners association could qualify for exemption under section 501(c)(4) of the Code. These guidelines are as follows:

1. The organization must serve a community which bears a reasonable, recognizable relationship to an area identified as governmental.
2. It must not conduct activities directed to the exterior maintenance of private residences; and
3. The common areas or facilities must be for the use and enjoyment of the public.

This ruling reads in part:

"A community within the meaning of section 501(c)(4) of the Code and the regulations is not simply an aggregation of homeowners bound together in a structure unit formed as an integral part of a plan for the development of a real estate subdivision and the sale and purchase of homes therein. Although an exact delineation of the boundaries of a "community" contemplated by Section 501(c)(4) is not possible, the term as used in that section has traditionally been construed as having reference to a geographical unit bearing a reasonably recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district thereof".

One of the purposes of Revenue Ruling 74-99 is to preclude recognition of exemption of homeowner's association that serve a private rather than a public interest.

Based on the information submitted and the applicable law cited above, we conclude that you are primarily organized and operated to provide services for the personal benefit of your members and not primarily for promoting in some way the common good and general welfare of the people of the community. Therefore, you do not qualify for exemption from Federal income tax as an organization described in Section 501(c)(4) of the Code.

In accordance with this determination you are required to file Federal income tax returns. Your attention is called to section 528 of the Internal Revenue Code which provide certain procedures by which qualifying homeowners associations may elect to be treated as a tax exempt organization. This section of the Code was included in the Tax Reform Act of 1976. If you determine that you qualify under Code Section 528 you must file Form 1120-H. If you determine that you do not qualify under Code Section 528, you must file the corporate tax return Form 1120.

If you do not accept our findings, we recommend you request a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office or, if you request, at any mutually convenient District Office. If we do not hear from you within 30 days of the date of this letter, this determination will become final.

Sincerely yours,



Paul M. Harrington
District Director
Southeast Region