



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

TE/GE EO Examinations
MS:4957:DAL
1100 Commerce Street
Dallas, TX 75242

501.04-00

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

Date: 12/11/2012

Number: **201318010**
Release Date: 5/3/2013

LEGEND

ORG - Organization name
XX - Date Address - address

Employer Identification Number:

Person to Contact/ID Number:

ORG
ADDRESS

Contact Numbers:
Telephone:
Fax:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear :

In a determination letter July 9, 20XX, you were held to be exempt from Federal income tax under section 501(c)(4) of the Internal Revenue Code (the Code).

Based upon recent information received, we have determined you have not operated in accordance with the provisions of section 501(c)(4) of the Code. Accordingly, your exemption from Federal income tax is revoked effective January 1, 20XX. This is a final adverse determination letter with regard to your status under Section 501(c)(4) of the Code.

We previously provided you a report of examination explaining why we believe revocation of your exempt status is necessary. At that time, we informed you of your right to contact the Taxpayer Advocate, as well as your appeal rights. On January 18, 20XX, you signed Form 6018-A, *Consent to Proposed Action*, agreeing to the revocation of your exempt status under section 501(c)(4) of the Code.

You are therefore required to file Form 1120 U.S. Corporation Income Tax Return for the year(s) ended December 31, 20XX with the Ogden Service Center. For future periods, you are required to file Form 1120 with the appropriate service center indicated in the instructions for the return.

You have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, 1-877-777-4778, and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person whose name telephone number shown at the beginning of this letter.

Sincerely,

Nan Downing
Director, EO Examinations

Internal Revenue Service

Department of the Treasury

Date: May 4, 2010

ORG
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dear

We have enclosed a copy of our report of examination explaining why we believe revocation of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process*, explains how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action*. We will then send you a final letter revoking your exempt status. If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final. In that event, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Nanette M Downing
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination
Envelope

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended December 31, 20XX December 31, 20XX

LEGEND

ORG - Organization name XX - Date State - state RA - RA CO-1,
& CO-2 - 1st & 2nd COMPANIES Event-1 & Event-2 - 1st & 2nd Event

Issue:

Does ORG meet the requirements for exemption under Section 501(c)(4) as a community service organization?

Does ORG meet the requirements for exemption under Section 501(c)(7) as a private club?

Facts:

ORG (ORG) was incorporated as a non-profit corporation in December, 20XX, in the State of State. In February, 20XX ORG applied for exemption of federal income taxes under Internal Revenue Code Section 501(c)(4) as a social welfare organization. The application for exemption was signed by RA, principal of CO-1, developer of the CO-2.

As part of its' application for exemption (Form 1024, dated February 2, 20XX) ORG stated that ORG "was formed to promote the common good and general welfare of the residents in the CO-2 and the general public through civic betterments and social improvements by providing recreational activities as well as other services to the residents and visitors of the CO-2."

ORG receives funding from two sources. The first source of income is from an assessment made at the time of sale of any residential unit in the towers. This assessment is equal to one fourth of one percent (%). The assessment is made on original sales and subsequent sales of units.

The second source of income is from returns on investments. During the years under examination the organization reported \$ in 20XX12 and \$ in 20XX12. This represents % and % of total returns respectively.

During 20XX the program activities consisted of 6 events planned and hosted by ORG. These events were a winter holiday event, a wine & cheese event, a movie night event, a Event-1, and a Event-2. These events were, basically, theme parties. The purpose of each event was to provide an opportunity for the residents of the towers to comingle and enjoy food and refreshments provided by ORG. Live music was provided by ORG during at least one of the events. While all of the residents of the towers were invited to the events the general public was not invited.

The direct costs of the six events totaled \$. Indirect costs of these events including contract management, on-sight management, and supplies were \$. The total program activity costs were \$.

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Law:

IRC Section 501(c)(4) provides for an exemption of federal income taxes for social welfare organization operated exclusively for the promotion of social welfare.

Reg. 1.501(c)(4)-1(a)(1) states "In general. A civic league or organization may be exempt as an organization described in section 510(c)(4) if-It is not organized or operated for profit; and. It is operated exclusively for the promotion of social welfare.

Reg. 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 community.

Rev. Rul. 74-99, 1974-1 C.B. 132 states in part, "One misconception generated by Rev. Rul. 72-102 is that the ruling appears unqualifiedly to equate a housing development with the term "community" within the meaning of section 501(c)(4) of the Code, thereby giving rise to the implication that any housing development may qualify as a community for exemption purposes regardless of any other attendant facts and circumstances in the case. Rev. Rul. 72-102 is hereby modified to reject its apparent acceptance of such a narrow definition of "community" for purposes of section 501(c)(4).

A community within the meaning of the section 501(c)(4) of the Code and the regulations is not simply an aggregation of homeowners bound together in a structured 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.

IRC Section 501(c)(7) provides for an exemption of federal income taxes for clubs organized for pleasure, recreation, and other non-profitable purposes, substantially all of the activities or which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder.

Reg. 1.501(c)(7)-1 provides "In general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues, and assessments."

Public Law 94-568 states that it is intended that social clubs should be permitted to receive up to 35 percent of their gross income, including investment income from sources outside of their

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membership without losing their exempt status. Within this 35 percent amount, not more than 15 percent of the gross receipts should be derived from the use of the social club's facilities or services by the general public. Thus a social club may receive investment income up to the full 35 percent amount of gross receipts.

Taxpayer Position:

Conclusion:

During the year under examination (20XX12) ORG hosted events for the residents of the CO-2 on six occasions. These events were for the benefit of the residents. Members of the general public including people in the immediate vicinity were not invited or welcome.

Code Section 501(c)(4) provides for an exemption for community service organizations primarily engaged in promoting in some way the common good and general welfare of the community.

The question becomes what makes up the community?

Rev. Rul. 74-99, 1974-1 C.B. 132 rejects the narrow definition of Community found in Rev. Rul. 72-102 that equates a housing development with a community and substitutes the broader definition that 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.

For purposes of Code Section 501(c)(4) the residents of the towers do not constitute a community. Because only residents of the towers are invited and allowed to attend the events and no members of the general public are allowed this organization does not serve a community as defined for purposes of this code section. As such the organization does not meet the requirements for exemption under this code section.

The possibility that this organization could meet the requirements for exemption as a social club under Section 501(c)(7) was considered.

All of this organization's activities are directed towards the pleasure and entertainment of the residents. All of the activities include commingling and fellowship in public areas of the residential towers. These activities typically include live music, food and beverages for the benefit of the residents and inherently are a social forum. Entertainment comes in the form of movies, or live music.

During the 20XX12 year there was no income from nonmember use of facilities and investment income totaled approximately % and percent of the total revenues. This is within the limitations provided by PL 94-568.

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During the examination it was observed that substantially all of the organization's activities were for the purposes of pleasure and recreation. Less than percent of the total revenue was from investment income and nonmember sources. Assessments related to the sale of condominiums made up more than percent of total revenue in each year.

At no point was did any income inure to the benefit of private shareholders.

It was concluded that the organization does qualify for exemption under IRC Section 501(c)(7).