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

Number: **202145030**
Release Date: 11/12/2021

UIL Number: 501.04-00, 501.04-07

Date:
August 17, 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)(4). 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.

We sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations

Rulings and Agreements

Enclosures:
Notice 437
Redacted Letter 4034
Redacted Letter 4038
cc:

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

Date: May 11, 2021

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:
W = date
Y = state
Z = location
M = number
n dollars = amount

UIL:
501.04-00
501.04-07

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)(4). 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)(4)? No, for the reasons stated below.

Facts

You incorporated as a mutual benefit corporation on W, in the state of Y. You are a commercial real estate management association. You provide for the acquisition, construction, management, maintenance and care of real and personal property held by you or commonly held by your members, located in the development you manage and owned by your members.

Every owner of a *unit* in Z is automatically your member, membership may not be separated from ownership of the unit. The Declaration of Covenants, Conditions and Restrictions provides that a *unit* means a separate interest in space and includes the spatial elements of a condominium that are not owned in common with other owners of condominiums in Z. A *condominium* is defined in the declaration as an estate in real property as defined in Y state law, consisting of an undivided fee interest as a tenant in common in the common area, a separate fee interest in a unit, and an interest in other portions of the project and in the Association described in the declaration, in the Development Plan or in the deed conveying the condominium. When more than one person owns a unit, all owners are your members. Finally, the common areas are owned by the owners as tenants in common.

Z consists of M commercial buildings which share a common entrance, driveway, and parking area. The common space includes parking areas; driveways; walkways; curbs; gutters; sidewalks; yards and open spaces; planted and landscaped areas; enclosed trash receptacles or trash collection areas; electrical, water, gas and telephone utility facilities; fire hydrants; sumps or drainage areas; walls, fences and gates; and all other improvements.

Your activities include routine cleaning and maintenance, such as street sweeping and gardening. Each property owner/member pays n dollars per month. All owners are obligated to pay regular assessments to meet your expenses. The property owners have access to all common areas.

Law

IRC Section 501(c)(4) 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 and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

Treasury Regulation Section 1.501(c)(4)-l(a)(2)(i) states 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 primarily for the purpose of bringing about civic betterments and social improvements.

Rev. Rul. 73-306, 1973-2 C.B. 179, provides that an organization formed for the purpose of promoting the common interest of tenants who reside in a particular apartment complex does not qualify for exemption under IRC Section 501(c)(4). Any person regularly living in the complex was eligible for membership. The organization represented its member-tenants in negotiations with the management of the complex in order to secure better maintenance and services, as well as reasonable rents. The ruling holds that the organization was not described in Section 501(c)(4) because it operated essentially to benefit its members and, thus, was not primarily engaged in activities that promote the common good and general welfare of the community.

Rev. Rul. 74-17, 1974-1 C.B. 130, describes a condominium owner's association that maintains common areas owned hy the unit holders does not qualify for exemption under IRC Section 501(c)(4). The common areas of the condominium property are owned by the unit owners as tenants in common. The maintenance and care of the common areas constitutes the provision of private benefits for the unit owners. Since the organization's activities were for the private benefit of its members, it could not be said to be operated exclusively for the promotion of social welfare.

Rev. Rul. 74-99, 1974-1 C.B. 131, provides that in order to qualify for exemption under IRC Section 501(c)(4), a homeowners association (1) must serve a "community" which bears a reasonable recognizable relationship to an area ordinarily identified as governmental, (2) it must not conduct activities directed to the exterior maintenance of private residences, and (3) the common areas or facilities it owns and maintains must be for the use and enjoyment of the general public.

Rev. Rul. 80-63, 1980-1 C.B. 116, clarified Rev. Rul. 74-99 and states that by providing facilities only for the use of its members, the association was operating for the private benefit of its members, and not for the promotion of social welfare within the meaning of IRC Section 501(c)(4) of the Code

Rev. Rul. 81-116, 1981-1 C.B. 333. describes an organization contributing to civic betterments and improvements to the city by relieving congested parking conditions in the downtown area. Providing the availability of free public parking to everyone visiting the downtown area of this city without using public funds is a direct benefit to the city and its residents. The organization's membership encompasses a broad spectrum of the community, thus insuring that the organization will not be operated to benefit any particular merchant or business. Also, by providing free parking, the organization is not carrying on a business with the general public in a manner similar to organizations which are operated for profit. Therefore, the organization is promoting the common good and general welfare of the people of the community within the meaning of Treas. Reg. Section 1.501(c)(4)-1 (a)(2).

In *Contracting Plumbers Cooperative Restoration Corp, v. United States,* 488 F.2d 684 (2d Cir. 1973), *cert. denied,* 419 U.S. 827 (1974), plumbers working in New York City were responsible for the cuts they made in the city streets. Prior to the organization's existence, the city had repaired the cuts and billed the plumbers individually in what proved to be a highly inefficient system. The organization was formed to restore the city streets. It only repaired cuts made by its members. The joint effort of the plumbers reduced their liability and their expenses, and more efficiently repaired the city streets. While the court found that the program provided substantial benefits to the public, it concluded that the organization primarily served the private economic interests of its members and, thus, could not be considered exempt under IRC Section 501(c)(4) of the Code.

Application of law
You are not a social welfare organization exempt under IRC Section 501(c)(4) because your services are limited to the private owners of Z. A social welfare organization must be operated for the benefit of the general public by providing a community benefit to qualify for exemption under Section 501(c)(4).

According to Treas. Reg. Section 1.501(c)(4)-1(a)(2)(i), an organization is operated 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 described in this subsection is one which is operated to bring about civic betterments and social improvements. The area in which you provide services is a commercial business park, thus conferring a private benefit to these specified private commercial property owners. You do not bring about civic betterments or social improvements.

Your members are the primary beneficiary of your activities. Similar to the organization described in Rev. Rul. 73-306, you are operating to benefit your members and are not primarily engaged in activities that promote the common good and general welfare of the community, therefore, you are not exempt under IRC Section 501(c)(4).

You are not serving the community as a whole and your facilities are not for the use and enjoyment of the general public. Therefore, you fail to qualify for exemption under IRC Section 501(c)(4), as described in Rev. Rul. 74-99 and Rev. Rul. 80-63.

Providing services for your members, who are owners of lots in the industrial park, is not an IRC Section 501(c)(4) activity. The services you provide confer a private benefit to your members, who are the owners of the lots in the industrial park. Even if you were to substantially benefit the community, you would fail to qualify for exemption because you primarily benefit private interests. See *Contracting Plumbers.*

You serve the individual interests of private commercial property owners. You are similar to the organization described in Rev. Rul. 74-17, because your services are for the benefit of the owners of business condominiums, private commercial property owners in Z. All of the common areas of the condominium property are owned by the unit owners as tenants in common. The maintenance and care of the common areas constitutes the provision of private benefits for the unit owners.

You are unlike the organization in Rev. Rul. 81-116, where free public parking was provided to everyone visiting the downtown area of the city. The organization's membership encompassed a broad spectrum of the community, thus insuring that the organization would not be operated to benefit any particular merchant or business owner. Your activities benefit the particular owners of units in Z not the community.

Conclusion
Based on the information submitted, we conclude that you are not an organization described in IRC Section 501(c)(4) of the Code because you are not operated exclusively for the promotion of social welfare and your activities privately benefit your members.

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 yonr protest
Send your protest, Form 2848, if applicable, and any supporting documents to the applicable address:

U.S. mail:	Street address for delivery service:
Internal Revenue Service EO Determinations Quality Assurance Mail Stop 6403 P.O. Box 2508 Cincinnati, OH 45201	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.

We sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

cc: