



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

Number: **201745013**  
Release Date: 11/9/2017

Date: August 23, 2017

Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

UIL: 501.07-00

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: April 17, 2017**

**Employer ID number:**

**Contact person/ID number:**

**Contact telephone number:**

**Contact fax number:**

**Legend:**

X = state

Y = date

Z = location

**UIL:**

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 in the State of X on Y as a mutual benefit corporation. Your Articles of Incorporation state your purpose is to "operate a homeowners' association." Your Bylaws state you were formed

To further the interest of Z, its residents and property owners, or any of them, and to do anything or things and to undertake any activities which in the opinion of the Board of Directors of this corporation will be beneficial to Z, its residents and property owners, or any of them, either directly or indirectly.

Your primary objective is to oversee maintenance and a projection of the money needed to cover your operating expenses and provide adequate reserves for repair and replacements of the elements of the property. You hold only an annual meeting of the members. In order to be a member, an individual must be a property owner of a single family residence at Z. You listed one individual as your CEO, CFO and organization secretary.

**Law**

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

Rev. Rul. 58-589, 1958-2 CB 266, discussed the various criteria for recognition of exemption under Section 501(c)(7) of the Code. In order to establish that a club is organized and operated for pleasure, recreation, and other non-profitable purposes, "there must be an established membership of individuals, personal contacts, and fellowship. A commingling of the members must play a material part in the life of the organization."

Rev. Rul. 69-635 1, 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). 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, provides that, a homeowners' association may not qualify under Section 501(c)(7) of the Code if it owns and maintains residential properties that are not a part of its social facilities, administers and enforces covenants for preserving the architecture and appearance of the housing development, or provides the development with fire and police protection.

### **Application of law**

Your primary objective is to oversee maintenance and funds needed to cover the operating expenses and to provide adequate reserves for repair and replacements of the elements of personally owned residences. 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 generally be formed and operated to promote fellowship as a club. A 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. Ruls. 58-589 and 69-635. With the exception of an annual meeting of the members, you have no member events and no comingling, fellowship or personal contact. As a result 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). 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 for pleasure, recreation or other non-profitable purposes and there is no comingling 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](http://www.irs.gov/formspubs). If you have questions, you can contact the person listed at the top of this letter.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements

Enclosure:  
Publication 892