

ELDORADO

at Santa Fe

1 La Hacienda Loop
Santa Fe, New Mexico 87508
Office: 505 466-4248

The purpose of this Ballot item is for the approval of IRS Revenue Ruling 70-604

- Please place one (1) vote either **in favor** of the IRS Revenue Ruling 70-604, or one (1) vote **not in favor** of the IRS Revenue Ruling 70-604. **Any Ballot with more than one (1) vote will be deemed invalid for purposes of calculating this vote.** *(For a description of this Ballot item, please see reverse side.)*
 - _____ **Yes**, I am **in favor** of approving IRS Revenue Ruling 70-604 for tax year 2024 for the Eldorado Community Improvement Association which will allow excess Membership income over Membership expenses to be applied against the subsequent tax year Member assessments if filing form 1120.
 - _____ **No**, I am **not in favor** of approving the IRS Revenue Ruling 70-604 for tax year 2024 for the Eldorado Community Improvement Association
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BALLOT IS ONLY VALID IF SIGNED

Owner Name:

(please print)

Owner Signature:

Property Address:

IRS Revenue Ruling 70-604

Background Information

Revenue Ruling 70-604 pertains to the HOA filing an 1120 tax form that will allow the association to carryover excess membership income over membership expenses to the next year without paying income tax on the excess. As part of the ruling, the membership must vote to approve the revenue ruling.

Most associations file an 1120H, which is specifically designed for HOA's, whereas the 1120 is designed for corporations. By approving the revenue ruling, the association has the option to carryover any excess membership income without paying income taxes on the excess if filing an 1120.

Approval of the revenue ruling by the membership allows the association the option to file the most cost-effective tax form. If the resolution is not approved, then the association will not be able to take advantage of Revenue Ruling 70-604 if filing an 1120, and may therefore be open to paying higher taxes on any excess membership income.

Below is a general description for each form:

Form 1120H – Section 528 (referred to as tax-exempt). This form was designed for homeowners' associations and there is no risk that any member assessments will be taxed as income, other than any fees for services. The Association will pay a fixed rate of 30%. Only non-exempt income is taxed if certain tests are met regarding revenues and expenses. Non-exempt income usually includes non-member income such as interest, rental income, and voluntary fees, such as trash or water service.

Form 1120 – Section 277 (referred to as corporate). The association will pay taxes based on corporate rates from 15% - 39%. The tax form was not designed for homeowners' associations and carries a considerably higher tax risk of adverse tax consequences in the event of an IRS audit. Due to the complexity of the tax rules, the IRS, in an audit, may attempt to treat member operating and reserve assessments as taxable income.
