



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

Number: **201214035**
Release Date: 4/6/2012

Date: January 11, 2012

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

UIL: 501.04-00; 501.04-03

Dear :

This is our final determination that you do not qualify for exemption from Federal income tax as an organization described in Internal Revenue Code section 501(c)(4). Recently, we sent you a letter in response to your application that proposed an adverse determination. The letter explained the facts, law and rationale, and gave you 30 days to file a protest. Since we did not receive a protest within the requisite 30 days, the proposed adverse determination is now final.

You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, 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, you should follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at

Letter 4040(CG) (11-2005)
Catalog Number 47635Z

1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Lois G. Lerner
Director, Exempt Organizations

Enclosure
Notice 437
Redacted Proposed Adverse Determination Letter
Redacted Final Adverse Determination Letter

Letter 4040 (CG) (11-2005)
Catalog Number 47635Z



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: November 10, 2011

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

LEGEND:

B = Board Member
M = Political Candidate
N = Political Party in P
O = State where Organization is Incorporated
P = Nation where M is a Candidate
Q = Date Form 1024 received by IRS
R = Date of Organization's Incorporation
S = Election Date
T = Autobiography of M
U = Book about M
V = Book on M's Policies
W = Book Promoting P's Patriotism
X = Applicant's Website
Y = Location of Applicant's Related Group
Z = Location of Applicant's Related Group

UIL:

501.04-00
501.04-03

Dear :

We have considered your application for recognition of exemption from federal income tax under Internal Revenue Code section 501(a). Based on the information provided, we have concluded that you do not qualify for exemption under Code section 501(c)(4). The basis for our conclusion is set forth below.

Letter 4034 (CG) (11-2005)
Catalog Number 47628K

Issues

- Do you qualify for exemption under section 501(c)(4) of the Code?

No, for the reasons set forth below.

Facts

The Form 1024, Application for Recognition for Exemption Under Section 501(a) of the Internal Revenue Code was received on date Q. With the Form 1024, you are applying for tax exempt status under IRC Section 501(c)(4). You were incorporated under the laws of the state of O on date R.

Your Certificate of Incorporation states that your purpose is, "To create, form, and establish an organization to disseminate information regarding national elections to [citizens of P] residing in the United States; to promote, foster, and advance their voting rights in P by providing access to information concerning political topics of interest to [citizens of P] residing in the United States; to research economic and social policies which may affect the [citizens of P] population in the United States; to survey and study the [citizens of P] population in the United States regarding their opinions on issues relevant to the [citizens of P] community; to provide information on all matters of political concern to the [citizens of P] population; to provide information regarding the availability of P governmental and social services in the U.S.; to provide an avenue of information between [citizens of P] residing in the United States and their homeland."

Your board of directors is comprised of three unrelated individuals, who do not receive compensation.

Your website, X, states that you were formed to support M, former Chairman of the N, which is a political party in P. The percentage of time that will be directed toward providing any kind of support to M is 80%. You will support M's policies and make the public aware of M's policies and ideas. You indicated through your website that you will do your best to support and patriotically advise M in the upcoming presidential election. You believe that increasing the interest and voting rates of the citizens of P in the U.S. will lead to the development of P's (green card holders, citizens, and following generations) rights, interests, and pride for their mother land. For this purpose, you believe that M is the most reliable and suitable politician, and you will devote your efforts to form a pro-M public opinion and help elect M in the coming presidential election.

You will support M's policies and make the public aware of M's policies and ideas by having a website which updates all M related information, such as personal information, policies and plans, media articles, etc. in real time. You will introduce and distribute M related books. These related books include T, an autobiography of M, U, V and W, which present favorable views of M's policies. You purchase these books from various companies and publishers. T and U are given away for free to promote a better understanding of M. V highlights M through the great achievements, patriotism, and philosophy of M's father. W is given away for free to promote patriotism among the citizens of P living in the United States. You will solicit concerns about the conditions in P from student citizens of P through seminars. You will then deliver their desires and opinions to M. You also plan to provide rides to the voting center for voters on S, and will remain

neutral without supporting a specific candidate or political party while providing transportation. You stated that your goal is to turn out a high rate of voters by having advertisements in periodicals and through book purchases, which will help develop the interests of P's citizens in the U.S.

Your revenue will come from individual and group donations and gross dues and assessments of members. Your budgets indicate that your annual revenues range from less than \$9,000 in 2010 to approximately \$30,000 expected in 2012. Your expenditures included the \$850 user fee paid for the processing of your Form 1024 application. Most of your expenses will be for publicity through advertising in periodicals and for book purchases.

Law

Section 501(c)(4) of the Code provides for the exemption from federal income tax of 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.

Section 1.501(c)(4)-1(a)(2)(ii) of the regulations provides that the promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office.

In Rev. Rul. 67-293, 1967-2 C.B. 185, an organization already exempt under section 501(c)(4) of the Code, and substantially engaged in promoting legislation to protect or otherwise benefit animals, is not exempt from federal income tax under section 501(c)(3) of the Code, even though the legislation it advocates may be beneficial to the community, and even though most of the attempts to influence legislation may be indirect. The organization has not, however, participated or intervened in any political campaigns on behalf of or in opposition to any candidate for public office, and therefore, it remains exempt under section 501(c)(4) of the Code.

In Rev. Rul. 67-368, 1967-2 C.B. 194, the Service held that an organization, formed for the purpose of promoting an enlightened electorate, whose primary activity was rating candidates for public office, was not exempt under IRC 501(c)(4) because such activity is not "the promotion of social welfare." The ruling stated that comparative rating of candidates, even though on a non-partisan basis, is participation or intervention on behalf of candidates favorably rated and in opposition to those less favorably rated.

In Rev. Rul. 81-95, 1981-1 C.B. 332, the Service considered the effect of engaging in political campaign activities on an IRC 501(c)(4) organization. The organization was primarily engaged in activities designed to promote social welfare. In addition, it conducted activities involving participation and intervention in political campaigns on behalf of or in opposition to candidates for nomination or election to public office. The ruling concluded that since the organization's primary activities promoted social welfare, its lawful participation or intervention in political campaigns on behalf of or in opposition to candidates for public office would not adversely affect its exempt status under IRC 501(c)(4). However, the organization was subject to the tax imposed by IRC 527 on

expenditures for political activities as defined in IRC 527(e)(2), pursuant to IRC 527(f)(1).

Rev. Rul. 2004-6, 2004-4 I.R.B. 328, presents several scenarios involving 501(c)(4) organizations in which the [(c)(4)] organization engages in activities related to encouraging and supporting a particular public policy outcome or decision by associating the desired policy outcome with a specific elected official or candidate for public office. The individual scenarios are then differentiated in terms of whether the activities qualify for tax exemption. The Revenue Ruling held that expenditures by a 501(c)(4) organization were subject to tax under section 527(b)(1) of the Code when the actions of the organization do not identify and are not timed to coincide with a specific event or decision outside the control of the organization that it hopes to influence. Rather, expenditures and actions of the organization support or encourage the election of the specific public official or candidate in order to accomplish its public policy goal.

In American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), a school that trained individuals as campaign managers was denied exemption under IRC 501(c)(3) because it operated for the substantial nonexempt purpose of benefiting the private interests of Republican Party entities and candidates. Although the school had a legitimate educational program, the Tax Court held that it conducted its educational activities with the partisan objective of benefiting Republican interests. The court noted that the school's partisan purpose distinguished its activities from the educational organization in Rev. Rul. 76-456, supra.

Application of Law

You fail to meet the requirements of Section 501(c)(4) of the Code because you are not operated exclusively for the promotion of social welfare. The percentage of your time that will be devoted toward supporting M's political interests is 80%. Your activities are primarily political in nature in that you influence citizens of P to vote for M by distributing the books U, V, and W, supporting M's policies and making the public aware of M's policies and ideas by maintaining a website, which updates all M related information, such as personal information, M's policies and plans, media articles, etc. in real time.

You are not an organization described under 1.501(c)(4)-1(a)(2)(i) – (ii) of the regulations because you are not operating exclusively for the promotion of social welfare because you are not primarily engaged in promoting the common good and general welfare of the people of the community. Instead, you are engaged primarily in influencing or attempting to influence the selection, election, or appointment of M in P's upcoming presidential election. As noted above, 80% of your activities will be devoted to providing support to the political candidate, M. A document taken from your website and submitted with your response states that you are "organized throughout the United States to inspire our [P-Americans] (excluding US citizens) to exercise their rights to vote during P's elections, and especially to vote for the right leaders who will further develop our home country." The document further states, "Because the image of the association and chapter is closely related to and seriously influences that of candidate M, this association will endeavor to enhance and protect the image of the association." You also stated that you want to influence all citizens of P eligible to vote in P (those with green cards and/or visiting visas) that are in the U.S., and [P-American] leaders who are interested in the expansion of rights and interests for the next generation, but not voters located in P.

You are unlike the organization in Rev. Rul. 67-293 because you do participate and intervene in political campaigns on behalf of a candidate for public office, and therefore, are not exempt under section 501(c)(4) of the Code.

You are similar to the organization described in Rev. Rul. 67-368 because you are participating or intervening on behalf of M. A statement on your website, that has been shared with you in our correspondence, states that you were, "formed and [are] officially active in supporting M, former Chairman of N." Your website also states that, "the association will be in close ties with M, play an important role in connecting with the P-American Society, and support M in the upcoming presidential election." Your website further quotes your board member, B, who said, "This association is a nationwide association, expanding from pre-existing groups in O, Y, and Z who support M, and will do its best to support and patriotically advise M for M's victory in the upcoming presidential election." Finally, to reiterate, you also indicated in your most recent response that 80% of your time will be devoted to supporting M as a political candidate.

You are unlike the organization in Rev. Rul. 81-95 because your activities are primarily engaged in campaigning for M. Your website updates all M related information, such as personal information, M's policies and plans, media articles, etc. in real time. You will introduce M related books such as M's autobiography, T, as well as U, V and W, which present favorable views of M and M's policies. You also boost concerns about the conditions of P among P's citizens through seminars, and then report their desires and opinions to M.

Your activities in support of the policies and election of M are similar to activities of the organizations described in Rev. Rul. 2004-6 that are subject to tax because these activities and expenditures support or encourage the election of a specific public official or candidate in order to accomplish public policy goals.

You are similar to the organization described in American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), in that you conducted your activities with the partisan objective of benefiting M's interests. You stated that the purpose of advertising in periodicals and the book purchases is to attract citizens of P's attention to the politics in P and to create a high turnout of voters, thus supporting homeland prosperity and advanced politics through M, and to further the development of rights and interests of citizens of P in the U.S. for the next generation. You will promote M's political campaign by providing information of M's economic and political views and by providing information to the public of M's background and character. As stated earlier, your website updates all M related information including personal information, policies and plans, media articles, etc. in real time. Although this court case is about an organization being denied under 501(c)(3) because it operated for the substantial nonexempt purpose of benefiting the private interests of Republican party entities and candidates, the same concept would apply for a section 501(c)(4) organization because promoting a political candidate also does not serve social welfare purposes as described under section 501(c)(4) of the Code.

Applicant's Position

You state that your primary activity is involved in promoting M's political campaign. You believe that

increasing the interest and voting rates of citizens of P in the U.S. will lead to the development of the rights, interests, and pride for the mother land among these individuals (green card holders, citizens, and following generations). For this purpose, M is the most reliable and suitable politician. You will devote your efforts to form a pro-M public opinion and help elect M in the coming presidential election. You want to influence all citizens of P who are in the U.S. (those with green cards and/or visiting visas) to vote, and to influence [P-American] leaders who are interested in the expansion of rights and interests for the next generation, not just the voters in P. You plan to provide rides to the voting center for voters on S, the election date, while remaining neutral and without supporting a specific candidate or political party while providing transportation. Your goal is to create a high turnout of voters, which will support homeland prosperity and advanced politics through M, and further the development of rights and interests of citizens of P in the U.S. for the next generation.

Service Response to Applicant's Position

Your stated primary activity, promoting an individual's political campaign is not a qualifying tax-exempt purpose under IRC section 501(c)(4). Political educational organizations must conduct their activities in a non-partisan manner. Your activities are not conducted in a non-partisan manner because they serve primarily to support M's political presidential campaign. Therefore, you do not have a social welfare purpose consistent with section 501(c)(4) of the Code.

Conclusion

You do not qualify for exemption under section 501(c)(4), or any other section of the Code, because you primarily support M in the contest for the presidential election in P by influencing voters in the United States who are eligible to vote.

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter.

We will consider your statement and decide if that information affects our determination. If your statement does not provide a basis to reconsider our determination, we will forward your case to our Appeals Office. You can find more information about the role of the Appeals Office in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*.

Types of information that should be included in your appeal can be found on page 2 of Publication 892, under the heading "Regional Office Appeal". The statement of facts (item 4) must be declared true under penalties of perjury. This may be done by adding to the appeal the following signed declaration:

"Under penalties of perjury, I declare that I have examined the statement of facts presented in this appeal and in any accompanying schedules and statements and, to the best of my knowledge and belief, they are true, correct, and complete."

Your appeal will be considered incomplete without this statement.

If an organization's representative submits the appeal, a substitute declaration must be included stating that the representative prepared the appeal and accompanying documents; and whether the representative knows personally that the statements of facts contained in the appeal and accompanying documents are true and correct.

An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you during the appeal process. To be represented during the appeal process, you must file a proper power of attorney, Form 2848, *Power of Attorney and Declaration of Representative*, if you have not already done so. For more information about representation, see Publication 947, *Practice Before the IRS and Power of Attorney*. All forms and publications mentioned in this letter can be found at www.irs.gov, Forms and Publications. If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter to you. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848 and any supporting documents to the applicable address:

Mail to:

Internal Revenue Service
EO Determinations Quality Assurance
Room 7-008
P.O. Box 2508
Cincinnati, OH 45201

Deliver to:

Internal Revenue Service
EO Determinations Quality Assurance
550 Main Street, Room 7-008
Cincinnati, OH 45202

You may also fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Lois G. Lerner
Director, Exempt Organizations

Enclosure, Publication 892

Letter 4034 (CG) (11-2005)
Catalog Number 47628K