



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

Release Number: **201820020**  
Release Date: 5/18/2018

Date:  
February 20, 2018  
Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

UIL: **501.04-00**

Dear :

This letter is our final determination that you don't qualify for tax-exempt status under Section 501(c)(4) 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:**

December 7, 2017

**Employer ID number:**

**Contact person/ID number:**

**Contact telephone number:**

**Contact fax number:**

**Legend:**

X = Date of formation

Y = State

**UIL:**

501.04-00

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

**Facts**

You are an unincorporated association and were formed on X in the state of Y. You were previously recognized as exempt under Section 501(c)(4) of the Code. However, your exemption was automatically revoked for failure to timely file Form 990 series annual returns for three consecutive years. You are now seeking reinstatement under Section 501(c)(4).

You are formed to promote the sport of tennis in your geographical area and to ensure that the sport is played fairly within the rules. You accomplish this through acting as an association of umpires in your geographic region.

You recruit and mentor new umpires. You evaluate all member officials to verify their officiating skills. You also provide annual clinics and seminars, which focus on rule changes. However, your main activity is referring trained member umpires to officiate at sanctioned tennis events within your geographic region. You act as a pass-through entity by collecting payment for the officiating services and passing it on to your members.

You receive and handle money owed to your members for the umpiring services they provide. You invoice what is owed to the member umpires and pay them for their work. These pass-through payments are reported annually to each member via Form 1099.

In your application for exemption, you indicated that you receive income from tennis events, tournaments and competitions. Approximately 99 percent of your revenue you classified as gross amounts derived from the activities related to your exempt purpose. When we requested a breakdown of these revenues, you said that

these amounts aren't really income; rather, they are simply remitted to you as payment for the member umpires services and then paid out to the members respectively. You said that membership dues are your main source of revenue, although they are minimal compared to the revenue you receive on behalf of your members for their officiating duties. Expenses consist of paying members for their officiating services and administrative costs (banking, accounting services, etc.).

### **Law**

Section 501(c)(4) of the Code provides for the exemption from federal income tax of civil leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Treasury Regulation Section 1.501(c)(4)-1(a)(2)(i) provides that, in general, 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.

Revenue Ruling 69-384, 1969-2 C.B. 122, provided that a nonprofit organization created for the primary purpose of maintaining an amateur baseball association and conducting amateur baseball games among its members' teams is exempt under Section 501(c)(4) of the Code. The Service ruled that, by helping to develop good sportsmanship, high character, and the physical well-being of young adults through the operation of an amateur baseball league, the organization was promoting the common good and general welfare of the people of the community.

Rev. Rul. 70-4, 1970-1 C.B. 126, describes an organization engaged in promoting and regulating a sport for amateurs which was found to be exempt under Section 501(c)(4) of the Code to an organization. The organization's primary activities are directed toward reviving and promoting a sport by circulating printed material about the sport, by conducting exhibitions to introduce the sport to the public, by conducting tournaments, and by giving occasional instructive clinics. The organization also sets the standards for the equipment to be used, establishes the official rules of the games, and prescribes the official size of the playing area. By promoting and regulating a sport for amateurs, the Service ruled that the organization is providing wholesome activity and entertainment for the social improvement and welfare of the community, which promotes the common good and general welfare of the people of the community.

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 Section 501(c)(4) of the Code. The organization represented its member-tenants in negotiations with the management of the complex 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. 75-199, 1975-1 C.B. 160, held that where the benefit from an organization is limited to that organization's members (except for some minor and incidental benefit to the community as a whole), the organization is not operated exclusively for the promotion of social welfare within the meaning of Section 501(c)(4) of the Code.

Rev. Rul. 78-132, 1978-1 C.B. 157, found a community cooperative organization formed to facilitate the exchange of personal services among members was operating primarily for the private benefit of its members

and was not exempt from tax as a social welfare organization under Section 501(c)(4) of the Code. The fact that payments for services were made in kind and did not involve a monetary exchange did not derogate from the economic benefits accruing to members. Any benefits to the community were not sufficient to meet the requirement of the regulations that the organization be operated primarily for the common good and general welfare of the people of the community. Accordingly, this organization is not exempt from federal income tax as a social welfare organization under Section 501(c)(4).

In Commissioner v. Lake Forest, Inc., 305 F.2d 814 (4<sup>th</sup> Cir. 1962), a corporation was organized by World War II veterans for the purpose of purchasing a government housing project and converting it to cooperative, nonprofit housing for its members. Individuals became members in the corporation by purchasing an apartment unit and, as such, the number of members was limited to the number of units available. The court held that the organization was not described in Section 501(c)(4) of the Code because it was “a public-spirited but privately-devoted endeavor” that provided only incidental benefit to the community. The organization did not promote social welfare because it furnished housing only to a certain group of individuals, rather than on a community basis, and did not offer a service or program for the direct betterment or improvement of the community as a whole.

In New York State Association of Real Estate Boards Group Insurance Fund v. Commissioner, 54 T.C. 1325 (1970), an association organized by a small group interested in obtaining group insurance did not qualify for exemption because it offered its benefits to only a limited class of its members and their employees. Where the primary benefit from an organization is limited to that organization's members, and not provided to the community as a whole, the organization is not operated primarily for the social welfare.

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 Section 501(c)(4) of the Code.

### **Application of law**

An organization recognized under Section 501(c)(4) of the Code is one that is operated primarily to bring about civic betterments and social improvements to the community. You were formed to promote the sport of tennis by acting as an association of umpires whereby you refer your trained members to officiate at sanctioned tennis events. You are not operated for the promotion of social welfare within the meaning of Section 501(c)(4) because your activities primarily serve the private interests of your members by securing employment opportunities for them.

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. Your primary activity involves acting as a pass-through entity by collecting payment for the officiating services performed by your members and passing it on to them. This provides a private benefit to your members and the benefits to community are incidental.

You are dissimilar to the organizations found to be exempt under Section 501(c)(4) of the Code in Rev. Rul. 69-384 and Rev. Rul. 70-4 because you are not promoting and regulating a sport for amateurs. Rather, your primary function is securing employment opportunities at tennis events, tournaments and competitions for your members.

The concept of social welfare implies a service or program directed at benefiting the community as a whole, rather than a private group of individuals. See Rev. Rul. 73-306 and Commissioner v. Lake Forest, Inc. You are similar to the organization discussed in Rev. Rul. 75-199 because, other than some incidental benefit to the community, the benefits you offer are limited to your members. Therefore, you are not operated for the promotion of social welfare within the meaning of Section 501(c)(4) of the Code.

You are similar to the organization described in Rev. Rul. 78-132 which found that an organization formed to facilitate the exchange of services among members was operating primarily for the benefit of the members and not for the general welfare of the community. You facilitate the employment of your members and then act as a pass-through for the payment of their services. In the ruling, the fact that the payments for services were made in-kind and did not involve the exchange of money did not detract from the economic benefits accruing to members. In your case, there is a monetary exchange for services which emphasizes the fact that you operate primarily to provide economic benefit to your members. As noted in Commissioner v. Forest Lake, Inc., operating an enterprise which only incidentally benefits the whole community, precludes exemption under Section 501(c)(4) of the Code.

You are like the organizations described in New York State Association of Real Estate Boards Group Insurance Fund and Contracting Plumbers Cooperative Restoration Corp. because, while you do provide some benefits to the public, you primarily serve the private economic interests of your members. Therefore, you are not operated primarily for social welfare purposes within the meaning of Section 501(c)(4) of the Code.

### **Conclusion**

Your activities primarily provide for the private benefit of your members and not for the common good and general welfare of the community within the meaning of Section 501(c)(4) of the Code. Therefore, you are precluded from exemption under Section 501(c)(4).

### **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