



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

Number: **201931010**
Release Date: 8/2/2019

Date:
May 6, 2019
Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

UIL: 501.06-00, 501.06-01

Dear :

This letter is our final determination that you don't qualify for tax-exempt status under Section 501(c)(6) 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:
March 12, 2019
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

B = Date

C = State

D = Association

UIL:

501.06-00

501.06-01

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)(6). This letter explains the reasons for our conclusion. Please keep it for your records.

Issues

Do you qualify for exemption under Section 501(c)(6) of the Code? No, for the reasons stated below.

Facts

You were formed as an unincorporated association on B in C. According to your Bylaws, you operate under the authority of the state association, D, and are formed for "the promotion of the welfare of ." You do this by recruiting, assisting, and encouraging an adequate membership of outstanding men and women to serve as well-trained officials for the benefit of the school systems and youth of the area which you service. You also do this by improving the quality, efficiency, consistency, and uniformity of officiating by providing planned training programs, study meetings, practice sessions, and rules interpretations through which new and prospective officials shall be instructed and experienced officials can increase their knowledge and officiating skills.

Your Bylaws state that in order to be a member, an individual must also be a member of D and pay their dues to both you and D. No member may, or have anyone on their behalf, approach any coach, school, or organization with the intent to solicit officiating assignments for his/her personal benefit. Members are required to maintain availability via your current assigning system. Your officials are required to dress in full uniform, which is designated by D, at all contests.

Your members provide officiating services for middle and high school volleyball games. Your members elect an executive board consisting of a president, vice-president, secretary, treasurer, and assigning secretary. The assigning secretary, based on matches submitted by a school districts, assigns matches based on skill level and availability of a member/official. Each school district pays the official for services provided. Each member directly pays the assigning secretary a set amount per scheduled match.

Your Standard Operating Procedures set forth minimum requirements that members must meet to officiate different levels of matches. Your procedures also address match cancellations, switching/transferring assignments, leaves of absence, and rules examination. It also details dues, assessments, fees, and fines if a member does not adhere to your policies.

You indicated that your revenue sources have changed in the last few years. You provided financial data for a prior year showing that other than some incidental amounts, such as interest income, your revenue was derived from assigning fees collected, membership dues, and scrimmage revenue. You also provided more recent financial data, which indicated that about half of your revenue was from membership dues and the other half from scrimmage fees. You indicated that now the school district pays the officials directly (rather than using you as a pass through) except for scrimmage days. You said depending on the number of members and the number of schools/districts conducting scrimmages in any given year, your income sources could vary.

Law

Section 501(c)(6) of the Code provides for exemption of business leagues, chambers of commerce, real estate boards, boards of trade, and professional football leagues (whether or not administering a pension fund for football players), which are not organized for-profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Treasury Regulation Section 1.501(c)(6)-1 states that a business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons. An organization, whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining, is not a business league.

Rev. Rul. 56-65, 1956-1 C.B. 199, holds that a local organization whose principal activity consists of furnishing particular information and specialized individual services to its individual members engaged in a particular industry, through publications and other means to effect economies in the operation of their individual businesses, is performing particular services for individual persons. Such organization is not entitled to exemption under Section 501(c)(6) of the Code as a business league, even though it performs functions that are of benefit to the particular industry and the public generally.

Rev. Rul. 58-224, 1958-1 C.B. 242, held that an organization which operated a trade show as its sole activity, primarily for the purpose of rendering particular services to individual persons was not entitled to exemption as a business league under Section 501(c)(6) of the Code. The organization's sole activity consisted of staging an annual merchandise show (primarily exhibits by manufacturers), under the sponsorship of the chamber of commerce. The ruling concluded that the activities of the organization substantially served the exhibitors and retailers as a convenience and economy in the conduct of their businesses by providing selling opportunities for the distributors, which was found to be considered rendering particular services for individuals as distinguished from the improvement of business conditions generally.

Rev. Rul. 61-170, 1961-2 C.B. 112, describes a nurses' association which maintained an employment registry primarily for the employment of members is not entitled to exemption as a charitable organization or as a

business league since its primary purpose was the operation of a regular business of a kind ordinarily carried on for profit and it is engaged in rendering particular services for individual persons rather than promoting the general business conditions of the nursing profession.

Rev. Rul. 68-264, 1968-1 C.B. 264, defined a particular service for the purpose of Section 501(c)(6) of the Code as including an activity that serves as a convenience or economy to members of the organization in the operation of their own businesses.

In Apartment Operations Ass'n v. Commissioner, 136 F.2d 435 (1943), the court determined that the organization was not exempt from tax as a business league. The organization was made up of apartment owners. It did not meet the description of a business league because it regularly carried on business of a kind ordinarily conducted for profit. It performed particular services for individual persons such as the furnishing of credit information, the supplying of an apartment shopping service, the making of arrangements for direct purchases by members at discount, and similar activities.

In Indiana Retail Hardware Ass'n, Inc. v. United States, 177 Ct. Cl. 288 (1966), the Court held that when conducting particular services for members is a substantial activity of an organization, the organization will be precluded from exemption under Section 501(c)(6) of the Code.

Application of law

To be exempt under Section 501(c)(6) of the Code, your activities must be directed to the improvement of business conditions of one or more lines of business, and not benefit any private shareholder or individual. As stated in Treas. Reg. Section 1.501(c)(6)-1, the purpose of a business league is to promote a common interest with activities directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons. You operate primarily to provide a service to your members by arranging employment opportunities, which causes impermissible private benefit.

You are similar to the organizations described in Rev. Rul. 56-65 and 58-224 in that you are formed to promote the economic interests of your members by providing them with employment opportunities.

You coordinate, schedule, and assign your member officials to volleyball games and tournaments. You are similar to the organization in Rev. Rul. 61-170 because you were formed to provide employment opportunities for your members. By providing these employment services, you are serving the private interests of your members and do not meet the qualifications for exemption under Section 501(c)(6) of the Code.

Providing employment opportunities for your members provides a convenience that they would otherwise not have without your operation. Given that your primary activity is directed at providing a particular service to your members, you are similar to the situation described in Rev. Rul. 68-264 and not exempt under Section 501(c)(6) of the Code.

The organizations in Apartment Operations Ass'n and Indiana Retail Hardware Ass'n failed to qualify for exemption under Section 501(c)(6) of the Code because conducting services for their members was a substantial activity. Because your primary activity is arranging officiating jobs for your members, you are not exempt under Section 501(c)(6).

Conclusion

Based on the information provided we conclude that you are not operated as a business league described in Section 501(c)(6) of the Code. Your operations provide specific services to members and allow a convenience and private economic benefit. Therefore, you do not qualify for exemption under Section 501(c)(6).

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 your protest

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

U.S. mail:

Internal Revenue Service
EO Determinations Quality Assurance
Mail Stop 6403
P.O. Box 2508
Cincinnati, OH 45201

Street address for delivery service:

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.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements