



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

DATE: 3/27/03

SURNAME [REDACTED]

Date: JAN - 6 2003

Contact Person: [REDACTED]

Identification Number: [REDACTED]

Contact Number: [REDACTED]

Employer Identification Number: [REDACTED]

Dear Applicant,

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

The information submitted indicates that you were incorporated on September 1, 2000, under the provisions of [REDACTED]. Your Articles of Incorporation state that the specific purposes for which you are organized are:

"to bring together a group of individuals, organization, and businesses dedicated to bringing full, fair competition and real choice to our state's telecommunication's markets: local phone, long distance, cable, wireless and high-speed Internet. We know that with competition comes benefits like lower prices, improved customer service and advanced technology which will improve the social welfare of the [REDACTED]. With competition, everyone in our state benefits: residential and business consumers, large and small customers, urban and rural residents."

Your Articles of Incorporation also state that you will be a public benefit corporation and that you will not have members.

In your application, you state that your goal is to serve as a voice for consumers, and a source of information to your State's residents on the issues of competition and real choices in your State's telecommunications markets. You also state that you have recruited members who support your goals and that these efforts have been conducted in one-on-one meetings, before civic groups, at trade shows, and through mailings, phone calls, and e-mails. You state you have produced newsletters, one-page informational handouts, direct mail pieces, brochures, and similar items, and that your executive director contributes to these efforts in his office, as does an off-site vendor. In your newsletters and brochures, you communicate that recipients may contact you by mail, phone or e-mail for more information about you or to become a member.

[REDACTED]

You state that you also conduct public relations (news releases, editorial board briefings, talk radio interviews) and run television, radio, and/or newspaper advertising. You state that these efforts coordinated and implemented both by your in-house executive director and by an off-site vendor, spread your message relating to the consumer benefits of telecommunication competition: more choices, lower prices, improved service, and advanced technology.

In your application, you state that [REDACTED] provide all your present and future sources of financial support. [REDACTED] is a for profit, [REDACTED]. While there is no formal agreement with [REDACTED], there is an unwritten understanding that [REDACTED] will provide your financial support.

Your Articles of Incorporation provide that you will have no members. However, in a letter received by the Service on February 8, 2002, you state that since the fall of 2000 you have recruited "members" who support your goals. Your "members" do not have voting rights, but they are encouraged to contact elected and appointed officials with information about the issues related to telecommunications competition. [REDACTED] is one of more than 3,600 "members" and occasionally provides information. [REDACTED] (probably less than 200) are also "members" of your organization. You state that you recruit [REDACTED] just as you recruit employees of other companies and that other "members" also provide information. You state that [REDACTED] does not provide technical support.

[REDACTED] is also mentioned in your [REDACTED] newsletters. The newsletters submitted with your application concentrate on informing the reader that [REDACTED] consumers would benefit substantially, for example, [REDACTED] is allowed to enter the [REDACTED] currently dominated by three other companies. Although you have not conducted any studies, your newsletters report on a detailed study of the effect of long-distance entry by [REDACTED]. This study was completed by the director of the [REDACTED].

The study found that if local [REDACTED] are allowed to compete in the local market, consumers saved 10 to 20 percent on long distance in the first year. Your report that the average [REDACTED] customer and small business will save, respectively, nearly \$35 and \$40 a year in local and long distance charges, with high volume users saving even more. You report that [REDACTED] consumers could save at least \$30 million a year when [REDACTED] the long-distance market. In another brochure you estimate that these savings could be as much as \$58 million per year.

In addition, you submitted a brochure from [REDACTED]. In the brochure [REDACTED] states that because of its acquisition of a local telephone company in 2000, the Federal Communications Commission (FCC) will not allow companies like [REDACTED] to use or data services to their consumers until they prove that there is local phone competition in their markets. The brochure from [REDACTED] regulators and the FCC to gain approval to re-enter the long-distance market. The brochure also describes [REDACTED] investment [REDACTED] and the benefits of its re-entry into the long-distance marketplace. [REDACTED] you state that allowing [REDACTED] after long distance services in [REDACTED] will increase competition, which can lead

[REDACTED]

to lower rates, improved service and advanced technologies." In the same newsletter, you also encourage readers to write the FCC and let the agency know that they "[REDACTED] efforts to enter the state's long distance market".

Your bylaws provide that you shall have three directors and collectively they shall be known as the Board of Directors, and that directors shall be elected by the Board of Directors at the regular meeting of directors. All of your directors are present or former employees of [REDACTED]

It is unclear whether you have one or several executive directors. In some of the newsletters you list [REDACTED] as your executive director. However, in response to an IRS letter dated August 19, 2002, you state that [REDACTED] is your executive director. You further state that [REDACTED]

[REDACTED] advertising, public affairs and public relations. [REDACTED] direct its public policy efforts in [REDACTED]. Although you state that you do not receive technical support [REDACTED] you provided evidence that you receive technical support and strategic guidance from [REDACTED]

[REDACTED] is paid by the [REDACTED] implement public policy strategy in [REDACTED] so compensates [REDACTED] for the services [REDACTED] provides to you as secretary/treasurer. Although you state that the compensation received [REDACTED] based on their experience, you would not disclose the amount, stating that the amount is not germane to your tax exemption determination.

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

Section 1.501(c)(4)-1(a)(1) of the Income Tax Regulations provides that a civic league or organization may be exempt as an organization described in section 501(c)(4) of the Code if it is not organized or operated for profit and it is operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the 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 the general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about betterments and social improvements.

Rev. Rul. 68-650, 1968-2 CB 216, holds that an organization that is formed to educate the public regarding an activity or practice that is not presently legal and it seeks changes in the law to specifically legalize such activity may be exempt under section 501(c)(4) of the Code. The organization circulates speeches, reprints, and pamphlet material concerning the subject and proposed legislation relating to the activity. The organization drafts proposed legislation and presents petitions for the purpose of having legislation introduced. The revenue ruling

states that even though the subject addressed by an organization "advocates a particular viewpoint" and "seeks changes in the law to reflect such viewpoint," it may be exempt because the "education of the public on such a subject is deemed beneficial to the community because society benefits from an informed citizenry."

Rev. Rul. 69-385, 1969-2 C.B. 123, holds that a community welfare corporation that purchases and sells unimproved land and engages in other business activities, the profits from which are distributed to members, is not exempt under section 501(c)(4) of the Code. The corporation is authorized to make, and in fact made, distributions of profits to its members. These distributions are equivalent to dividends based upon equity ownership and result in profit to the members. The revenue ruling concludes that the corporation is not exempt under section 501(c)(4) since the authority for making the distributions and the distributions themselves are incompatible with the requirements of the regulations that an organization must not be organized or operated for profit.

Rev. Rul. 73-306, 1973-2 C.B. 179, holds that a nonprofit organization formed to represent member-tenants of an apartment complex in negotiations with landlords, in litigation, and before local and Federal regulatory agencies with respect to matters of mutual concern to the tenants does not qualify for exemption under section 501(c)(4) of the Code. The revenue ruling states that the concept of social welfare implies a service or program directed at benefiting the community rather than a private group of individuals. In this case, the organization is operated essentially for the private benefit of its members, and thus is not primarily engaged in activities for the common good and general welfare of the people of the community.

Rev. Rul. 78-111, 1978-1 C.B. 41, concludes that a corporation engaged in grassroots lobbying when it distributed to its shareholders its president's testimony against an environmental bill. The testimony emphasized the cost to the corporation and recommended defeat of the bill. Although the communication did not ask the shareholders to contact their legislators, it was a clear attempt to influence the opinion of the shareholders (members of the public) and therefore constitutes grassroots lobbying.

Rev. Rul. 78-114, 1978-1 C.B. 44, concludes that a tax-exempt trade association engaged in grassroots lobbying when it urged both its members and its prospective members to contact their Congressmen in support of certain legislation favorable to the association. The trade association's communication with its members about the legislation is a legitimate activity under section 501(c)(6) of the Code, but the communication to the prospective members is a communication with the public and is therefore considered to be grassroots lobbying.

Rev. Rul. 80-107, 1980-1 C.B. 117, describes an organization whose purposes are the expansion of industry, the creation of employment, the increase of scientific knowledge, and the support of economic growth through the advancement of the interests of persons who invest in public utility stocks. The organization prepares and files, on behalf of the public utility companies in which its members own shares, statements relating to rate and regulatory matters pending before the state public utilities commission and other state and federal regulatory

[REDACTED]

agencies and legislative bodies. The organization also distributes among its members a newsletter concerning specific matters affecting public utility shareholders. In its analysis, the revenue ruling states that in this case, the primary beneficiaries of the organization's activities are its members, together with other individuals who own shares in the public utility companies of the state. Therefore, the organization is primarily operated to serve private interests rather than the interests of the community as a whole. Thus, the revenue ruling holds that an organization, which is open to individuals and institutions having a beneficial interest in shares of any public utility company located in the state, in the manner described, does not qualify for exemption under section 501(c)(4) of the Code.

From the information you have submitted, it is clear that you are primarily involved in grassroots lobbying as described in Rev. Ruls. 78-111 and 78-114, both *supra*, to promote the approval of [REDACTED] for profit, publicly traded [REDACTED] in the long distance telephone market. Your Executive Director, who controls all your activities, is on retainer with a public policy firm that was hired by [REDACTED] and is on a monthly retainer to [REDACTED]. Your activities are completely funded by [REDACTED] and are primarily dedicated to the promotion of [REDACTED]. Although benefit to the people of the community as a whole within the meaning of section 501(c)(4) of the Code through the activities you perform to promote social welfare is tenuous notwithstanding the fact that competition in the [REDACTED] may cause long distance telephone prices to fall, [REDACTED] is your primary beneficiary by your actions of directly promoting it, and advising others to promote it, under the guise of [REDACTED]. The immediate and substantial economic benefits to [REDACTED] in the same manner as the organization described in Rev. Rul. 69-385, *supra*, greatly outweigh any possible economic benefits to the general community. You are primarily serving the private interests of [REDACTED] rather than the interests of the community as a whole. In this manner, you are more similar to the organization denied recognition of exemption under section 501(c)(4) in Rev. Rul. 73-306, *supra*.

Although you claim that you are a membership organization and that you are representing those members, you have no members who have voting rights or receive any privileges of membership. Your "members," for the most part, are individuals who have asked for information. They do not necessarily endorse you or your activities.

You are not similar to the organization described in Rev. Rul. 64-556, *supra*, because you are not trying to educate the public, but rather are advocating, through grassroots lobbying, to allow C-west, a member and your sole source of funds, to operate in the long distance telephone service in Iowa.

You are not similar to the organization denied recognition of exemption under section 501(c)(4) of the Code in Rev. Rul. 89-107, *supra*, because you are primarily operated to serve the private business interests of [REDACTED] rather than the interests of the community as a whole.

Accordingly, for the above reasons, you do not qualify for recognition as an organization described in section 501(c)(4) of the Code, and you may not deduct your contributions as charitable tax returns.

[REDACTED]

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views to this office, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the Ohio Tax Exempt and Government Entities (TE/GE) office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 877-829-5500 (a toll free number) or sending correspondence to Internal Revenue Service, TE/GE Customer Service, P.O. Box 2500, Cincinnati, OH 45201.

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

[REDACTED]

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

Sincerely yours,

[REDACTED]