



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Number: **201128034**
Release Date: 7/15/2011

Date: April 18, 2011

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

UIL: 501.04-00

Dear _____ :

This is our final determination that you do not qualify for exemption from Federal income tax under Internal Revenue Code section 501(a) as an organization described in Code section 501(c)(4).

We made this determination for the following reason(s):

You are not operated primarily to promote social welfare because your activities are conducted primarily for the benefit of a political party and a private group of individuals, rather than the community as a whole.

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. File the returns in accordance with their instructions, and do not send them to this office. Failure to file the returns timely may result in a penalty.

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, 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

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



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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: January 14, 2011

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

UIL Code:
501.04-00

Legend:
State =
Party =

Dear :

We have 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 have concluded that you do not qualify for exemption under section 501(c)(4) of the Code. The basis for our conclusion is set forth below.

FACTS

You were formed on December 21, 2007 as a nonprofit corporation under the laws of State. Your Articles of Organization and Bylaws state that your purpose is

and 4. To operate exclusively to promote the social welfare within the meaning of Section 501(c)(4) of the Internal Revenue Code

Your Articles of Organization and Bylaws provide that upon dissolution, your assets shall be dedicated to social welfare purposes, and that no part of your net income or assets may inure to the benefit of any director, officer, member, or private individual.

You conduct a training program of _____ for _____ who are members of Party. The program includes sessions covering _____

_____ Your recruitment of students began in _____ and training began in _____

You charge _____ in tuition for your training program. You provide scholarships for tuition expenses and make payment plans available. You select up to _____ participants each year.

Your website contains a number of materials related to your training program. Your homepage states that you are _____ You describe your curriculum as follows:

Your website states that you select students for your training program based on evidence of _____

Your 2010 Program Application shows that one of your training dates coincides with the [Party]'s State Convention and contains a _____

_____ and, _____
If an applicant did not _____ is then asked to explain why.

Your 2010 Program Application also contains a _____ which requires the applicant to affirm the following:

On your _____ page you state you are,

On the same page, you state,

In answering the question "What makes [you] unique?" you state that you are _____

You also state that you are _____

In materials you provide to potential donors, you note your program's success by stating that the _____

LAW

Section 501(a) of the Internal Revenue Code ("Code") exempts from federal income tax organizations described in section 501(c)(4).

Section 501(c)(4)(A) of the Code describes civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare. Section 501(c)(4)(B) indicates that subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

Section 1.501(c)(4)-1(a)(1) of the Income Tax Regulations ("regulations") states that to be described in section 501(c)(4) of the Code, an organization must not be organized or operated for profit and must be operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2) of the regulations states 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. Additionally, it states that an organization described within this section is operated primarily for the purpose of bringing about civic betterments and social improvements.

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. Any person regularly living in the complex was eligible for membership. The organization represented its member-tenants in negotiations with the management of the complex in order to secure better maintenance and services, as well as reasonable rentals. 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. In contrast, Rev. Rul. 80-206, 1980-2 C.B. 185, holds that an organization formed to promote the legal rights of all tenants in a community, instead of limiting its benefits to member-tenants, does qualify for exemption under section 501(c)(4) of the Code.

Rev. Rul. 73-349, 1973-2 C.B. 179, holds that an organization formed to purchase groceries for its members at the lowest possible prices on a cooperative basis is not exempt under section 501(c)(4) of the Code. Rather, the organization was a cooperative enterprise operated primarily for the private economic benefit or convenience of its members, and provided only incidental benefit to the community.

Rev. Rul. 75-286, 1975-2 C.B. 210, describes an organization that was formed by the residents of a city block to preserve and beautify that block, to improve all public facilities within the block, and to prevent physical deterioration of the block. Its activities consisted of paying the city government to plant trees on public property within the block, organizing residents to pick up litter and refuse in the public streets and on public sidewalks within the block, and encouraging residents to take an active part in beautifying the block by placing shrubbery in public areas. Much of the public area improved by the organization was part of the public roadway lying between the sidewalk and the street in front of private property owned by members of the organization. Membership in the organization was restricted to residents of the block and those owning property or operating businesses there.

Because the activities enhanced the value of the members' property rights, the organization served the private interests of its members and did not qualify for exemption under section 501(c)(3). The restricted nature of its membership and limited area in which improvements were made were further indicators of private benefit. However, by beautifying and preserving public property in cooperation with the local government, the organization was considered to primarily promote the general welfare of the community even though its activities also benefited its members. Therefore, the organization did qualify under section 501(c)(4).

In Erie Endowment v. United States, 316 F.2d 151 (3d Cir. 1963), the court held that to qualify for exemption within the meaning of section 501(c)(4) of the Code, "the organization must be a community movement designed to accomplish community ends." Id. at 156.

In Commissioner v. Lake Forest, Inc., 305 F.2d 814 (4th 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. Id. at 818. 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. The court noted "[t]here is not in such an organization the requisite civic concern to constitute social welfare" required for qualification under section 501(c)(4). 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 in order 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.

In American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), the organization's primary activity was to operate a school ("the Academy") training individuals for careers as political campaign professionals. The organization represented on its application for exemption that the Academy was an outgrowth of programs operated by the National Republican Congressional Committee ("NRCC") that were designed to train candidates and to train and subsequently place campaign professionals in Republican campaigns. In addition, the NRCC contributed physical assets to the Academy, two of the Academy's six full-time faculty members had been previously involved in the NRCC's training program, one of the Academy's three initial directors was the Executive Director of the NRCC at the time, and another initial director was a member of the Republican National Committee at the time. The Academy's activities were exclusively funded by the National Republican Congressional Trust. The Academy's curriculum included discussions concerning "How some Republicans have won Black votes," "NRCC/RNC/NRSC/State Party naughtiness," and "Use of GOP allies," without a counterbalance of comparable studies of other political parties.

While applicants to the Academy were not required to formally declare their political affiliation to attend the organization's school, the admission panel could deduce such affiliation from the campaign experiences and political references in the applications. The court found that this knowledge of an applicant's political affiliations allowed the admission panel to limit enrollment to applicants who were likely to subsequently work in Republican organizations and campaigns. Indeed, the court found that no graduate was known to affiliate with any political party other than the Republican Party. A substantial number of the members of the Academy's admission panel were affiliated with the Republican Party.

The Service determined that the organization operated for a substantial, non-exempt private purpose. The Tax Court agreed, holding the organization did not operate exclusively for exempt, educational purposes under section 501(c)(3) of the Code because it conducted its activities to benefit the private interests of Republican entities and candidates. Although these entities and candidates were not organization "insiders," the court stated that the conferral of nonincidental benefits on disinterested persons may cause an organization to serve a private interest. While the school had a legitimate educational program, it conducted these activities with the partisan objective of benefiting Republican candidates and entities. As such, a more than incidental private benefit was conferred on Republican entities and candidates who employed the Academy's students, one that precluded exemption under section 501(c)(3).

ANALYSIS

Based on the information you submitted with your application and in subsequent correspondence, you are not operated exclusively for the promotion of social welfare within the meaning of section 501(c)(4) of the Code because your activities primarily serve private interests. Therefore, you do not qualify for exemption from federal income tax as an organization described in section 501(c)(4).

Your activities do not primarily promote social welfare because you primarily benefit private individuals and interests.

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)(i) of the regulations. An organization recognized under section 501(c)(4) is operated primarily for the purpose of bringing about civic betterments and social improvements. Id.

To qualify for exemption under section 501(c)(4), an organization must primarily benefit the community as a whole, rather than select individuals or groups. See Contracting Plumbers Coop. Restoration Corp., supra; New York State Ass'n of Real estate Boards Group Ins. Fund, supra; Lake Forest, Inc., supra; Rev. Rul. 75-286, supra. A section 501(c)(4) organization must be "a community movement designed to accomplish community ends." Erie Endowment, supra. As such, a tenants' organization that benefits all the tenants in the community qualifies for exemption, while one that directs its activities toward benefiting only its member-tenants does not. Compare Rev. Rul. 80-206, supra, with Rev. Rul. 73-306, supra; see also Rev. Rul. 73-349, supra. Therefore, conferring a sufficient amount of private benefit on select individuals will preclude exemption under section 501(c)(4) for an organization that would otherwise qualify. Even if an organization substantially benefits the community, it will fail to qualify for exemption if

it primarily benefits private interests. See Contracting Plumbers, supra.

Educational activities undertaken to provide a partisan benefit are considered to serve private interests, rather than the common good. In American Campaign Academy, supra, the court denied exemption under section 501(c)(3) to a school organized to train individuals for careers as political campaign professionals because its educational activities were operated with the partisan purpose of benefiting Republican Party entities and candidates. The private benefit conferred on these persons was more than incidental, and thus demonstrated a substantial non-exempt purpose that precluded exemption. While you are requesting recognition as an organization described in section 501(c)(4) and not section 501(c)(3) (as was American Campaign Academy), the standard for determining what constitutes private benefit described in American Campaign Academy applies to both sections. As such, for purposes of both section 501(c)(3) and section 501(c)(4), an organization which conducts its educational activities to benefit a political party and its candidates serves private interests. And, as discussed above, an organization that primarily serves private interests fails to qualify for exemption under section 501(c)(4).

Thus, notwithstanding any benefit your educational activities may provide to the community, you fail to qualify for exemption because your training program primarily benefits the interests of the Party and its candidates. According to your Articles, Bylaws, and website, your primary activity is to train and recruit who are members of Party to run for political office. Moreover, your program application asks prospective students to disclose specific details of their political participation as a member of Party, and clearly discloses that you limit your membership to registered members of the Party. Like the school in American Campaign Academy, your purpose in conducting this activity is to provide education solely to individuals affiliated with a certain political party who want to enter politics. Indeed, you measure your success in terms of the number of your graduates who have won elective office representing the Party.

Because your primary activity is an educational program that is limited to who are members of Party and is conducted with the partisan objective of increasing the number of Party's elected officials, you primarily serve private interests. Therefore, the operation of your program does not promote social welfare within the meaning of section 501(c)(4) of the Code.

CONCLUSION

In summary, you are not operated primarily to promote social welfare because your activities are conducted primarily for the benefit of a political party and a private group of individuals, rather than the community as a whole. Accordingly, you do not qualify for exemption as an organization described in section 501(c)(4) of the Code and you must file federal income tax returns.

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 the information affects our determination.

Your protest statement should be accompanied by the following declaration:

Under penalties of perjury, I declare that I have examined this protest statement, including accompanying documents, and, to the best of my knowledge and belief, the statement contains all the relevant facts, and such facts are true, correct, and complete.

You also have a right to request a conference to discuss your protest. This request should be made when you file your protest statement. An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you. If you want representation during the conference procedures, 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. That letter will provide information about filing tax returns and other matters.

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

Internal Revenue Service

1111 Constitution Ave, N.W.
Washington, DC 20224

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,

Holly Paz
Acting Director, Exempt Organizations
Rulings & Agreements