



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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Release Number: 201449002

Release Date: 12/5/2014

Date: September 8, 2014

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 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 exclusively for the promotion of social welfare within the meaning of section 501(c)(4) and the regulations thereunder. First, we have concluded, based on all the facts and circumstances that your voter registration activities do not further social welfare purposes because they are conducted in a biased manner that favors one or more candidates for public office. Second, you have not established that your voter education activities are conducted to further a social welfare purpose. Third, you will endorse candidates, which does not promote social welfare purposes. Finally, based on our review of the additional information you submitted in your protest, we still believe you are not operated exclusively for the promotion of social welfare within the meaning of section 501(c)(4) and the regulations thereunder. You did not provide any additional information subsequent to the conference held on January 10, 2014 and did not request review by the Office of Appeals.

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,

Matthew A. Weir
Director, Exempt Organizations
Rulings and Agreements

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



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Date: August 29, 2013

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

UIL:

501.04-00

501.04-03

LEGEND

Date =

State =

M =

N =

x1 =

x2 =

x3 =

Dear :

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

FACTS

You are a corporation formed on Date in State. Your Articles of Association provide that you are primarily operated for the following purposes:

- A. To coordinate and promote M issues, policies, initiatives, and referenda;
- B. To pursue electoral reform that N; and
- C. For all other purposes permitted under section 501(c)(4) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal revenue law) and the State Revised Nonprofit Corporation Act.

Your Form 1024 attachment "Activities and Operational Information" provides that your exempt purpose is: to promote the public welfare by supporting M causes through (1) lobbying for, and coordinating efforts to support, legislation, initiatives, referenda, and (2) pursuing reforms to N and increase electoral participation. You further provide that you are created primarily to

coordinate the efforts of a number of affiliated organizations, which are other non-partisan, M-oriented non-profits ("Affiliates"). Your Affiliates are not your members but are affiliated with you in practice, by virtue of similar purposes and representation on your Board of Directors. For a \$x1 donation an Affiliate is entitled to one seat on your board. For a \$x2 donation an Affiliate is entitled to two seats on your board. You currently have x3 Affiliates that have committed to annual donations sufficient to entitle them to representation on your board. Most of these Affiliates are not recognized as exempt under § 501(a) as organizations described in § 501(c)(3) or § 501(c)(4).

You will engage in the following specific activities:

- Voter Registration

You state that your voter registration activities will be non-partisan, but will be focused on (1) geographic areas generally more supportive of M causes, and (2) unregistered voters on the membership lists of your Affiliates. You may work directly to register voters, but the bulk of your voter registration efforts will involve research, such as identifying unregistered members of your Affiliates. You indicate that Affiliates will do the actual registration work. You estimate that this activity will comprise 50% of your time (10% to voter registration of members of Affiliates and 40% to specific geographic areas).

- Voter Education

You will work to educate voters—both the members of your Affiliates and the general public—regarding important M issues. You will research issues important to your Affiliates and provide the organizations with information and insight regarding the positions of public officials on those issues as well as potential legislation affecting those issues. You may assist your Affiliates with funding the production of flyers or other written materials for dissemination to their members or the general public. You will conduct research to identify geographic areas likely to be significantly affected by various issues and will provide this information to your Affiliates to help them in targeting their education efforts. You state that this activity will comprise 35% of your time.

- Endorsement of Candidates

During election seasons, you will endorse candidates to your Affiliates. You state that these endorsements will be non-partisan in nature and that you will limit your endorsements to races you have, through research, identified to be key for M causes and you anticipate that your endorsements will cross party lines. You anticipate that 15% of your resources will be directed toward identifying and endorsing specific candidates.

LAW

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

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

Section 1.501(c)(4)-1(a)(2) 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. To qualify as an exempt social welfare organization, the activities of the organization must be those that benefit a community, rather than merely benefit the organization's membership or other select group of individuals or organizations.

In Rev. Rul. 67-71, 1967-1 C.B. 125, the Service held that a nonprofit organization created to improve a public educational system was not exempt from Federal income tax under § 501(c)(3) when it campaigned on behalf of candidates for election to the school board. A candidate for an elected position on a school board is a candidate for public office. Furthermore, the organization's activity in evaluating the qualifications of all potential candidates and then selecting and supporting a particular slate constituted participation in a political campaign on behalf of particular candidates, even though its process of selection may have been completely objective and unbiased and was intended primarily to educate and inform the public about the candidates.

Rev. Rul. 68-45, 1968-1 C.B. 259, states that "[a]ll facts and circumstances are taken into account in determining an organization's primary activity" for purposes of determining whether an organization primarily engages in activities which promote in some way the common good and general welfare of the people of the community.

Rev. Rul. 74-361, 1974-2 C.B. 159 provides that whether an organization is "primarily engaged" in promoting social welfare is a facts and circumstances determination. Relevant factors include the manner in which the organization's activities are conducted; resources used in conducting such activities; the time devoted to activities (by volunteers as well as employees); the purposes furthered by various activities; and the amount of funds received from and devoted to particular activities.

In Rev. Rul. 76-456, 1976-2 C.B. 151, the Service approved exemption under IRC 501(c)(3) for an organization formed to elevate the standards of ethics and morality in the conduct of political campaigns. The organization collected, collated, and disseminated, on a non-partisan basis, information concerning general campaign practices, through the press, radio, television, mail, and public speeches. It qualified as an educational organization under § 501(c)(3) because it instructed and encouraged the public about political campaigns, a subject useful to the individual and beneficial to the community.

Rev. Rul. 81-95, 1981-1 C.B. 332, considered the effect of engaging in political campaign activities on a § 501(c)(4) organization. The ruling refers to five revenue rulings, including Rev. Rul. 78-248, for other examples of what constitutes participation or intervention in political campaigns. Each of those rulings involves a § 501(c)(3) organization. The ruling concludes that "an organization may carry on lawful political activities and remain exempt under § 501(c)(4) of the Code as long as it is primarily engaged in activities that promote social

welfare." The corollary to this is that if an organization's primary activities do not promote social welfare but are direct or indirect political intervention, the organization is not exempt under § 501(c)(4). The key is to determine the character of the organization's primary activities by looking at all of the facts and circumstances.

Rev. Rul. 2007-41, 2007-25 I.R.B. 1421, 2007-1 C.B. 1421, analyzes 21 situations to determine whether § 501(c)(3) organizations described in each has directly or indirectly participated in a political campaign on behalf of or in opposition to a candidate for public office. Situation 1 of Rev. Rul. 2007-41, supra, describes an organization that promotes community involvement. The organization sets up a booth at the state fair where citizens can register to vote. No reference is made to any candidates or political party and there are no other materials available at the booth other than the official voter registration form. This organization is not engaged in political campaign intervention. Situation 2 of Rev. Rul. 2007-41, supra, describes an organization that educates the public on environmental issues. Candidate G is running for the state legislature and an important element of her platform is challenging the environmental policies of the incumbent. Shortly before the election, the organization sets up a telephone bank to call registered voters in the district in which Candidate G is seeking election. The organization only urges a voter to vote if he/she agrees with one candidate's position; the organization is engaged in political campaign intervention.

Association of the Bar of the City of New York v. Commissioner, 858 F.2d 876 (2d Cir. 1988), *rev'd*, 89 T.C. 599 (1987), *cert. denied*, 490 U.S. 1030 (1989) held that Association did not qualify as a tax exempt and educational organization. The Association engaged in rating candidates for both appointive and elective judgeships at the municipal, state and federal level. The Association argued that it evaluated judicial candidates on a non-partisan basis. The court stated that, "the statute and pertinent regulations thereunder are not limited in their application to the partisan campaigns of candidates representing recognized parties." The court concluded that "... exemption is lost . . . by participation in *any* political campaign on behalf of *any* candidate for public office." The court held that the Associations practice of rating candidates for elective judicial offices constituted intervention or participation in political campaigns on behalf of candidates for public office that precluded Association from qualifying under § 501(c)(3).

ANALYSIS

Based on our analysis of the information you submitted with your application, we have determined that you are not operated exclusively for the promotion of social welfare within the meaning of § 501(c)(4) and the regulations thereunder. You have not established that your primary activities further social welfare purposes.

Voter Registration Activities

You estimate that fifty percent of your activities is voter registration. Encouraging people to participate in the electoral process through voter registration and get-out-the-vote drives, conducted in a non-partisan manner are permissible under § 501(c)(4); however, if voter registration activities are conducted in a biased manner that favors (or opposes) one or more candidates, the activities will be considered political campaign intervention. See Rev. Rul. 2007-41, supra. This is determined by analyzing all the facts and circumstances. Id.

You are more similar to the organization in Situation 2 of Rev. Rul. 2007-41. Your voter registration drives will be focused on (1) geographic areas generally more supportive of M causes, and (2) unregistered voters on the membership lists of your Affiliates. You have described your Affiliates as "M-oriented." Like the organization in Situation 2, which only urged voters to vote if they agreed with the position of a particular candidate on a certain issue, you will specifically target your voter registration efforts towards individuals that support M causes.

You state the bulk of your voter registration efforts will involve researching specific geographic locations to conduct voter registration activities that favor your political positions. Unlike the organization in Situation 1, which operated a registration booth that made no reference to political parties or candidates, you are purposely seeking to conduct voter registration activities in locations that are more supportive of M causes.

In addition, you will also target your voter registration efforts by assisting your Affiliates, who are M-oriented, in registering members to vote. Accordingly, your voter registration activities are conducted in a biased manner and will be considered political campaign intervention. See Rev. Rul. 2007-41, supra.

Voter Education

You anticipate that approximately 35% of your activities will be voter education activities. You state that you will work to educate voters—both the members of your Affiliates and the general public—regarding important M issues. You indicate that these activities will consist of:

- researching issues important to your Affiliates and providing the organizations with information and insight regarding the positions of public officials on those issues as well as potential legislation affecting those issues
- Assisting your Affiliates with funding the production of flyers or other written materials for dissemination to their members or the general public.
- Conducting research to identify geographic areas likely to be significantly affected by various issues and providing this information to your Affiliates to help them in targeting their education efforts.

You did not provide any information that indicates that your research or educational materials, if any, are disseminated to the public in any way. Unlike the educational organization described in Rev. Rul. 76-456, supra, which collected, collated, and disseminated, on a non-partisan basis, information concerning general campaign practices, through the press, radio, television, mail, and public speeches, you have not provided any information that indicates that you are doing anything other than providing research and other services to your Affiliates.

Since the bulk of these activities are conducted on behalf of and in support of your Affiliates, all private non-profit groups of a "M-orientation" and who mostly are not § 501(c)(3) or § 501(c)(4) organizations, you have not established that these activities are conducted to further a social welfare purpose.

Candidate Endorsements

During election seasons, you will endorse candidates who promote and support M causes. You state that 15% of your activities will be devoted to this activity. Section 1.501(c)(4)-1(a)(2)(ii) provides that the promotion of social welfare does not include direct or indirect participation in political campaigns on behalf of or in opposition to any candidate for public office.

Although you state that such endorsements will be non-partisan because such endorsements may cross party lines, the endorsement of candidates for political office is considered direct participation in a political campaign, regardless of which party the candidate is affiliated with. Therefore, these activities do not promote social welfare within the meaning of § 501(c)(4). See Rev. Rul. 67-71, supra; see also The Association of the Bar of the City of New York v. Commissioner, 858 F.2d at 881.

CONCLUSION

In summary, you have not established that you are primarily engaged in activities that promote social welfare purposes. Accordingly, you do not qualify for exemption as an organization described in § 501(c)(4) 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
SE:T:EO:RA

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,

Karen Schiller
Acting Director, Rulings and Agreements