



**Department of the Treasury
Internal Revenue Service**

P.O. Box 2508
Cincinnati, OH 45201

Release Number: **201605020**
Release Date: 1/29/2016
UIL code: 501.06-01

Date: November 6, 2015

Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:
All

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,

Jeffrey I. Cooper
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: September 16, 2015

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

T = Year

V = Year

W = Name of Employee Benefits Plan

X = Organization Name

Y = Date

Z = State

UIL:

501.06-01

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)(6) 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)(6) of the Code? No, for the reasons described below.

Facts

You (X) were incorporated on Y in the state of Z. Article I of your bylaws states that you were formed for the following purposes:

- 1.1 The X, a cooperative health care purchasing alliance, was organized and operates for the benefit of its community, Participating Plan Organizations or X Members, enrolled Plan employees and their dependents; and,
- 1.2 The X will serve its community, Participating Plan Organization or Plan Members by negotiating, maintaining and renewing Agreements with a variety of health care providers that results in increased access and cost-effective health care for the community, enrolled Plan employees and their dependents; and,

- 1.3 The X, in its Provider Relations and Plan Service/Communication role, will facilitate communication and information exchanges critical to Benefit Plan service between Participating Providers, Participating Plan Organization and its Plan Member's Benefit Plan Administrator; and,
- 1.4 The X intends to remain independent from all outside control and influence, governed exclusively by its Board of Trustees and will maintain a not-for-profit tax status; and
- 1.5 The X will review and recommend modifications for proposed and existing legislation, rules and regulations which affect the Corporation, its community and operation of its Participating Plan organizations; and
- 1.6 The X intends to market its current and future services and make Plan Membership available to prospective Plan Members including but not limited to governments, public employers, private employers, Trusts having as their primary purpose the provision of health care benefits to their beneficiaries, organizations which are tax exempt under Internal Revenue Code 501(c)(9), and W Employee Benefits Plans; and
- 1.7 It is agreed by the Trustees of the X that all duly executed Provider Agreements will permit assignment of the Provider Agreement to the X Member Plans should the X Trustees elect to approve the assignment.
- 1.8 X's work with community providers supports a collective impact approach to align community resources and efforts to effect health care delivery and payment reform improving health care quality, costs and access for patients requiring medical care in our community.

Article IX of your bylaws states, "X shall not have the power or authority to establish, alter, modify or terminate any plan of benefits adopted by any participating member. X's sole function is to collectively bargain on behalf of the members for health care rates and services. X shall have no power or authority to determine eligibility or perform any fiduciary function of any member. Each member reserves all fiduciary power and authority over its own Plan."

You are an alliance of self-funded medical insurance plan employers. You formed in T to address health care payment reform and improve access to care. Employers decided to form to become more involved with the health care providers in their areas to drive positive changes to the health care system. As a result, this group developed an association of self-funded employers that pay a monthly membership fee to become part of your alliance.

In T, you held individual meetings with CEOs from area hospitals to hear the concerns of your membership. Employers also met with third party administrators and benefit brokers/consultants to address lack of transparency in utilization reporting and clearly outlined the outcomes the employers expected to see the next year. At the end of T, you secured seven provider contracts on a cost plus pricing model which is significantly different than the traditional percentage discount off the charges. In V, you need to manage these contracts while expanding your provider contracts. This will take up 20% of your time. You also want to expand your membership in V to span western Z. This will take up 50% of your time. Another 20% of your time is spent on coordination with members' Third Party Administrators and benefit brokers/consultants. This ensures the

contract pricing is applied appropriately and employee plan designs meet the requirements of the provider agreements. The remaining 10% of your time is spent on administrative support for your members and operations which may include fielding members' questions, completing reports and analysis, leading the monthly meetings, and responding to concerns of providers.

Article II of your bylaws describes your membership. A full organizational member is a current Plan Member that participates in X as of the date of execution of the bylaws. Full organizational members also include all new Plan Members that enroll employees for membership in you. Full organizational members are entitled to appoint a Trustee for a two year term as approved by your Board of Trustees. You also have associate members who are self-funded employers interested in staying engaged in the healthcare discussions but not accessing the network or who are fully insured employers interested in staying engaged in the healthcare discussions. Associate members can participate as advisors but they have no voting rights and that will not have access to Network pricing or proprietary information.

Your revenue is from your membership fees. You have two types of membership fees based on access to hospital and ancillary contracts. Upon signing the Participation Agreement, full organizational members will be required to pay a one-time start-up fee as a new Plan Member. Full organizational members will also be required to pay a monthly access fee. This is a per covered employee per month fee for network access and is determined annually by the Board and included in the employer's Participation Agreement.

Law

Section 501(c)(6) of the Internal Revenue Code of 1986 provides exemption from federal income tax for business leagues not organized for profit, and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)-1 of the Income Tax Regulations (regulations) 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. An association engaged in furnishing information to prospective investors to enable them to make sound investments is not a business league since its activities do not further any common business interest even though all of its income is devoted to the purpose stated.

Rev. Rul. 59-391, 1959-2 C.B. 151, describes an organization composed of individuals, firms, associations, and corporations, each representing a different trade, business, occupation, or profession. It was created for the purpose of exchanging information on business prospects and has no common business interest other than a desire to increase sales of members. Therefore, the organization is not entitled to exemption under section 501(c)(6) of the Code because members of the organization have no common business interest other than a mutual desire to increase their individual sales.

Rev. Rul. 59-234, 1959-2 C.B. 149, held that a real estate board whose primary purpose or activities is the operation of a multiple listing system is considered to be rendering particular services for its members and is not exempt from federal income tax as an organization described in section 501(c)(6) of the Code.

Revenue Ruling 74-81, 1974-1 C.B. 135, held that a nonprofit organization formed to promote the business welfare and interests of persons engaged in the contracting trade and related industries and whose principal activity is to provide its members with group workmen's compensation insurance is not entitled to exemption under section 501(c)(6) of the Code.

Application of law

You do not qualify for exemption under section 501(c)(6) of the Code because your activities do not promote a common business interest or improve business conditions of one or more lines of business. Instead, you perform particular services for your members.

No Common Business Interest

Your membership is made up of self-funded medical insurance plan employers. Your associate membership may also include fully insured employers interested in staying engaged in the healthcare discussions. Like the organization in Rev. Rul. 59-391, there is no common business interest among your members other than the mutual desire to address health care payment reform and improve access to care through collectively bargaining for health care rates and services. You do not meet the requirements of section 1.501(c)(6)-1 of the regulations because your members are not from one particular line of business but instead are various employers interested in addressing health care payment reform and improving access to care.

Performance of Services

As stated in your bylaws, your sole function is to collectively bargain on behalf of your members for health care rates and services. You therefore do not meet the requirements of section 1.501(c)(6)-1 of the regulations because you are performing services for your members as opposed to the improvement of business conditions of one or more lines of business.

You are like the organizations in Rev. Rul. 59-234 and Rev. Rul. 74-81 in that you are rendering particular services for your members. Your sole function is to collectively bargain on behalf of your members for health care rates and services. At the end of T, you secured seven provider contracts. You now need to manage these contracts while expanding your provider contracts. You spend time on coordination with members' Third Party Administrators and benefit brokers/consultants to ensure the contract pricing is applied appropriately and employee plan designs meet the requirements of the provider agreements. You also spend time on administrative support for your members and operations which includes fielding members' questions, completing reports and analysis, leading the monthly meetings, and responding to concerns of providers. You provide specific services for your members that would otherwise be necessary for each individual member to conduct on their own or through another entity. For example, you negotiate contracts on behalf of your members, thereby relieving the member from the need to negotiate the contracts on their own. Your activities are therefore not directed at improving business conditions of one or more lines of business, but rather to the promotion of private interests of your members.

Conclusion

Based on the information presented, we conclude that you do not qualify for recognition of exemption from federal income tax as an organization described in section 501(c)(6) of the Code. Your members do not share a common business interest and your activities consist of performing particular services for your members. Therefore, you do not meet the requirements of section 1.501(c)(6)-1 of the regulations because you are not formed for the improvement of business conditions of one or more lines of business.

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*.

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. If you have questions, you can contact the person listed at the top of this letter.

Sincerely,

Jeffrey I. Cooper
Director, Exempt Organizations
Rulings and Agreements

Enclosure:
Publication 892