



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
1100 Commerce Street, MC 4920
Dallas, TX 75242

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: Jul 20 2016

Release Number: 201710034
Release Date: 3/10/2017
UIL Code: 501.04-00

Taxpayer Identification Number:

Tax Period Ended:
June 30, 20XX
Person to Contact:

Identification Number:

Contact Telephone Number:
Telephone Number:
Fax:

CERTIFIED MAIL - Return Receipt Requested

Dear _____ :

This is a final determination that you do not qualify for exemption from Federal income tax under Internal Revenue Code (the "Code") section 501(a) as an organization described in Code section 501(c)(4) for the tax period(s) above. Your exempt status is hereby revoked effective July 1, 20XX.

Our adverse determination as to your exempt status was made for the following reason(s):

An organization exempt under Code section 501(c)(4) must be operated exclusively for the promotion of social welfare. An organization is considered to operate 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 community Treas. Reg. 1.501(c)(4)-1(a)(2)). You primarily benefit your participants and their employees by providing employee health benefits and related administrative services. Therefore, you are not operated exclusively for the promotion of social welfare and you are not an organization described in section 501(c)(4).

If you decide to contest this determination, you may file an action for declaratory judgment under the provisions of section 7428 of the Code in one of the following three venues: 1) United States Tax Court, 2) the United States Court of Federal Claims, or 3) the United States District Court for the District of Columbia. A petition or complaint in one of these three courts must be filed within 90 days from the

date this determination letter was mailed to you. Please contact the clerk of the appropriate court for rules and the appropriate forms for filing petitions for declaratory judgment by referring to the enclosed Publication 892. You may write to the courts at the following addresses:

United States Tax Court
400 Second Street, N.W.
Washington, D.C. 20217

U.S. Court of Federal Claims
717 Madison Place, N.W.
Washington, D.C. 20439

U.S. District Court for the District of Columbia
33 Constitution Ave., N.W.
Washington, D.C. 20001

Processing of income tax returns and assessment of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

You may also be eligible for help from the Taxpayer Advocate Service (TAS). 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 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 1-877-777-4778.

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

Sincerely yours,

Enclosures:
Publication 892
Envelope

Margaret Von Lienen
Director, EO Examinations



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
Exempt Organizations Examinations

Date:
March 18, 2016
Taxpayer Identification Number:

Form:

Tax Year(s) Ended:
June 30, 20XX
Person to Contact/ID Number:

Contact Numbers:
Telephone:
eFax:
Manager's Name/ID Number:

Manager's Contact Number:

Response due date:
April 18, 20XX

Certified Mail – Return Receipt Requested

Dear :

Why you are receiving this letter

We propose to revoke your status as an organization described in section 501(c)(4) of the Internal Revenue Code (Code). Enclosed is our report of examination explaining the proposed action.

What you need to do if you agree

If you agree with our proposal, please sign the enclosed Form 6018, *Consent to Proposed Action – Section 7428*, and return it to the contact person at the address listed above (unless you have already provided us a signed Form 6018). We'll issue a final revocation letter determining that you aren't an organization described in section 501(c)(4).

If we don't hear from you

If you don't respond to this proposal within 30 calendar days from the date of this letter, we'll issue a final revocation letter. Failing to respond to this proposal will adversely impact your legal standing to seek a declaratory judgment because you failed to exhaust your administrative remedies.

Effect of revocation status

If you receive a final revocation letter, you'll not be required to file federal income tax returns for the tax year(s) shown above as well as for subsequent tax years.

What you need to do if you disagree with the proposed revocation

If you disagree with our proposed revocation, you may request a meeting or telephone conference with the supervisor of the IRS contact identified in the heading of this letter. You also

may file a protest with the IRS Appeals office by submitting a written request to the contact person at the address listed above within 30 calendar days from the date of this letter. The Appeals office is independent of the Exempt Organizations division and resolves most disputes informally.

For your protest to be valid, it must contain certain specific information including a statement of the facts, the applicable law, and arguments in support of your position. For specific information needed for a valid protest, please refer to page one of the enclosed Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*, and page six of the enclosed Publication 3498, *The Examination Process*. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process. Please note that Fast Track Mediation referred to in Publication 3498 generally doesn't apply after we issue this letter.

You also may request that we refer this matter for technical advice as explained in Publication 892. Please contact the individual identified on the first page of this letter if you are considering requesting technical advice. If we issue a determination letter to you based on a technical advice memorandum issued by the Exempt Organizations Rulings and Agreements office, no further IRS administrative appeal will be available to you.

Contacting the Taxpayer Advocate Office is a taxpayer right

You have the right to contact the office of the Taxpayer Advocate. Their assistance isn't a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate can't reverse a legally correct tax determination or extend the time you have (fixed by law) to file a petition in a United States court. They can, however, see that a tax matter that hasn't been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate assistance. If you prefer, you may contact your local Taxpayer Advocate at:

Internal Revenue Service
Office of the Taxpayer Advocate

For additional information

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Paul A. Marmolejo
Director, EO Examinations

Enclosures:
Report of Examination
Form 6018
Publication 892
Publication 3498

Form 886-A	EXPLANATION OF ITEMS	Schedule No. or Exhibit Report of Examination
Name of Taxpayer		Year/Period 20XX06

Issue: Is the _____ organized and operating in accordance with Internal Revenue Code (IRC) Section 501(c)(4), the IRC section under which it has self-declared exemption or is the Trust's income excludable from gross income under IRC section 115(1) and has no annual income tax filing requirement under IRC section 6012(a)(4)?

Facts: The _____ was established in an agreement dated July 1, 19XX among the participating school entities for the purpose of purchasing and providing health and medical insurance coverages for the parties through a cost plus plan with aggregate stop loss provisions and to establish a _____ in an effort to contain and limit the cost of such insurance.

The agreement was amended on March 28, 19XX to authorize the Trustees to purchase or provide major medical insurance, dental, vision and/or prescription insurance coverage.

The agreement was amended and restated as of July 1, 20XX. The name of the _____ was changed to the _____ on December 20, 20XX. The _____ has transitioned and evolved from being a purchaser of health and medical insurance to its present state of being self-insured and providing health related benefit plans through an administrative services only contract.

Any school district, intermediate unit or vocational-technical school that is established by the laws of the _____ and provides free public education is eligible to become a Participant in the _____ at the discretion of its Trustees.

The dissolution clause of the _____ effective July 1, 20XX is as follows: "
"

Per the Form 990 for 20XX06 the mission of the _____ is to provide group discounted health insurance through _____ transparency and operating efficiency to _____. For fiscal year 20XX06 the _____ provided health insurance including _____, major medical and other coverages to approximately X,XXX employees in participating school districts.

Law: 1). IRC section 501(c)(4)(A) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

501(c)(4)(B) 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.

Form		Schedule No. or
886-A	EXPLANATION OF ITEMS	Exhibit
		Report of Examination
Name of Taxpayer		Year/Period
		20XX06

Reg. Section 1.501(c)(4)-1(a) Civic organizations

(1) In general. —A civic league or organization may be exempt as an organization described in section 501(c)(4) if:

- (i) It is not organized or operated for profit; and
- (ii) It is operated exclusively for the promotion of social welfare.

(2) Promotion of social welfare

(i) In general. —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. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements. A “social welfare” organization will qualify for exemption as a charitable organization if it falls within the definition of “charitable” set forth in paragraph (d)(2) of §1.501(c)(3)-1 and is not an “action” organization as set forth in paragraph (c)(3) of §1.501(c)(3)-1.

(ii) Political or social activities. —The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. Nor is an organization operated primarily for the promotion of social welfare if its primary activity is operating a social club for the benefit, pleasure, or recreation of its members, or is carrying on a business with the general public in a manner similar to organizations which are operated for profit. See, however, section 501(c)(6) and §1.501(c)(6)-1, relating to business leagues and similar organizations. A social welfare organization that is not, at any time after October 4, 1976, exempt from taxation as an organization described in section 501(c)(3) may qualify under section 501(c)(4) even though it is an “action” organization described in §1.501(c)(3)-1(c)(3)(ii) or (iv), if it otherwise qualifies under this section. For rules relating to an organization that is, after October 4, 1976, exempt from taxation as an organization described in section 501(c)(3), see section 504 and §1.504-1.

(b) Local associations of employees. —Local associations of employees described in section 501(c)(4) are expressly entitled to exemption under section 501(a). As conditions to exemption, it is required (1) that the membership of such an association be limited to the employees of a designated person or persons in a particular municipality, and (2) that the net earnings of the association be devoted exclusively to charitable, educational, or recreational purposes. The word “local” is defined in paragraph (b) of §1.501(c)(12)-1. See paragraph (d)(2) and (3) of §1.501(c)(3)-1 with reference to the meaning of “charitable” and “educational” as used in this section. [Reg. §1.501(c)(4)-1.]

See Revenue Ruling 79-128 1979-1 C.B. 197, Employees’ association; cooperative buying service for members which concluded that a nonprofit organization whose membership is limited to the employees of an employer in a particular municipality and whose primary purpose is to obtain for its members discount prices on merchandise, services, and activities is not exempt as a local association of employees under Section 501(c)(4) of the Code.

Also see Revenue Ruling 75-199 which modified Revenue Ruling 55-495, Mutual sick and death benefits society which concluded that a nonprofit organization that restricts its membership to individuals of good moral character and health belonging to a particular ethnic group residing in a stated geographical area and provides sick benefits to members and death benefits to their beneficiaries is not exempt under Section 501(c)(4) of the Code for tax years

Form 886-A	EXPLANATION OF ITEMS	Schedule No. or Exhibit Report of Examination
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beginning after June 2, 1975; Rev. Rul. 55-495 modified. Rev. Rul. 55-495, 1955-2 C.B. 259, concerns an association whose membership is restricted to individuals who subscribe to a designated religious creed, are of good character and health, and have the ability to earn a livelihood. It holds that an association that provides life, sick, accident, or other benefits to members or their dependents, but does not operate under the lodge system, or for the exclusive benefit of the members of an organization so operating, is not exempt as a fraternal beneficiary society as described in Section 501(c)(8) of the Code. However, it further holds that the association is exempt under Section 501(c)(4). Rev. Rul. 55-495 is hereby modified to remove therefrom the conclusion that the association is exempt under Section 501(c)(4) of the Code. However, the holding in Rev. Rul. 55-495 that the association is not exempt under Section 501(c)(8) remains in effect.

In addition the Tax Court case *New York State Association of Real Estate Boards Group Insurance Fund v. Commissioner* 54 TC 1325 (1970) held that the Petitioner, an insurance trust set up to acquire insurance for members at group rates, is not an organization exempt from Federal income tax under sec. 501(c)(4), I.R.C. 1954.

2.) IRC Section 115 INCOME OF STATES, MUNICIPALITIES, ETC.

Gross income does not include —

115(1) income derived from any public utility or the exercise of any essential governmental function and accruing to a State or any political subdivision thereof, or the District of Columbia;

Rev. Rul. 77-261,, 1977-2 CB 45 holds that income from a fund, established under a written declaration of trust by a State, for the temporary investment of cash balances of the State and its political subdivisions, which purchase units of participation and have an unrestricted right of withdrawal, is excludible from gross income under IRC section 115(1) because such investment constitutes an essential governmental function.

Rev. Rul. 90-74 holds that income of an organization formed, operated, and funded by political subdivisions to pool their casualty risks is excluded from gross income under section 115(l) of the Code. Similarly, the income of an organization formed, operated, and funded by one or more political subdivisions (or by a state and one or more political subdivisions) to pool their risks in lieu of purchasing insurance to cover their public liability, workers' compensation, or employees' health obligations is also excluded under section 115(l) if private interests do not, except for incidental benefits to employees of the participating state and political subdivisions, participate in or benefit from the organization

Reg. Section 301.7701-1 (b) provides that the classification of organizations that are recognized as separate entities is determined under sections 301.7701-2, 301.7701-3, and 301.7701-4 of the Regulations unless a provision of the IRC provides for special treatment of that organization.

Reg. Section 301.7701-4(a) provides that an arrangement will be treated as a trust under the Internal Revenue Code if it can be shown that the purpose of the arrangement is to vest in trustees responsibility for the protection and conservation of property for beneficiaries who cannot share in the discharge of this responsibility and, therefore, are not associates in a joint enterprise for the conduct of business for profit.

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IRC Section 6012(a)(4) provides that every trust having for the taxable year any taxable income, or having gross income of \$600 or over, regardless of the amount of taxable income; shall make returns with respect to income taxes under Subtitle A.

Argument: To qualify for exemption under IRC section 501(c)(4), the organization's net earnings must be devoted primarily to charitable, educational, or recreational purposes. In addition, no part of the organization's net earnings can inure to the benefit of any private shareholder or individual and the organization must be organized and operated on a nonprofit basis.

To establish that an organization is organized primarily to promote social welfare it needs to operate primarily to further (in some way) the common good and general welfare of the people of the community (such as by bringing about civic betterment and social improvements).

An organization that restricts its benefits to employees of membership school districts is primarily benefiting a private group rather than the community. It therefore does not qualify as an IRC section 501(c)(4) organization.

A local association of employees whose membership is limited to employees of a designated person or persons in a particular municipality, and whose income will be devoted exclusively to charitable, educational, or recreational purposes will qualify for exemption under IRC section 501(c)(4).

But a local association of employees that is operated primarily as a cooperative buying service for its members in order to obtain discount prices on merchandise, services, and activities does not qualify for exemption.

The _____ was established for the purpose of purchasing and providing health and medical insurance coverages for the parties and to establish a _____ in an effort to contain and limit the cost of such insurance.

The participants of the _____ are public school districts and the majority of the Trustees are Chief School Administrators. The local school districts are public entities with taxing authority, receiving funding from the state and having oversight from the state and the governing directors are elected from the general public

Instrumentalities of the State are able to provide health and welfare benefits to employees through the Trust. Providing these health and welfare benefits constitutes an essential government function within the meaning of IRC section 115(1). See Revenue Rulings 90-74 and 77-261.

The _____ meets the requirements of Reg. Section 301.7701-4(a) as it provides for trustees to protect and conserve the property of the beneficiary member school district employees who could not share in the discharge this responsibility and are not in a joint enterprise for profit.

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Conclusion: Based on the facts and representations submitted by the Trust it is concluded that:

(1) Since the _____ agreement does not specify that it is organized on a nonprofit basis and the net earnings inure to the benefit of the membership school district employees, the _____ does not meet the qualifications for exemption under IRC section 501(c)(4).

(2) The _____ is an instrumentality of the state and as such its income derives from an essential governmental function and accrues to the instrumentality thereof, its income is excludable from gross income under IRC section 115(1).

The _____ meets the qualifications of a trust under Reg. section 301.7701-4(a). The _____ is not required to file annual income tax returns per IRC section 6012(a)(4) because its income is excludable from gross income under IRC section 115(1).

The _____ is subject to the filing requirements for Form 1099 Miscellaneous and any applicable employment tax reporting.