



**Department of the Treasury
Internal Revenue Service**

P.O. Box 2508
Cincinnati, OH 45201

Release Number: **201716049**
Release Date: 4/21/2017
UIL Code: 501.05-01:

Date: January 25, 2017

Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

Dear _____ :

This letter is our final determination that you don't qualify for tax-exempt status under Section 501(c)(5) 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: November 23, 2016

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

X = State

Y = Date

b dollars = dollar amount

UIL:

501.05-01

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)(5) 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)(5) of the Code? No, for the reasons stated below.

Facts

You were formed in the state of X on Y. According to your Articles of Incorporation, the purpose for which you were formed is the preservation of nature and animals.

You are a membership organization; anybody that wants to join the membership is welcome. The only cost to become an active member is to pay an annual fee of b dollars. There may be a small processing fee to cover administrative costs if there is a claim.

In your application for exemption, you stated that your purpose is to protect your members from significant loss if their deer herd experiences _____. If there are deer losses, the membership will contribute on a pro-rated basis to the organization to limit the loss experienced by the member(s). You state that your goal is not to create a profit for any farmer, but to limit members' losses and prevent great hardship on any one member.

Only breeding farms are covered under your plan; hunting preserves are not. Only deer that are legal and owned by an active member are considered when indemnity is sought.

As members experience deer losses, the membership as a whole is solicited to provide funds to partially reimburse the member for their losses, based on the value of their herd.

There will be an operating committee which will appoint appraisers in various states. The committee will send genetics and production records to five appraisers. The final value of a whole herd or the trace outs will be the average of a minimum of five appraisers. % of the final appraised value would be available to a member through your plan. The herd owner would absorb the remaining loss.

Your regulations advise your members to sell the infected herd to the governing agent and collect indemnity if possible. If that amount is less than the appraised value then the herd owner is eligible to collect the rest from your plan, up to 85% of appraised value. The committee reserves the right to see the inventory records and contact any necessary parties to confirm the positive herd or traceback animals or mandated eradications as deemed necessary.

There will be no collections made from the membership until a positive herd or trace outs are dispersed of. The date used to determine payouts will always be the date that a deer is found to be positive. There will be no coverage for any member not signed in at least 45 days prior to a positive test.

Law

Internal Revenue Code Section 501(c)(5) provides for the exemption from federal income tax of labor, agricultural, or horticultural organizations.

Section 1.501(c)(5)-1(a) of the Income Tax Regulations states that organizations described under Code section 501(c)(5) are those which have no net earnings inuring to the benefit of any member, and have as their objects the betterment of the conditions of persons engaged in the pursuits of labor, agriculture, or horticulture, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occupations.

In Revenue Ruling 70-372, 1970-2 C.B. 118, an organization composed of agricultural producers was formed to process production data for farmers for use in improving the milk production of their dairy herds. Each farmer sent the organization his milk production and test records for each cow in the herd. The sole activity of the organization was to process the records and produce statistical analyses that enabled farmers to make comparisons with standards established by the State college of agriculture. The analyses were sent to each farmer on a fee basis.

The costs of the organization's operations were met solely from the fees charged. The Service held that the organization was not exempt under Section 501(c)(5) of the Code because the processing of production and test records for individual farmers does not better the conditions of those engaged in agricultural pursuits, improve the grade of their products, or develop a higher degree of efficiency in their operations.

Rev. Rul. 74-195, 1974-1 C.B. 135, held that a nonprofit organization formed to manage, graze and sell its members' cattle did not of itself better the conditions of those engaged in agricultural pursuits, improve the grade of their products, or develop a higher degree of efficiency in their operations within the meaning of section 501(c)(5) of the Code. In actual operation the organization provided such supplies, materials, feed and equipment as may be useful or necessary for the handling and breeding of said livestock. The principal purpose of the organization was to provide a direct business service for its members' economic benefit. The organization was denied exemption under section 501(c)(5) of the Code.

Rev. Rul. 77-153, 1977-1 C.B. 147, held that a nonprofit organization that owns and operates a livestock facility and leases it to local members of a nonexempt national association of farmers for use in implementing the association's collective bargaining program with processors does not qualify for exemption as an agricultural organization. The operation and leasing of a facility for collecting, weighing, sorting, grading, and shipping of livestock, the organization's principal activity, is the providing of a business service to those members who make use of the national association's collective bargaining program. This service merely relieves the members of the organization of work they would either have to perform themselves or have performed for them. Such activity does not serve an exempt purpose of an agricultural organization under section 1.501(c)(5)-1 of the Regulations.

Application of law

You do not meet the qualifications under section 1.501(c)(5)-1 of the Income Tax Regulations because your activities are not aimed at the overall betterment of conditions within the farming industry. You operate to aid your members in mitigating their losses. You work with other members to insure losses on member herds. Where members would otherwise have to insure themselves, you are relieving them of this responsibility by providing this service.

You are similar to the organization in Revenue Ruling 70-372. Providing insurance services to members does not serve an exempt purpose under section 1.501(c)(5)-1 of the Income Tax Regulations because your activities are not aimed at the overall betterment of conditions within the farming industry generally. Instead, you specifically benefit your individual members.

You are similar to the organization in Revenue Ruling 74-195. By providing an insurance service, you are not bettering the conditions of those engaged in agricultural pursuits, improving the grade of their products or developing a higher degree of efficiency in their operations. Your principal purpose is to provide a direct business service for your members.

You are similar to the organization in Revenue Ruling 77-153. Insuring member herds is a business service which operates for the benefit of members. This service relieves your members of having to maintain their own insurance. Such activity does not serve an exempt purpose under section 1.501(c)(5)-1 of the Regulations.

Conclusion

Based on the facts above, we concluded you are not operating as an organization described in section 501(c)(5) of the Code. Your operations are not aimed at the overall betterment of conditions, improvement of the grade of products, or the development of a higher degree of efficiency within the farming industry, but provide a direct business service for the benefit of your members. Therefore, we have determined that you do not qualify for exemption under section 501(c)(5) of the Code.

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*.

If you don't file a protest within 30 days, you can't seek a declaratory judgment in court at a later date because the law requires that you use the IRS administrative process first (Section 7428(b)(2) of the Code).

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