



Department of the Treasury  
Internal Revenue Service  
P.O. Box 2508  
Cincinnati, OH 45201

Number: **201731015**  
Release Date: 8/4/2017

Date:  
May 12, 2017  
Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

**UIL: 501.06-00, 501.06-01**

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,

Stephen A. Martin  
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:  
January 4, 2017  
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

**Legend:**

B = State  
C = Date of Formation  
D = Industrial software system  
E = Industry name  
F = Annual Conference  
J = Commercial software 1  
K = Commercial software 2  
L = Commercial software 3  
M = Commercial software 4  
O = Software developer

**UIL:**  
501.06-00  
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 explained below.

**Facts**

You were incorporated under the laws of the State of B on C.

You are a software user group. You currently offer only active membership. Active membership is available to any organization licensed to use any version of the commercially available D. Each member organization is entitled to one vote in elections, polls, and other user group business, as well as multiple login accounts with full access to the site and all resources.

You will provide a forum for peer to peer interaction for managers, estimators, and sales, production and accounting personnel in the E industry. You intend to produce webinars and short videos highlighting areas of interest to the group. A newsletter highlights upcoming webinars and encourages members to interact on the forum. You will also meet as a group yearly at the F.



Discussions are primarily about issues related to D, may also involve other related software such as J, K, L, M, mailing software, shipping software, etc.

75% of the forum interaction is about D

15% would be spread between the other related programs or systems

10% would be time spent on basic business practices or standard operating process outside of the system

You will be purchasing the time of an implementation specialist from the software developer, O.

## Law

IRC 501(c)(6) provides for exemption of business leagues, chambers of commerce, real estate boards, boards of trade, and professional football leagues (whether or not administering a pension fund for football players), which are 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 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.

Rev. Rul. 74-147, 1974-1 C.B. 136. A nonprofit organization, whose members represent diversified business that own, rent, or lease digital computers produced by various manufacturers, organized to improve the efficiency of its members' use of computers, qualifies for exemption under section 501(c)(6) of the Code. The common business interest of the members of the organization is their common business problem concerning the use of digital computers. The primary objective of the organization is to provide a forum for the exchange of information which will lead to the more efficient utilization of computers by its members and other interested users, and thus improve the overall efficiency of the business operations of each.

Revenue Ruling 83-164, 1983-2 C.B. 95. An organization whose members represent diversified businesses that own, rent, or lease computers produced by a single computer manufacturer does not qualify for exemption under IRC 501(c)(6). This organization does not improve conditions in the lines of business from which its members are drawn, but only in the segments of those lines of business which utilize the computers of a single manufacturer. By limiting its activities to these users, the organization helps to provide a competitive advantage to the manufacturer and to its customers at the expense of their competitors that may use other brands of computers. Thus, the organization's activities are not directed towards the improvement of business conditions in one or more lines of business within the meaning of section 1.501(c)(6)-1 of the regulations.

In Guide International Corporation v. United States, 948 F.2d 360 (7th Cir. 1991), the court concluded that an association of computer users did not qualify for exemption under IRC 501(c)(6) because it essentially benefited users of I.B.M. equipment. While Guide's members reflect a wide variety of businesses, Guide only benefited IBM and those individuals within various lines of business who used IBM mainframes. Moreover, the



district court found that Guide primarily advances IBM's interests and that any benefit to its members and other data processing companies who use information prepared by Guide is incidental.

In National Prime Users Group, Inc. v. U.S., 667 F. Supp. 250 (D.C. MD 1987), the court denied a tax exemption to an association whose members consisted of users of computers of a single manufacturer because the association only improved conditions for members in those lines of businesses that used the particular computers. The court found an inherent competitive advantage for the computer manufacturer.

### **Application of law**

You are not a business league as described in IRC 501(c)(6) because you are not organized to improve business conditions of one or more lines of business as defined under this subsection.

You are not as described in Section 1.501(c)(6)-1 of the Income Tax Regulations because your activities are not directed to the improvement of business conditions of one or more lines of business and you are formed to provide particular services to your members.

You are similar to the organization described in Revenue Ruling 83-164. Your membership is restricted to licensed users of a specific software program. Because you limit your activities to users of D, you help to provide a competitive advantage to O and its customers at the expense of O's competitors and their customers that may use other brands of software. You do not improve conditions in the lines of business from which your members are drawn, but only in the segments of those lines of business which utilize D. Thus, your activities are not directed towards the improvement of business conditions in one or more lines of business within the meaning of Section 1.501(c)(6)-1 of the Income Tax Regulations.

You are likewise similar to Guide International Corporation and National Prime Users Group, Inc., since your activities are not directed to improvement of conditions in the E industry as a whole, but benefit only businesses that use D software.

You are distinguishable from the organization in Rev. Rul. 74-147 because your membership does not consist of users of software for use in the E industry other than D, J, K, L, and M, all proprietary programs of O. In consequence, your activities do not improve conditions in that line of business as a whole, but only that segment which uses O's products.

### **Conclusion**

Your activities are not 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. Accordingly, we conclude that you are not exempt under IRC 501(c)(6).

### **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](http://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