



Department of the Treasury

Internal Revenue Service

P.O. Box 2508

Cincinnati, OH 45201

Release Number: **201736026**

Release Date: 9/8/2017

UIL Code: 501.04-00
501.04-01

Date: June 12, 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)(4) 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: March 30, 2017

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

B = Date
C = State
D = City
E = Name
F = Number

UIL:

501.04-00
501.04.01

x dollars= Amount

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

Facts

You were formed on B in the state of C as an unincorporated association. Your purposes in the Constitution are:

1. To maintain and elevate the professional and ethical standards of the educational profession in D;
2. To promote the welfare and the professional growth of your members;
3. To establish and maintain a liaison between other professional organizations with like purposes;
4. To develop a favorable relationship with the public and the elected officials of D;
5. To provide a means for the membership to have a collective influence on the establishment and execution of educational policies within C and D;
6. To keep the membership informed of state and national events and activities that would promote or adversely affect education in C and D in general.

You are a membership organization and your membership consists of certified administrators who are part of the collective bargaining unit of administrators in E. You represent the interests of these administrators in negotiating contract language and salary. Contracts are negotiated every F years.

Currently there are F members each of whom has full voting rights. There is no requirement for an E administrator to join. The administrators represented by you as a collective bargaining group who choose not to join will be assessed a pro-rata portion of the costs of negotiations.

Your members pay annual dues of approximately x dollars generally collected through payroll deductions and are mainly used for contract negotiations including, attorneys' fees, mediation, and arbitration. Dues may also be used to celebrate members' life events such as marriage, births, deaths, illness, retirement, etc.) as well as for periodic social gatherings.

Furthermore, you award an annual scholarship to a graduating senior who plans to pursue a teaching career.

Finally, your board of directors consists of a President, and Secretary Treasurer. Your president's responsibilities include appointing a negotiating team to represent you during collective bargaining negotiations.

Law

Section 501(c)(4) of the Code provides for the exemption from federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare or legal associations of employees, the membership of which is limited to the employees of the designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational or recreational purposes.

Treasury Regulation Section 1.501(c)(4)-1(a)(1) states an organization may be exempt if: (i) it is not operated for profit and (ii) it is operated exclusively for the promoting of social welfare.

Treas. Reg. Section 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. An organization embraced within this section is one, which is operated primarily for the purpose of bringing about civic betterments and social improvements.

Treas. Reg. Section 1.501(c)(4)-1(b) states that to qualify as a local association of employees exempt from tax and is required 1) that the membership of such an organization 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.

Revenue Ruling 66-59, 1966-1 C.B. 142, states that an organization whose purpose is to pay lump-sum retirement benefits to its members or death benefits to their survivors does not qualify as a local association of employees because such disbursements are not devoted to charitable, educational or recreational purposes within the meaning of section 501(c)(4) of the Internal Revenue Code.

Application of law

You are not as described in Section 501(c)(4) of the Code and Treas. Reg. Section 1.501(c)(4)-1(a)(1) because your activities do not primarily promote civic betterment or social welfare. Your activities of negotiating contracts, salaries and benefits for your members do not promote social welfare within the meaning of Section 501(c)(4) of the Code.

Moreover, you do not meet the provisions of Treas. Reg. Section 1.501(c)(4)-1(a)(2)(i). Your activities are devoted to negotiating collective bargaining agreements for your members and nonmembers who pay prorated dues based on the costs of negotiations. Consequently, you are operating primarily for the private benefit of your members and nonmember administrators in E and not for the benefit of the entire community.

You are also not a Local Association of Employees within the meaning of Treas. Reg. Section 1.501(c)(4)-1(b). Your funds are primarily used for negotiations and attorney's fees, mediation and arbitration. This illustrates they are not used for exclusively charitable, educational, or recreational purposes.

You are like the organization described in Revenue Ruling 66-59, in that your disbursements for attorney's fees, mediation and arbitration for negotiating collective bargaining agreements for members and nonmember E administrators who are charged on a prorated basis, are not devoted to charitable, educational or recreational purposes within the meaning of Section 501(c)(4) of the Code.

Conclusion

You are not a local association of employees within the meaning of Section 501(c)(4) of the Code because your net earnings are not devoted to charitable, educational or recreational purposes. You are not operating for social welfare purposes or for the common good of the community in general within the meaning of Section 501(c)(4) because you operate primarily for the benefit of your members. Therefore, you do not qualify for exemption under Section 501(c)(4) 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