



**Department of the Treasury  
Internal Revenue Service**

P.O. Box 2508  
Cincinnati, OH 45201

Release Number: **201736028**  
Release Date: 9/8/2017  
UIL Code: 501.06-00  
501.06-01

Date: JUNE 14, 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)(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: APRIL 21, 2017

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

**Legend:**

B = State Association  
C = National Association  
D = City  
E = Licensed Trademark  
F = Licensed Trademark  
G = State Commission  
X = State  
Y = Date

**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.

**Issue**

Do you qualify for exemption under section 501(c)(6) of the Code? No, for the reasons stated below.

**Facts**

You were incorporated in state X on date Y. According to your Articles of Incorporation, you were formed for the following purposes:

- To unite those engaged in the real estate profession for the purpose of promoting and maintaining high standards of conduct in the profession.

- To promote and maintain high standards of conduct in the real estate profession as expressed in the Code of Ethics of C.
- To provide a unified medium for real estate owners and those engaged in the real estate profession whereby their interests may be safeguarded and advanced.
- To further the interests of home and other real property ownership and provide property rights.
- To unite those engaged in the real estate profession in D area with B and C, thereby furthering their own objectives throughout the State and Nation, and obtaining the benefits and privileges of membership therein.
- To designate, for the benefit of the public, individuals authorized to use the registered trademarks E and F as licensed, prescribed and controlled by C.

Your activities, as provided on the Form 1024 application, are:

- Continuing to unite those engaged in the real estate profession for the purpose of exerting a beneficial influence upon the profession and related interests. You encourage members and the public to participate in elections and community politics to protect private property rights and the dream of homeownership. Your executive and volunteer leaders conduct voter registration drives annually. You also promote advocacy by participating in state and national calls for action.
- Promoting and maintaining high standards in the real estate profession by offering continuing education (CPE) and designation courses. The courses are offered throughout the year and are provided by B, C, and G.
- Hosting frequent meetings of the membership to educate and discuss local issues and updates which affect the real estate industry.
- Providing access to the Multiple Listing Service (MLS) to assist realtor members in offering cooperation and compensation and to assist in the orderly correlation and dissemination of listing information so members can better serve their clients.
- Coordinating and participating in community events to give back to the community such as beach cleanup, collecting donations for charities and nonprofit organizations.
- Providing statistical information and reports as well as providing tips and advice to the public about real estate transactions in your jurisdiction.

You further explain that the MLS is a listing of properties which your member real estate agents are hired to sell. The MLS is a means by which authorized participants make blanket unilateral offers of compensation to other participants (acting as subagents, buyer agents, or in other agency or non-agency capacities defined by law); by which cooperation among participants is enhanced; by which information is accumulated and disseminated to enable authorized participants to prepare appraisals, analyses, and other valuations of real

property for bona fide clients and customers; by which participants engaging in real estate appraisal contribute to common databases; and is a facility for the orderly correlation and dissemination of listing information so participants may better serve their clients and the public. Entitlement to compensation is determined by the cooperating broker's performance as a procuring cause of the sale (or lease).

Your classes of membership are realtor members, institute affiliates, affiliate members, public service members, honorary members, and student members. E members are the only class of membership which has full voting rights and privileges to serve on committees and the board of directors.

You state you estimate the total time and effort for the operation of the MLS to be approximately 20%. The remaining 80% is spent on the overall operation of the association which includes organizing meetings, education courses, financial reporting, volunteer operations, member training and orientations.

Your support comes from monthly dues from the MLS, annual membership dues, fees from CPE courses, and a small amount from unrelated business income. The profit and loss statements included with the application shows income derived from MLS fees were each over 67% of revenues in 20XX, 20XX, and 20XX.

## Law

Section 501(c)(6) of the Code provides for the exemption from federal income tax of business leagues, chambers of commerce, real-estate boards, or boards of trade, 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.

Treasury Regulation § 1.501(c)(6)-1 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.

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

In Rev. Rul. 72-211, 1972-1 C.B. 150, an organization whose principal activity was the operation and maintenance of a plan room that was open for use by all individuals and businesses in the industry, nonmembers as well as members, was not rendering particular services to its members and therefore qualified for exempt status under section 501(c)(6) of the Code. Providing a plan room available to the entire building and construction industry without charge was found to improve the business conditions of that line of business because it made information on construction projects freely available to the construction industry as a whole.

In *Evanston-North Shore Bd. of Realtors v. U.S.*, 320 F.2d 375, (Ct. Cl. 1963), an Illinois not-for profit corporation which operated a multiple listing system not directed to improvement of business conditions in the

real estate market and not merely as an incidental activity of the board of licensed realty brokers and salesmen, was not entitled to exemption from income tax as a real estate board not organized for profit.

### **Application of law**

You are not operated as an organization described in section 501(c)(6) of the Code because your primary activity is providing your members access to the MLS for a fee. This constitutes the performance of particular services for individual members and precludes you from qualifying for exemption under section 501(c)(6) of the Code. See also Treas. Reg. Section 1.501(c)(6)-1.

You are similar to the organization in *Evanston-North Shore Bd. of Realtors* because your primary activity is to provide the medium or channel for your members by rendering Multiple Listing Service to your members. See also Rev. Rul. 59-234.

You are unlike the organization in Rev. Rul. 72-211. You provide a particular service, a Multiple Listing Service, to your members with a fee. Your activities do not improve a line of business conditions as a whole.

Although you state only 10% of your time and efforts are from your MLS activities, your profit and loss statements indicate more than 50% of your revenues are from MLS fees. This is indicative that the operation of the MLS is your primary activity and prohibits exemption under section 501(c)(6).

### **Conclusion**

You are not a business league as described in section 501(c)(6) of the Code and Treas. Reg. Section 1.501(c)(6)-1 because your activities are not directed to improving business conditions of one or more lines of business as defined under this subsection. Rather, you are formed to provide particular services to your members through the operation of your Multiple Listing Service. Accordingly, you are not exempt under section 501(c)(6) 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](http://www.irs.gov/formspubs). If you have questions, you can contact the person listed at the top of this letter.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements

Enclosure:  
Publication 892