

Internal Revenue Service  
Appeals Office  
300 N. Los Angeles Street  
Los Angeles, CA 90012

CERTIFIED

Department of the Treasury

Release Number: **201818017**  
Release Date: 5/4/2018  
Date: February 7, 2018

A

B

Employer Identification Number:

C

Person to Contact:

\*\*\*\*

Employee ID Number: \*\*\*\*

Tel: \*\*\*\*

Fax: \*\*\*\*

UIL Index: 501.06-01

Dear :

We considered your appeal of the adverse action proposed by the Director, Exempt Organizations, Rulings and Agreements. This is our 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 section 501(c) (6) of the Code.

Your principal activity consists of operating a farmers market. You are not a business league described in section 501(c)(6) of the Code because you have not demonstrated that you are an association of persons having a common business interest whose purpose is to promote such common interest. You operate a market where sellers of goods, for a fee payable to you, are provided an opportunity to sell goods to the general public. Your market operation is the performance of particular services for the vendors of the market thereby precluding recognition of you as an organization described in section 501(c)(6).

Organizations that are not exempt under section 501 generally are required to file federal income tax returns and pay tax, where applicable. For further instructions, forms, and information please visit [www.irs.gov](http://www.irs.gov).

We will make this letter and the proposed adverse determination letter available for public inspection under Code section 6110 after deleting certain identifying information. We have provided to you, in a separate mailing, Notice 437, *Notice of Intention to Disclose*. Please review the Notice 437 and the documents attached that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437.

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  
333 Constitution Ave., N.W.  
Washington, D.C. 20001

Processing of income tax returns and assessments of any taxes due will not be delayed if you file a petition for declaratory judgment 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](http://www.taxpayeradvocate.irs.gov) or call 1-877-777-4778.

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

Sincerely yours,

\*\*\*\*

Appeals Team Manager

cc:



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 = Geographic Area

X = Date

Y = State

**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 stated below.

**Facts**

You were incorporated in the state of Y on X. Your Articles of Incorporation state you were formed to make improvements to and promote the B area, to attract visitors and residents increasing the vitality of area businesses and the community, and to make improvements to and promote the B. Improvements and promotion of the B includes the operation of a local farmers market and/or other community related market or service, organizing and supporting volunteers and/or sponsor efforts to make improvements or hold events, making physical improvements or providing services for purposes such as accessibility, pedestrian friendly access, attractions, aesthetics, and convenience to benefit the community, visitors, and local businesses, providing a venue for local musicians and other performers to perform for and interact with the community, and promoting good will and business enterprise.

You state you have no membership aspects. Your Bylaws confirm you have no members.

All of your activities are associated with the ongoing operation of a farmers market at the B. The farmers market benefits the area by attracting visitors to support local businesses, improving the image of the area, supporting a venue for local musicians, increasing the desirability of the area by providing access to artisan products and fresh produce from local farmers, supporting educational opportunities for local schools and day care centers to make field trips to a farmers market, supporting local food banks with donations of excess food, and generation of revenue from vendor fees to support funding area improvements such as artwork donated to the city.

You have a marketing manager who coordinates vendors and farmers market operations. Otherwise, your market relies heavily on volunteers. Volunteers set up cones and signs, direct traffic, count visitors, and manage set up and take down of the market.

You state there are no other currently planned activities. However, you clarified that you are working to improve access to the B with respect to safety, walkability, and biking. You are currently seeking grant funding for these efforts. Revenues earned from the market have also allowed you to pay for physical improvements to the B, like a decorative fence to improve safety.

You are supported by vendor fees and will apply for music grants to reimburse some of the costs associated with supporting musical entertainment at the market. You get no revenue from membership dues. Your expenses include salaries and expenses related to your activities.

### **Law**

Section 501(c)(6) of the Code exempts from federal income tax 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.

Treasury Regulation Section 1.501(c)(6)-1 states, in part: "A business league is an association of persons having some common business interest, the purpose of which is to promote such common interest.... 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."

Revenue Ruling 58-224, 1958-1 C.B. 242 held that an organization which operated a trade show as its sole activity, primarily for the purpose of rendering particular services to individual persons was not entitled to exemption as a business league under Section 501(c)(6) of the Code. The organization's sole activity consisted of staging an annual merchandise show (primarily exhibits by manufacturers), under the sponsorship of the chamber of commerce. The ruling concluded that the activities of the organization substantially served the exhibitors and retailers as a convenience and economy in the conduct of their businesses by providing selling opportunities for the distributors, which was found to be considered rendering particular services for individuals as distinguished from the improvement of business conditions generally.

Revenue Ruling 58-294, 1958-1 C.B. 244 provides that an association of licensed dealers in a certain type of patented product did not qualify as a business league where the association owned the controlling interest in a corporation holding the basic patent, was engaged mainly in furthering the business interests of its member-dealers, and did not benefit people who manufacture competing products of the same type covered by the patent.

Revenue Ruling 59-391, 1959-2 C.B. 151 describes an organization of individuals, firms, associations, and corporations, each representing a different trade, business, occupation, or profession. It was created for the purpose of exchanging information on business prospects and has no common business interest other than a desire to increase sales of members. Held, such an organization is not entitled to exemption from federal income tax as a business league under Section 501(c)(6) of the Internal Revenue Code of 1954.

Revenue Ruling 68-264, 1968-1 C.B. 264 defined a particular service for the purpose of Section 501(c)(6) of the Code as including an activity that serves as a convenience or economy to members of the organization in the operation of their own businesses.

In Revenue Ruling 73-411, 1973-2 C.B. 180 the history of Section 501(c)(6) of the Code was described while discussing the exempt status of a shopping center. In the case of a chamber of commerce or similar organization, the common business interest is usually the general economic welfare of a community. An organization seeking exemption as a chamber of commerce must be one whose efforts are directed at promoting the common economic interests of all commercial enterprises in a given trade community. The ruling also stresses that membership in a Section 501(c)(6) organization is voluntary and open generally to all businesses and professional persons in the community.

The American Automobile Association v. Commissioner of Internal Revenue, 19 T.C. 1146 (1953) held that an organization whose principal activities consist of performing particular services, and securing benefits, for its members, does not qualify for exemption under Section 501(c)(6) of the Code.

### **Application of law**

You do not qualify for exemption under Section 501(c)(6) of the Code because you are not operating as a business league. Your activities are not aimed at the improvement of business conditions of one or more lines of business as required by Treas. Reg. Section 1.501(c)(6)-1. Operating a market for vendors does not improve business conditions of any industry or line of business, but rather serves only as a convenience to those vendors selling at that market.

As defined in Revenue Ruling 73-411, a chamber of commerce's common business interest is the economic welfare of the community. While you have described goals that may provide some benefit to the local economy around the B, such as improving access and pedestrian safety, you otherwise do not bear resemblance to a chamber of commerce or a business league. You have no membership. You are primarily funded by vendor fees. Your primary purpose is the operation of a farmers market, not the promotion of the economic interests of the entire community.

Based on the information submitted, your primary purpose is to provide a sales facility for your members, similar to the organization in Revenue Ruling 58-224. An activity such as this is providing a particular service to individuals. The facility serves as a convenience and economy to anyone who uses the marketplace to sell their products.

Serving your members in this manner provides a convenience and economy in the conduct of their businesses by providing selling opportunities they otherwise would not have. Revenue Ruling 68-264 defines this as providing a particular service. Performing services for individuals constitutes a prohibited activity under Section 501(c)(6) of the Code, thereby precluding you from exemption.

You are like the organization in Revenue Ruling 58-294 in that you were formed to coordinate and operate a farmers market where the sale of products occurs. The sales activities at the market are carried on for profit for the vendors. Like the organization in Revenue Ruling 58-294, you are engaged in furthering the business interests of the vendors instead of focusing on the improvement of one or more lines of business.

Like the organization in Revenue Ruling 59-391, your vendors have no common business interest other than a mutual desire to have a location to increase their individual sales. Your marketplace activities are not directed at the improvement of business conditions of one or more lines of business, but rather to the promotion of the private interests of the vendors at your market. You are operating for the benefit of individual vendors, rather than the common economic interests of all of the commercial enterprises in a given line of business. You are simply providing a convenient place for individuals to market their products for their benefit. As noted in Revenue Ruling 73-411, by providing such service, you are not exempt under Section 501(c)(6) of the Code.

You are like the organization in American Automobile Association v. Commissioner of Internal Revenue. You provide paid management services and volunteers to facilitate the operation of the market. These services aid vendors operations, therefore rendering them particular services.

### **Your position**

You generate revenue to improve and promote the B area and to increase the vitality of area business and community. You are working towards improving access to the B area with respect to safety, walkability, and biking. Your farmers market relies heavily on volunteers and you provide free space in the market to nonprofit organizations.

### **Our response to your position**

The fact that you provide market space to other nonprofit organizations or that your farmers market is staffed in part by volunteers does not change that your operations are not primarily directed at the improvement of business conditions of one or more lines of business. While you do have plans to improve the B area which may promote the economy of businesses near the B, your primary purpose is the operation of a farmers market. Operating the market primarily promotes the private interests of those vendors who rent space at your market, not the economic interests of the community. Therefore, you do not qualify for exemption under Section 501(c)(6) of the Code.

### **Conclusion**

Based on the information provided we conclude that you are not operated as a business league described in Section 501(c)(6) of the Code. You do not improve business conditions along one or more lines of business or of a certain community, but instead you provide services for the convenience of vendors resulting in private economic benefit. Therefore, you do not qualify for exemption under Section 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,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements

Enclosure:  
Publication 892