



**Department of the Treasury
Internal Revenue Service**

P.O. Box 2508
Cincinnati, OH 45201

Date: November 19, 2018

Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

Number: 201907007
Release Date: 2/15/2019

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: September 10, 2018

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

B = Date

C = State

D = Number

UIL:

501.06-00

501.06-01

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)(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 formed on B in C as a Domestic Nonprofit Limited Liability Company. Your Articles of Organization and your Operating Agreement state in part that you are organized exclusively as a business league for the purpose of aiding the independent auto service owner in obtaining competitive supply pricing without commitment quotas and to provide educational instruction to assist in obtaining financial stability.

Your primary activity consists of negotiating with vendors to obtain better supplier pricing for your members so they can compete with large national retail chain companies. You further indicated that your individual members will negotiate favorable pricing with suppliers. In addition, you have one type of membership and potential members must be an auto service repair facility who demonstrate high operating standards and integrity. You currently have D members.

You have already contracted with a specific oil company supplier on behalf of your members. Under the terms of the contract, members who purchase oil from this supplier receive a rebate of x dollars for each gallon of oil purchased. Furthermore, for members that buy oil from this supplier you also receive a rebate for x dollars for each gallon of oil purchased by your members. These funds are then used to pay general administrative expenses, advertising expenses, expenses related to member recruitment and travel to negotiate with suppliers. Any excess revenue received from the vendor rebates will be used to reduce your yearly membership fees and your future marketing expenses.

Your financial information shows that rebates are about % of your projected revenue while membership fees comprise the remainder source of revenue.

In addition, your operating agreement provides for a Management Committee who has the responsibility for managing your operations and consists of four managers who are from each one of your current member businesses. Moreover, all members must be approved unanimously by members of your Management Committee.

You will also have quarterly meetings so that your members can discuss future projects on price negotiations as well as network among themselves to discuss various business needs and concerns. Finally, you characterize yourself as a group purchasing organization for auto repair businesses to negotiate supplier pricing to obtain competitive acquisition costs for members.

Law

Section 501(c)(6) of the Code provides exemption from federal income tax for business leagues 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 defines a business league as an association having a common business interest, whose purpose is to promote the common business interest and not to engage in a regular business of a kind ordinarily carried on for profit. Its activities are directed to the improvement of business conditions of one or more lines of business rather than the performance of particular services for individual persons.

Revenue Ruling 56-65, 1956-1 C.B. 199 describes an organization whose principal activity consists of furnishing particular information and specialized individual service to its individual members engaged in a particular industry, through publications and other means to effect economies in the operation of their individual businesses is performing particular services for individual persons. Such organization, therefore, is not entitled to exemption from Federal income tax under section 501(c)(6) of the Internal Revenue Code of 1954 as a business league even though it performs functions which are of benefit to the particular industry and the public generally.

Revenue Ruling 66-338, 1966-2 C.B. 226 describes an organization that provided business consulting services, electronic management services and low cost office supplies and store fixtures to members of a particular retail trade. It allowed its members to secure supplies, equipment and services more cheaply than if they had to secure them on an individual basis. Its primary purpose was providing services to its members and not improving business conditions in their trade as a whole. In addition, its activities constituted a business of a kind ordinarily carried on for profit.

In Indiana Retail Hardware Assn., Inc. v. United States (1966), 177 Ct. Cl. 288, the Court held that when conducting particular services for members is a substantial activity of an organization, the organization will be precluded from exemption under section 501(c)(6) of the Code.

In Bluetooth SIG Inc. v. U.S., 611 F.3d 617 (9th Cir. 2010), the Court examined an organization that was formed to advance the common business interests of its members in the development and regulation of technical standards for the compatibility and interoperability of wireless products and devices within a wireless personal area network. The organization develops specifications and use applications and promotes consumer awareness

and marketing through its Bluetooth technology and trademark. The Court held that the organization was not a tax-exempt business league under Section 501(c)(6) of the Code because the organization's activities exclusively benefit its members, rather than an entire line of business. The Court noted that it "strains credulity" for the organization to argue that its services indirectly benefit the industry as a whole simply by generating consumer awareness of the availability and reliability of its technology.

Application of Law

You are not described in Section 501(c)(6) of the Code because you are primarily organized and operated to perform particular services for your members. That fact that your Articles of Organization state in part that your purpose is to "aid the independent auto service owner in obtaining competitive supply pricing without commitment quotas" illustrates your members formed you to achieve the common advantage of having pooled resources to obtain favorable terms in contracts regarding supplier pricing. In addition, the fact that you have already negotiated a contract for the benefit of your members and your meetings focus on discussing future projects on price negotiations substantiates this.

You are also not described in Treas. Reg. Section 1.501(c)(6) because you are primarily operated so members can pool their resources to negotiate favorable terms in contracts on their behalf as private, individual companies. In addition, your activities are intended to improve your members negotiating power with potential suppliers so they can compete with large national retail chain companies.

You are similar to the organizations described in Revenue Rulings 56-65 and 66-368. You are operated primarily to negotiate the most favorable terms in contracts for the individual interests of your members rather than negotiate for the improvement of business conditions within the industry. Like these organizations in the revenue rulings, you are performing a particular service to your members rather than directing your activities to the improvement of business conditions of your industry as a whole.

You are similar to the organization in Indiana Retail Hardware Assn. because your primary activity is the performance of services to members. You are providing a convenience and economy to your members in their individual businesses resulting in savings in operating expenses as well as simplifying their operations.

You are similar to the organization described in Bluetooth SIG., Inc. because you were formed to advance the common business interests of your members to negotiate favorable supplier contract pricing. Your activities exclusively benefit your members, rather than an entire line of business. Similar to the organization in Bluetooth SIG, Inc., it would be difficult to argue that your services benefit the industry as a whole because you are negotiating the best terms for supplier pricing for your members so they can compete with the large national chain companies.

Conclusion

Negotiating contracts for better supplier pricing for your members is providing particular services for individual persons and thus does not meet one of the requirements to be exempt under Section 501(c)(6) of the Code. Furthermore, your activities are not directed to the improvement of the business conditions of the line of business of its members as a whole because your activities are aimed only at improving the interest of your individual members. Therefore, you do not meet the requirements for exemption and do not qualify for exemption 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. 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