



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

Number: 202018008
Release Date: 5/1/2020

UIL: 501.06-00, 501.06-01, 501.06-02

Date: February 4, 2020

Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years: All

Dear Applicant:

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: December 3, 2019

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

- B= State
- C= Name
- D= Name
- E= Name
- F= Date
- G= Number

UIL:

- 501.06-00
- 501.06-01
- 501.06-02

- x dollars= Amount
- y dollars= Amount
- z dollars= Amount

Dear :

We considered your application for recognition of exemption from federal income tax under IRC Section 501(a). We determined that you don't qualify for exemption under IRC Section 501(c)(6) of the Code. This letter explains the reasons for our conclusion. Please keep it for your records.

Issues

Do you qualify for exemption under IRC Section 501(c)(6)? No, for the reasons stated below.

Facts

You were incorporated on F under the laws of B. Your Articles of Incorporation state you are established to support healthcare startup companies by helping them develop their clinical concepts into viable business opportunities. Your goal is to support promising companies in the health care industry by providing them access to financial assistance as well as access to clinical advice and clinical study design, including access to pilot studies at affiliated institutions.

You will accomplish your purpose through your membership which is composed of health care professionals including physicians, healthcare entrepreneurs, executives, and others in healthcare dedicated to supporting healthcare startup companies. All members must be accredited investors as defined by the SEC; generally, to be

an accredited investor in the United States, one must have a net worth of at least x dollars, excluding the value of one's primary residence, or have income at least y dollars each year for the last years (or z dollars combined income if married) and have the expectation to make the same amount this year. Members must also have meaningful experiences in life science operations and investing. Your board of directors will select individuals to become members. Furthermore, only members of your board of directors will have the right to vote on organizational matters.

In order to receive assistance from you, interested startup companies must provide you an in-depth business plan with detailed budgets through a link on the C website where applicants enter details on the due diligence worksheet about their company for funding and technical consideration.

To review each startup company's information, you will appoint a screening committee who will consider relevant factors including but not limited to the experience of the entrepreneurial team, the clarity of the entrepreneur's business plan, the market potential and the company's competitive advantages it believes are relevant in its discretion in making a determination on whether to advance an entrepreneur to the members.

The screening committee will then select up to G startup companies to present to the members at a regularly scheduled investment meeting. Questions from each member in regard to the company may be directed to the entrepreneur or the screening committee and each member will determine their interest in investment in a company in their sole and absolute discretion. If a member is interested in pursuing an investment opportunity, they will be responsible for conducting such diligence as they deem appropriate. The exact amount of an investment and the terms of such investments will be determined between the entrepreneur and the individual member making the investment.

You promote your activities on your website. Some phrases on your website include you:

- Bring clinical expertise, connections, knowledge, mentoring, and operational assistance to bold early-state entrepreneurs with game-changing ideas;
- Allow startups to raise smart capital from strategic partners;
- Are actively seeking great healthcare startups to fund;
- Support healthcare innovation by connecting healthcare entrepreneurs with physician investors.

Your website also solicits for potential sponsors and states that "our founding sponsors are D and E." D is the premier banking organization for startups and early stage venture capital firms in the country and E is a venture capital-oriented law firm with a national presence.

You are supported by membership dues. Member volunteers conduct your activities.

Law

IRC Section 501(c)(6) provides exemption from federal income tax for "Business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), 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, “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 the 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.”

Revenue Ruling 56-65, 1956-1 C.B. 199, holds that a local organization whose principal activity consists of furnishing particular information and specialized individual services 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 under Section 501(c)(6) of the Code as a business league even though it performs functions which are of benefit to the particular industry and the public generally.

In Produce Exchange Stock Clearing Association v. Helvering, 71 F.2d 142 (2nd Cir. 1934), the Second Circuit held that there was no reason apparent for granting exemption as a business league to a clearing house association that served each member as a convenience or economy in his business by providing facilities for dealings in securities and commodities. The court found that nothing was being done by the organization to advance the interests of the community or to improve the standards or conditions of a particular trade, and that the purpose of the organization was to provide a business economy or convenience for individual traders. In denying the exemption under section 103 of the Revenue Act of 1928 (predecessor statute to Section 501(c)(6) of the Code), the court explained that merely serving as a convenience to members is not a characteristic shared by the entities listed in the statute.

In MIB, Inc. v. Commissioner of Internal Revenue, 734 F.2d 71 (1986), an organization whose membership consisted of insurance companies was denied exemption as a business league under IRC Section 501(c)(6) of the Internal Revenue Code. The principal activity carried on by MIB was the maintenance and operation of a computerized system for compiling, storing and distributing information about applicants for life insurance. MIB argued that its activities created a deterrent to fraud which created benefits to the industry through reduced investigation expenses and reduced losses due to misclassification of applicants. The Court held MIB’s activities by their nature consisted of rendering particular services for individual member companies and served to benefit the individual members’ businesses. The Court also stated that even though the services produced various indirect and intangible benefits for the industry as a whole, the fact remained that the rendered services were in form and substance particular services for individual member companies.

Application of law

You are not described in IRC Section 501(c)(6) and in Treas. Reg. Section 1.501(c)(6). The main focus of your activities is to provide lucrative business opportunities in health care startups for individual members. For example, startup companies apply for funding through your website. You have a screening committee who will choose up to G startup companies to present to your members at your investment meetings. The members will decide if they wish to invest in these companies. These facts indicate you are not primarily operating to promote the common business interests of a particular industry or trade, but rather you are operated for the economic benefit of your individual members.

You are like the organization described in Rev. Rul. 56-65. You are providing specialized services to members who are accredited investors in order to help them find lucrative investments. Even the business services you provide to startup companies have the goal of helping your members maximize their individual investments. This precludes exemption under IRC Section 501(c)(6).

You are like the organization in Produce Exchange Stock Clearing Association v. Helvering. You are not primarily advancing the interests of the community or improving the standards of a particular trade, but rather you are providing services to members for their economic convenience. These include conducting screening activities on potential companies that members may invest in as well as providing a forum for these startup businesses and members to meet. Therefore, you do not meet IRC Section 501(c)(6).

You are also similar to the organization described in MIB, Inc. v. Commissioner of Internal Revenue, 734 F.2d 71 (1986). You believe that promoting investment in health care startups will benefit society as a whole. Like the organization in the court case, the fact that society may receive some benefits does not negate the fact that in form and substance, your activities constitute particular services to your members.

Your position

You stated that you are an association of persons who have a common interest of guiding, advising, and mentoring healthcare startups. The purpose of the quarterly meetings is to review companies and provide strategic guidance that can promote company development, guide the company on fundraising, and ultimately improve the healthcare industry by providing startups with the tools to come to market. You also indicated your membership is voluntary and open to members of the healthcare profession with an emphasis on physicians and that dues will only be charged to sufficiently cover operating expenses.

You also emphasize that no net earnings will inure to the benefit of any individual in your organization. You further state that your activities, which will take place by your non-paid volunteer members, will lead to the improvement of business conditions for startups and that such guidance, advice and mentoring will help to improve the odds of success, given that the majority of startups will fail in the first two years of business.

Our response to your position

You failed to provide any additional information from which it can be concluded that your activities primarily advance a purpose described in IRC Section 501(c)(6). Furthermore, you did not substantiate how your activities are directed to the improvement of business conditions within the meaning of Section 501(c)(6). You are operating for the economic benefit of individual members as explained previously and do not qualify under Section 501(c)(6).

Conclusion

Based on the facts presented above, we conclude that you do not meet the requirements for tax exemption under IRC Section 501(c)(6). Your activities are not directed to the improvement of business conditions of one or more lines of businesses. Rather, your activities consist of rendering particular services to members for their economic benefit. Therefore, exemption under Section 501(c)(6) is denied.

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.

If you don't agree

You have a right to protest if you don't agree with our proposed adverse determination. To do so, send us a protest within 30 days of the date of this letter. You must include:

- Your name, address, employer identification number (EIN), and a daytime phone number
- A statement of the facts, law, and arguments supporting your position
- A statement indicating whether you are requesting an Appeals Office conference
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization or your authorized representative
- The following declaration:

For an officer, director, trustee, or other official who is authorized to sign for the organization:

Under penalties of perjury, I declare that I have examined this request, or this modification to the request, including accompanying documents, and to the best of my knowledge and belief, the request or the modification contains all relevant facts relating to the request, 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 they haven'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 gave us a basis to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't given us a basis for reconsideration, we'll send your case to the Appeals Office and notify you. You can find more information 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 later because the law requires that you use the IRC administrative process first (IRC Section 7428(b)(2)).

Where to send your protest

Send your protest, Form 2848, if applicable, and any supporting documents to the applicable address:

U.S. mail:

Internal Revenue Service
EO Determinations Quality Assurance
Mail Stop 6403
P.O. Box 2508
Cincinnati, OH 45201

Street address for delivery service:

Internal Revenue Service
EO Determinations Quality Assurance
550 Main Street, Mail Stop 6403
Cincinnati, OH 45202

You can also fax your protest 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 they received it.

You can get the forms and publications mentioned in this letter by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676). If you have questions, you can contact the person listed at the top of this letter.

Contacting the Taxpayer Advocate Service

The Taxpayer Advocate Service (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 if 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 or call 877-777-4778.

We sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements