



**Department of the Treasury
Internal Revenue Service**

P.O. Box 2508
Cincinnati, OH 45201

Number: **202023008**
Release Date: 6/05/2020

UIL Number: 501.04-00, 501.04-06

Date: March 12, 2020

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: January 6, 2020

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

B= State
C= Date
D= Location
E= Organization
F= Numbers

UIL:

501.04-00
501.04-06

x dollars= Amount
y 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). We determined that you don't qualify for exemption under IRC Section 501(c)(4). 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)(4)? No, for the reasons stated below.

Facts

You initially applied for exemption as a social club under IRC Section 501(c)(7). You subsequently withdrew your application under Section 501(c)(7) and applied under Section 501(c)(4).

You were incorporated in the state of B on C. Your stated purpose in your Articles of Incorporation is to provide umpire services to baseball and softball programs in D and the surrounding counties.

You accomplish your purpose by negotiating fees and contracting on behalf of your members with baseball and softball leagues ranging from instructional leagues to the high school level of play as well as to recreational leagues in D. Members consist of certified baseball and/or softball umpires. There are numerous categories of membership depending on the level of the members' certification. In addition, all members must:

- Be at least 18 years of age;
- Provide their status prior to the beginning of the next season;
- Must observe your rules and regulations and those of E;
- Attend all required classes or meetings;
- Pass and maintain all required certifications;
- Pay annual dues of x dollars to the Treasurer before receiving a schedule;
- Complete any background investigations and fingerprinting required by B;
- Have liability insurance coverage for umpiring.

Specifically, you assign your certified member umpires to officiate games and then collect payments from the leagues on behalf of your members and then distribute the payments to your member umpires for their services. Then at the end of the year, you issue the Form 1099 to those who earned more than y dollars.

You are governed by a board of directors that has in the range of F members. Your officers consist of the president, two vice presidents, the secretary and the treasurer. To hold one of these offices, an individual must be a member in good standing for at least five years. You also have numerous committees whose members are appointed by the President. For example, you have an Ethics Committee which investigates all grievances and complaints, and an Evaluation Committee, which consists of your most experienced members who evaluate all levels of officials. In addition, the president selects an assignor from among your members, who is responsible for assigning qualified umpires to appropriate games. The assignor is usually paid as an independent contractor and is issued a Form 1099 for performing these services.

Your primary source of revenue is contract fees from the various baseball and softball leagues while your primary expenses are fees to umpires for services rendered. You receive a small percentage of revenue from membership dues.

Law

IRC Section 501(c)(4) 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.

Treasury Regulation Section 1.501(c)(4)-1(a)(1) states a civic league or organization may be exempt as an organization described in IRC Section 501(c)(4) if it is not organized or operated for profit and it is operated exclusively for the promotion 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 that is operated primarily for the purpose of bringing about civic betterments and social improvements.

Revenue Ruling 69-384, 1969-2 C.B. 122, provided that a nonprofit organization created for the primary purpose of maintaining an amateur baseball association and conducting amateur baseball games among its members' teams is exempt under IRC Section 501(c)(4). The Service ruled that, by helping to develop good sportsmanship, high character, and the physical well-being of young adults through the operation of an amateur baseball league, the organization was promoting the common good and general welfare of the people of the community.

Rev. Rul. 70-4, 1970-1 C.B. 126, describes an organization engaged in promoting and regulating a sport for amateurs which was found to be exempt under Section 501(c)(4). The organization's primary activities were directed toward reviving and promoting a sport by circulating printed material about the sport, by conducting exhibitions to introduce the sport to the public, by conducting tournaments, and by giving occasional instructive clinics. The organization also set the standards for the equipment to be used, established the official rules of the games, and prescribed the official size of the playing area. By promoting and regulating a sport for amateurs, the Service ruled that the organization is providing wholesome activity and entertainment for the social improvement and welfare of the community, which promoted the common good and general welfare of the people of the community.

Rev. Rul. 78-132, 1978-1 C.B. 157, found a community cooperative organization formed to facilitate the exchange of personal services among members was operating primarily for the private benefit of its members and was not exempt from tax as a social welfare organization under IRC Section 501(c)(4). The fact that payments for services were made in kind and did not involve a monetary exchange did not derogate from the economic benefits accruing to members. Any benefits to the community were not sufficient to meet the requirement of the regulations that the organization be operated primarily for the common good and general welfare of the people of the community. Accordingly, this organization is not exempt from federal income tax as a social welfare organization under Section 501(c)(4).

In Commissioner v. Lake Forest, Inc., 305 F.2d 814 (4th Cir. 1962), a corporation was organized by World War II veterans for the purpose of purchasing a government housing project and converting it to cooperative, nonprofit housing for its members. Individuals became members in the corporation by purchasing an apartment unit and, as such, the number of members was limited to the number of units available. The court held that the organization was not described in IRC Section 501(c)(4) because it was "a public-spirited but privately-devoted endeavor" that provided only incidental benefit to the community. The organization did not promote social welfare because it furnished housing only to a certain group of individuals, rather than on a community basis, and did not offer a service or program for the direct betterment or improvement of the community as a whole.

In New York State Association of Real Estate Boards Group Insurance Fund v. Commissioner, 54 T.C. 1325 (1970), an association organized by a small group interested in obtaining group insurance did not qualify for exemption because it offered its benefits to only a limited class of its members and their employees. Where the primary benefit from an organization is limited to that organization's members, and not provided to the community as a whole, the organization is not operated primarily for the social welfare.

In Contracting Plumbers Cooperative Restoration Corp. v. United States, 488 F.2d 684 (2d Cir. 1973), cert. denied, 419 U.S. 827 (1974), plumbers working in New York City were responsible for the cuts they made in the city streets. Prior to the organization's existence, the city had repaired the cuts and billed the plumbers individually in what proved to be a highly inefficient system. The organization was formed to restore the city streets. It only repaired cuts made by its members. The joint effort of the plumbers reduced their liability and their expenses, and more efficiently repaired the city streets. While the court found that the program provided substantial benefits to the public, it concluded that the organization primarily served the private economic interests of its members and, thus, could not be considered exempt under IRC Section 501(c)(4).

Application of law

You are not as described in IRC Section 501(c)(4) and Treas. Reg. Section 1.501(c)(4)-1(a)(1) because your activities do not primarily promote civic betterment or social welfare; you are primarily operating for the convenience and the benefit of your member umpires.

Moreover, you do not meet the provisions of Treas. Reg. Section 1.501(c)(4)-1(a)(2)(i). For example, you are:

- Negotiating contracts with various baseball and softball leagues to provide them umpiring services as well as specifying agreed upon hourly wages for the type of games being played;
- Scheduling appropriate games for the member umpires depending on their level of certification;
- Collecting payment for them;
- Turning the payment over to them.

This illustrates you are primarily providing employment services for your members and consequently you do not primarily operate to promote civic betterment or social welfare within the meaning of IRC Section 501(c)(4) but you are operating for the benefit of your member umpires.

You are dissimilar to the organizations described in Rev. Rul. 69-384 and Rev. Rul. 70-4 that qualified under IRC Section 501(c)(4) because you are not promoting and regulating a sport for amateurs. Rather, your primary function is securing and arranging employment for your member umpires.

You are similar to the organization described in Rev. Rul. 78-132, which found that an organization formed to facilitate the exchange of services among members was operating primarily for the benefit of the members and not for the general welfare of the community. You facilitate the employment of your members and then act as a pass-through for the payment of their services. In the ruling, the fact that the payments for services were made in-kind and did not involve the exchange of money did not detract from the economic benefits accruing to members. In your case, there is a monetary exchange for services which emphasizes the fact that you operate primarily to provide economic benefit to your members. As noted in Commissioner v. Forest Lake, Inc., operating an enterprise which only incidentally benefits the whole community, precludes exemption under IRC Section 501(c)(4).

You are like the organizations described in New York State Association of Real Estate Boards Group Insurance Fund and Contracting Plumbers Cooperative Restoration Corp. because, while you may provide some benefits to the public, you primarily serve the private economic interests of your members. Therefore, you are not operated primarily for social welfare purposes within the meaning of IRC Section 501(c)(4).

Conclusion

Based on the information provided we conclude that you are not primarily operated as described in IRC Section 501(c)(4). Your activities are a convenience to your member umpires as well as serve to economically benefit them. Therefore, you are not operated for the common good and general welfare of the community within the meaning of Section 501(c)(4). Accordingly, you do not qualify for recognition of exemption under Section 501(c)(4).

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