



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
PO Box 2508
Cincinnati, OH 45201

Date:
September 29, 2020
Employer ID number:

Form you must file:

Tax years:

Person to contact:

Name:
ID number:
Telephone:

Number: **202052040**
Release Date: 12/24/2020

UIL: 501.00-00, 501.06-00, 501.06-01

Dear _____ :

This letter is our final determination that you don't qualify for exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a) as an organization described in IRC Section 501(c)(6). 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 the federal income tax forms for the tax years shown above within **30 days** from the date of this letter unless you request an extension of time to file. For further instructions, forms, and information, visit www.irs.gov.

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection after deleting certain identifying information, as required by IRC Section 6110. 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 call the contact person shown above. If you have questions about your federal income tax status and responsibilities, call our customer service

number at 800-829-1040 (TTY 800-829-4933 for deaf or hard of hearing) or customer service for businesses at 800-829-4933.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosures:
Notice 437
Redacted Letter 4034
Redacted Letter 4038



**Department of the Treasury
Internal Revenue Service**

P.O. Box 2508
Cincinnati, OH 45201

Date:
July 23, 2020
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

B = Date
C = State
D = Name

UIL:

501.00-00
501.06-00
501.06-01

Dear _____ :

We considered your application for recognition of exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a). We determined that you don't qualify for exemption under IRC Section 501(c)(6). 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 B in the State of C. Your stated purpose in your Articles of Incorporation is be a plaza owners association. Your specific purposes, in pertinent part and as described in your Bylaws, include:

- provide for maintenance and preservation of the D Plaza, a common interest development
- promote, foster, and advance the common interests of owners of parcels within the D Plaza
- manage, maintain, repair and improve the common areas within the D Plaza and to perform services and functions for or related to the D Plaza, as provided in the Declaration
- enforce covenants, restrictions, conditions, and equitable servitudes affecting the D Plaza
- make and enforce rules and regulations with respect to the interpretation and implementation of the Declaration and the use of any property within the D Plaza, and
- establish and maintain the D as property of the highest quality and value, and to enhance and protect its desirability and attractiveness.

To be a member, one must own land in the development. Every person, upon becoming an owner, automatically becomes a member of you. Voting rights are determined by parcel percentage of total land.

You described your activities as holding an annual members' meeting and board meetings. Your annual meeting will be used to inform members of the recent and planned developments in the D Plaza. Updates will be provided regarding any expenses incurred by you and what each member's proportion will be. You will hold board meetings every months, or more often if needed. Going forward, the purpose of your board meetings will be to discuss the recent and planned developments in the D Plaza and plan for the annual members meeting.

You hired a management company to maintain your financial and insurance records, prepare a yearly budget, serve as liaison for any legal and accounting matters, send out annual meeting notices and record the minutes, and calculate/collect each member's proportion of the property taxes and any other assessments.

The members pay their proportion of the property taxes owed. You recently received a one-time easement from the local water and sanitation district. The proceeds were used to satisfy liens that were placed on the detention ponds in the D Plaza due to nonpayment of previous years property taxes as well as attorney fees.

The expenses of establishing an active "Landowners Association," setting up a banking account with a reserve for future expenses and then the balance was dispersed among the Landowners (your members) based on the appropriate ownership proportion.

Other than the one-time receipt from the local water and sanitation district, you are funded by gross dues and assessments of members. Your expenses are those attributable to activities related to your purposes, such as maintaining, managing, and improving the common areas of the D Plaza.

Law

IRC Section 501(c)(6) exempts 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 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. 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 59-391, 1959-2 C.B. 151, stated that an organization is composed 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 IRC Section 501(c)(6).

Rev. Rul. 73-411, 1973-2 C.B. 180, held a shopping center merchants' association whose membership is restricted to and required of the tenants of a one-owner shopping center and their common lessor, and whose activities are directed to promoting the general business interests of its members, does not qualify as a business league or chamber of commerce under IRC Section 501(c)(6). The organization's activities were not directed at improvement of business conditions of one or more lines of business or business conditions of any community as a whole, within the meaning of Section 501(c)(6). They serve instead the individual business interests of the owner of the shopping center and, therefore, fall outside the scope of the exemption of Section 501(c)(6). The

same conclusion applies with respect to those phases of the organization's activities that relate to such matters as the maintenance and policing of the shopping areas, walkways and parking areas, hours of business, and similar functions. These activities are characteristic of a tenants' association, rather than of a chamber of commerce or trade association and fall short of supporting any Section 501(c)(6) exemption for the organization because they primarily serve special interests of the members related to their status as tenants of a common facility rather than any common business purposes in relation to the status of the members as representatives of the commercial interests of a community.

In American Automobile Association v. Commissioner, 19 T.C. 1146 (1953), the court denied exemption as a business league. The organization was open to individual motorists without regard to business interests. Since there was no common business interest among its members, the organization could not have as its purpose the furtherance of the common business interest of all its members. Therefore, the organization does not meet the membership and purpose requirements for IRC Section 501(c)(6).

In Indiana Retail Hardware Assn., Inc. v. United States, 366 F.2d 998 (1966), 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 IRC Section 501(c)(6).

Application of law

You are not described in IRC Section 501(c)(6) because your activities are not those of a business league, chamber of commerce, or real-estate board. Representing the interests of your members as it relates to the governance of a Plaza, are not the activities of a business league, chamber of commerce, or real-estate board.

You do not meet the requirements of Treas. Reg. Section 1.501(c)(6)-1 because your members do not share and promote a common business interest. Your activities consist of providing services to members as opposed to improving the business conditions of one or more lines of business.

You are similar to the organization described in Rev. Rul. 59-391 since your members do not share a common business interest. Membership consists of owners of businesses located in a particular plaza who have common location of business, but not a common business interest.

Like the organizations described in Rev. Rul. 73-411 and Indiana Retail Hardware Assn. Inc., your activities do not improve the business conditions of one or more lines of business or business conditions of any community as a whole. Instead, you serve the private interests of your members. Your activities are characteristic of a tenants' association, rather than of a chamber of commerce or trade association and fall short of supporting any claim of exemption under IRC Section 501(c)(6).

You are also similar to the organization in American Automobile Association because your membership is open to any property owner in D Plaza without regard to their business interests. Therefore, you cannot be characterized as fostering the improvement of business conditions and practices generally in an industry.

Conclusion

Based on the information provided, you do not qualify for exemption under IRC Section 501(c)(6). You were formed to provide services to your members, and your activities are not in furtherance of a common business interest. Therefore, you do not qualify for exemption under Section 501(c)(6).

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.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements