



Department of the Treasury Internal
Revenue Service
Tax Exempt and Government Entities
PO Box 2508
Cincinnati, OH 4520

Date:
03/07/2024
Employer ID number:

Person to contact:

Release Number: 202422011
Release Date: 5/31/2024
UIL Code: 501.06-00

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 Letter 437, Notice of Intention to Disclose - Rulings, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Letter 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:
Letter 437
Redacted Letter 4034
Letter 4038



Department of the Treasury
Internal Revenue Service
PO Box 2508
Cincinnati, OH 45201

Date: 12/27/2023

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

B = State

C = Date

D = noun

E = Name

UIL:

501.06-00

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 in B on C. Your Articles of Incorporation (AOI) state you are formed to exclusively represent and promote the common business interests of and improve business conditions among members of the D industry using E software. Furthermore, your AOI state your specific mission and activities will be a resource for any organization using E software and to maximize your members' use of E software through knowledge sharing, collaboration, training, and events. Events are held monthly and annually in conjunction with third party software providers where you can further your mission.

Your goal, along with the help of the software developer, is to drive improvements and efficiencies in the D industry by promoting a single product, E software. You encourage member networking so that members will better learn how to use the best practices and training that E software offers. You create and publish newsletters about E software to report changes, new functionalities, and aid in determining future enhancements and customizations to it. You work with outside vendors to entice them to provide group discounts to your members. You limit your membership to only those in the D industry who currently use and license E software.

You have one class of members who currently have no voting rights, and no one is required to join. You have officers, and they will be appointed by your board of directors. The officers shall consist of a president, a secretary, and a treasurer. You may also have a chairperson, a vice president, and any other offices the board

deems appropriate. The president shall be a voting member of the board. The same person may hold one or more offices at the same time, but the same person can only verify an instrument in one office capacity.

Your financial statement shows approximately two thirds of your revenue comes from membership fees, and approximately one third of your revenue comes from annual conference registrations. You pay no salaries to officers, directors, and trustees nor employee salaries and wages. You have expenses for professional fees and program fees.

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 they administer 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. 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 a particular service for individual persons. An organization, whose purpose is to engage in a regular business of any 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 74-147, 1974-1 C.B. 136, held that an organization formed to stimulate the development of with free interchange of information pertaining to, systems and programming of electronic data processing equipment whose membership was made up of representatives of diversified businesses who owned, rented, or leased one or more digital computers, produced by various manufacturers, without regard to identity of the manufacturer of any such computer, and invited nonmembers to attend conferences and join as members, and did not provide counseling or other services to its members with respect to specific individual problems qualifies for exemption under IRC Section 501(c)(6).

Rev. Rul. 83-164, 1983-2 C.B. 95, held that an organization whose primary activity was promoting the common business interests of users of one particular brand of computers, did not qualify for exemption from federal income tax as a business league under IRC Section 501(c)(6) because it was found to have served only a segment of a line, instead of one or more lines of business, at the expense of others in the industry.

In National Muffler Dealers Association Inc. v. United States, 440 U.S. 472, 99 S. Ct. 1304, 59 L. Ed. 2d 519 (1979), the United States Supreme Court held that an organization of muffler dealers franchised by Midas International Corporation did not qualify for exemption from federal income tax as a business league under IRC Section 501(c)(6) because the organization's purpose was too narrow to satisfy the line of business test of Treas. Reg. Section 1.501(c)(6)-1. The Court concluded that the line of business limitation of Treas. Reg. Section 1.501(c)(6)-1 is well grounded in the origin of Section 501(c)(6) and in its enforcement over a long period of time. The Court further concluded that exemption under Section 501(c)(6) is not available to aid one group in competition with another within an industry.

In Engineers Club of San Francisco v. United States, 791 F.2d 686 (9th Cir.1986), the Ninth Circuit Court of Appeals held that in order to qualify for a business league classification, each and every requirement of Treas. Reg. Section 1.501(c)(6)-1 must be met. Treas. Reg. Section 1.501(c)(6)-1 requires a business league to be an association (1) of persons having a common business interest; (2) whose purpose is to promote the common business interest; (3) not organized for profit; (4) that does not engage in a business ordinarily conducted for profit; (5) whose activities are 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; (6) of the same general class as a chamber of commerce or a board of trade.

In Bluetooth SIG Inc. v. United States, 611 F.3d 617 (9th Cir. 2010), the Ninth Circuit Court of Appeals held that an association that owned and marketed a wireless networking protocol and trademark was not exempt under IRC Section 501(c)(6). Its primary purpose is to promote a single brand of technology rather than to improve business conditions in one or more lines of business.

Application of law

You are not described in IRC Section 501(c)(6) because you do not meet each and every requirement of Treas. Reg. Section 1.501(c)(6)-1 as described in Engineers Club of San Francisco. Specifically, you are not an association (1) of persons having a common business interest; (2) whose purpose is to promote the common business interest; (5) whose activities are 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.

You are not an association of persons having a common business interest because your membership is only open to those in the D industry who license and currently use E software. Your purpose is not to promote the common business interests of one or more lines of business because your activities are directed to the improvement of only a segment of a line of business. You only promote the business interests of those in the D industry who license and currently use E software. Thus, you promote the private interests of your members instead of the common business interests of the D industry. Moreover, you aid one group in competition with another within an industry. For these reasons, you are like the organizations described in Rev. Rul. 83-164 and National Muffler Dealers Association Inc.

You are like the organization described in Bluetooth SIG Inc because your primary purpose is to promote a single brand of technology (E software) rather than to improve business conditions in one or more lines of business.

You are not like the organization described in Rev. Rul. 74-147 because you limit yourself to one specific product, E software. Your activities and membership are limited to D businesses who license and currently use E software.

Conclusion

You are not an association of persons having a common business interest whose purpose is to promote the common business interest. Moreover, you do not direct your activities to the improvement of business conditions of one or more lines of business, rather you direct your activities to the improvement of only a segment of a line of business. Since you do not satisfy all the requirements of Treas. Reg. Section 1.501(c)(6)-1, you do not qualify for exemption under IRC 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 Determination 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
PO 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