



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities

Date:
04/25/2024
Employer ID number:

Person to contact:

Release Number: 202429016
Release Date: 7/19/2024
UIL Code: 501.06-00,
501.06-01, 501.32-00

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

Date: 02/26/2024

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

B = Date

C = State

D = Year

e = percentage amount

f = percentage amount

g = percentage amount

h = percentage amount

j = percentage amount

UIL:

501.06-00

501.06-01

501.32-00

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 on B, in the state of C. You subsequently amended your articles in D.

Your amended articles state that you are organized for improving farming industry conditions within your region. Your amended articles also state that you are devoted to the expansion of local farm products, locally produced products, and other items. Both your original articles and amended articles state that you are organized to facilitate the sale of goods to the general public. You state your mission is to develop connections between producers and consumers.

You rent space to local farmers and producers who wish to sell their products to the general public, which you refer to as "vendors," your only class of membership.

Letter 4034 (Rev. 01-2021)

Catalog Number 47628K

You spend your time as follows:

- Direct-to-consumer marketing.....e percent
- Wholesale markets/wholesale contracting.... f percent
- Marketing efforts.....g percent
- Community education efforts.....h percent

Your direct-to-consumer marketing involves providing space for your members to display and sell products for purchase by the general public. Wholesale markets supply local foods to a broader population, thereby reaching a broader audience, boosting the business prospects of local food producers, and increasing demand for the industry. Wholesale markets and wholesale contracting provide increased opportunities for sales and business growth to your members by developing relationships with local wholesale buyers to purchase a wider variety of products each member individually would not be able to offer. Wholesale marketing involves selling to restaurants, grocery stores, and other institutions. You enhance business prospects of local producers by educating consumers about local food and artisanal production and consumption. You host a diverse range of organizations that offer educational materials, including diabetes experts, nutritionists, dietitians, veteran service groups, and youth organizations. You provide customers with recipes, tips, and education to help them use and enjoy the local foods.

You perform a number of services for your members which reduces the need for them to do them individually, such as organizing marketing activities to attract customers, providing temperature-controlled food-storage, applying for grants, developing programs, hosting events, and sharing information to and from various community organizations. You collaborate with community organizations to expand opportunities for producers and local food customers, such as accepting vouchers, tokens, and online sales. Further, your wholesale market provides increased opportunities for sales and business growth to your members. Your community education efforts encourage other non-profit organizations which align with your activities. The majority of your time, j percent, totaling your direct-to-consumer, and wholesale markets, is spent on activities that specifically benefit your members.

Your membership is not limited in regard to those who offer fresh, local produce. However, you do limit vendors in other categories, such as arts, baked goods, canned goods, animal products, or food trucks. This is done to ensure adequate demand and sales to current members.

Law

IRC Section 501(c)(6) exempts from federal income tax business leagues, chambers of commerce, real estate boards, boards of trade, and professional football leagues (whether or not administering a pension fund for football players), which are 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 activities must 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. It defines a business league as 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.

Revenue Ruling (Rev. Rul.) 58-224, 1958-1 C.B. 242, held that an organization that operates a trade show, displaying and selling goods, as it is sole or primary activity was not exempt as a business league under IRC

Section 501(c)(6). The activities of the instant organization substantially serve the exhibitors and retailers as a convenience and economy in the conduct of their businesses. In conducting the show, it provides direct advertising and publicity it is the position of the Internal Revenue Service that the instant organization is rendering particular services for individual persons as distinguished from the improvement of business conditions generally.

Rev. Rul. 64-315, 1964-2 C.B. 147, held that an association of merchants whose activities were the particular service of providing advertising for members was not exempt under IRC Section 501(c)(6).

Rev. Rul. 68-264, 1968-1 C.B. 264, defines a particular service as any activity that serves as a convenience or economy to members in the operation of their business.

Rev. Rul. 83-164, 1983-2 C.B. 95, held that a “line of business” means an entire industry and that serving a “segment of a line” fails the business test.

Southern Hardwood Traffic Association v. United States, 283 F Supp. 1013 (W.D. Tenn. 1968), stated that a particular service for individual member includes any particular activity or service performed by an organization which would otherwise have to be done by the member in order to properly perform their business.

Engineers Club of San Francisco v. United States, 791 F.2d 686 (9th Cir. 1986), stated that in order to qualify as a business league each and every requirement of 1.501(c)(6) must be met.

Bluetooth SIG Inc. v. United States, 611 F.3d 617 (9th Cir. 2010), held that Treas. Reg. 1.501(c)(6) 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.

Application of law

Based on the information submitted, you have failed to establish that you are operated for exempt purposes within the meaning of IRC Section 501(c)(6) and the related income tax regulations. As such, we are unable to determine you are primarily engaged in the promotion of common business interests.

Treas. Reg. Section 1.501(c)(6)-1 states activities must be directed to the improvement of business conditions for one or more lines of business rather than the performance of services toward members. As seen in Bluetooth SIG Inc v. United States, this can be determined using various factors as to whether or not an organization qualifies under IRC Section 501(c)(6). As explained in Engineers Club of San Francisco v. United States, exemption under Section 501(c)(6) requires all six parts of the regulation to be satisfied.

The majority of your time is spent operating the market(s) or marketing for your members. You operate a direct-to-consumer market, and wholesale market, including contracting with larger commercial wholesalers. You refer to your members as “vendors.” This is similar to the “trade show” in Rev. Rul. 58-224, which was not exempt as a business league under IRC Section 501(c)(6) because its purpose was rendering particular services to individuals. Therefore, the performance of particular services is your primary purpose.

In your correspondence, you attest that you are performing services for members that they would otherwise need to do themselves. Specifically, you facilitate the sale of goods and reduce the costs of your vendors. This also makes them particular services, as defined in Southern Hardwood Traffic Association v. United States and serve as a convenience and economy for your members, as discussed in Rev. Rul. 68-264.

You are performing particular services for individual persons as compared to the improvement of business lines in general, as demonstrated above. Therefore, you are not exempt per Treas. Reg. Section 1.501(c)(6)-1.

Similar to the organizations in Rev. Rul. 58-224, Rev. Rul. 64-315, Rev. Rul. 68-264, Southern Hardwood Traffic Association v. United States, you perform particular services for your members. Thus, you do not qualify under IRC Section 501(c)(6).

Your position

In your response you clarify your advocacy for local food producers and educational/enhancement efforts, asserting these activities benefit all local food producers in the western half of your state. You state you champion food security and nutritional well-being. You cite Publication 557, that “establishment and maintenance of the integrity of a local commercial market” is a common business interest.

Our response to your position

Your advocacy and educational efforts are examples of activities that “benefit an entire industry.” However, the majority (j percent) of your time and resources are spent facilitating the sales, and reducing the costs, of your members, which are activities primarily directed to providing particular services for those members. This makes your advocacy and educational efforts incidental to your primary purpose of performing particular services for your members, and not directed to the improvement of business conditions of one or more lines of business. Your goal of championing local food security and nutritional well-being is incidental when compared to your other activities.

You cite Publication 557, example 4. A local commercial market refers to either an entire industry, or all businesses in a local area. Similar to a trade association or chamber of commerce, which follows along a line of business concept discussed in Treas. Reg. 1.501(c)(6)-1, Rev. Rul. 83-164, and Bluetooth SIG Inc. v. United States. Furthermore, possession of a common business interest does not affect all six factors listed in Bluetooth SIG Inc. v. United States. You are precluded from exemption under IRC Section 501(c)(6) because your primary activities are directed to performing particular services to your members, and are not directed to the improvement of business conditions of one or more lines of business.

Conclusion

You provide services to members as your primary activity and do not improve conditions for one or more lines of business. Therefore, you are not exempt 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