



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

Number: **200833021**
Release Date: 8/15/2008

Date: May 20, 2008

U.I.L. 501.04-03

SE:T:EO:RA:T:3

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:
1120

Tax Years:
ALL

Dear :

This is our final determination that you do not qualify for exemption from Federal income tax under Internal Revenue Code section 501(a) as an organization described in Code section 501(c)(4).

We made this determination for the following reason(s): You were not primarily engaged in activities that promote social welfare. Your activities primarily constituted direct and indirect participation in political campaigns on behalf of, or in opposition to, candidates for public office.

In a letter dated January 17, 2008, you submitted a copy of the minutes of the meeting of your Board of Directors dated September 17, 2007, which approved your dissolution effective September 30, 2007. A statement of your dissolution was filed with your state on September 14, 2007.

You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file. File the returns in accordance with their instructions, and do not send them to this office. Failure to file the returns timely may result in a penalty.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, 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 Notice 437. If you agree with our deletions, you do not need to take any further action.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at

1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Robert Choi
Director, Exempt Organizations
Rulings & Agreements

Enclosure
Notice 437
Redacted Proposed Adverse Determination Letter
Redacted Final Adverse Determination Letter

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

U.I.L. 501.04-03 No Third Party Contacts

July 31, 2000

Contact Person:

ID Number:

Telephone Number:

Employer Identification Number:

Legend:

X =

Year 1 =

State 1 =

State 2 =

W =

Seminar =

Newsletter =

Conference =

A =

Dear :

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(4). Based upon all of the materials you have submitted in connection with your application, we have concluded that your activities primarily constitute direct and indirect participation or intervention in political campaigns on behalf of or in opposition to candidates for public office. Accordingly, we have concluded that you are not primarily engaged in activities that promote social welfare and do not qualify for recognition of exemption under section 501(c)(4).

STATEMENT OF FACTS:

The information you have provided for our consideration of your application for recognition of exemption indicates that you were incorporated on Year 1, as a nonprofit organization under the laws of the State 1. You were formed for purposes that include the following: to educate, inform and mobilize Ws to become active in the public arena in support of causes which reflect W values; and to uphold, propagate, and disseminate by all lawful means W principles and values.

You entered into an affiliation agreement with X, a national organization based in State 2. X's

five-fold mission is to--

Under the affiliation agreement, X has granted you a charter pursuant to which you shall represent X in State 1 and shall be known as the said state affiliate of X. The agreement further grants you a non-exclusive, revocable license to use X's name, logo, and any and all trademarks or service marks that X owns during the agreement. In addition, the affiliation agreement consists of the following provisions:

1. You shall incorporate as a nonprofit corporation and apply for recognition of exemption under section 501(c)(4) of the Code; copies of your corporate charter, bylaws and exemption application will be provided to X.
2. You shall adopt bylaws which will be substantially in the form of, or consistent with, the bylaws of X. Any amendments to your bylaws shall be sent to X for review and approval with your agreement not to adopt any amendments not approved by X.
3. You may organize and recognize local X chapters in State 1, provided you enter into an affiliation agreement with each local chapter and each such agreement is approved by X. Once a quarter, you shall provide X with the names and addresses of each local chapter, as well as the names, addresses, and phone numbers of the leader in each local chapter.
4. A portion of X's annual net revenues shall be segregated as a state project fund from which you may request funds for special projects from time to time. These funds may be distributed throughout the course of the year and must be requested in writing.
5. You may send mailings to certain X proprietary mailing lists for a reasonable computer and label/tape charge. X shall assist you in preparing mailings to these lists.
6. X shall provide you with a list of activities on X's database for you to use for fund-raising purposes.
7. X shall conduct for you regular workshops to teach fund-raising and organizing skills for state leadership.
8. X will schedule at least one leadership school per calendar year in your state, to be sponsored by you that includes audio tapes, instructional manual, and all related materials; you are responsible for recruiting at least 75 paid registrants, while the national office shall provide all materials, audio and video tapes, a national or regional instructor, and one mailing from the national office to promote and publicize the school.
9. X will work with you to hold at least one major fund-raising event per calendar year to be

attended by A (as schedule permits) and/or other nationally recognized individuals;

10. X will provide you with access with to its flagship publication, W. You will be able to place a four-page insert into all copies of W mailed to all X members in State 1.

11. X shall provide state and local leaders with a regular update of events in the nation's capital. This update will be provided free of charge to state and chapter leaders with fax machines.

12. X shall provide you with voter education material specific to your state. Congressional scorecards will be provided at cost, and federal voter guides will be provided free of charge.

Your activities include the development of county chapters, distribution of voter guides, organizing and conducting training seminars, publishing and distributing monthly newsletters and updates on legislation, and lobbying activities.

You have been involved in the formation and development of county chapters in State 1. In the Local Chapter Chairman's Handbook, a manual published and provided to you by X in providing step-by-step instruction on how to develop a successful chapter, states in Chapter 1 –

The goals of a chapter are to:

The X handbook refers to the neighborhoods as "precincts," and it states "...the ultimate goal of X is to have ten identified activists in every precinct in America. Neighborhoods (precincts) are crucial. In order to effectively organize your county, you must organize neighborhoods. Establishing a coordinator in each neighborhood will very effectively give you political control over your county and ultimately, your state." The X precinct organization plan consists of getting neighborhood helpers to follow three simple steps: identify, inform and mobilize voters.

You distribute voter guides for federal, state, and local elections. The voter guides are distributed to voters prior to Election Day for their use on that day. The voter guides for elections on the federal level were prepared by X. You prepare the voter guides for elections on state and local levels. The format of the voter guides includes the names and pictures of the Democratic and Republican candidates for various elective offices. Beneath each candidate's name and picture is the candidate's position on each of a list of selected issues. The Voter Guides indicate that most candidates were shown with a response of either "Opposes" or "Supports" to the selected issue, while many candidates were shown to have "No Response" or "Undecided" to most of the issues. The selected issues included:

The voter guides state in very small print that, "[t]his voter guide is provided for educational purposes only and is not to be construed as an endorsement of any candidate or political party." However, X's training materials called the X , under the heading states --

The year marked the emergence of X onto the national political scene....

As the election year went into full swing, X began distributing nonpartisan voter guides in churches nationwide. X's voter education efforts led to the largest turnout of voters in modern history with exit polls showing that 24 percent of all voters were self-identified . The results of such voter turnout were remarkable; an estimated candidates ran for school board, city council, state legislature, and percent won. X's commitment to the movement was now set in stone.

X's activity in the election year proved that X was a major player in the political arena. X distributed voter guides during the presidential and other primaries as well as voter guides in churches during the general election.

You also conduct a seminar called W Seminar. The seminar uses training manuals produced and supplied by X. In his foreword to the training manual, A states the following:

You also publish State 1 Newsletter, a monthly newsletter consisting of two pages updating members primarily on chapter meetings and events, status of legislation, and the political scene. The and issues included information regarding the "Conference," an annual conference conducted by X that features speeches by prominent members of the Party.

You also engage in lobbying activities. You distribute materials urging members and others in supporting or defeating certain issue legislation. A training manual published by X, which you use in your training seminars, contains the following information on the topic of the basic lobbying that X and you, as one of its affiliates, implement:

LEGAL ANALYSIS:

Section 501(c)(4) of the Code provides for exemption from Federal income taxes under section 501(a) for organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-l(a)(2)(i) of the Income Tax Regulations states 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. Whether an organization is "primarily" engaged in promoting social welfare is a facts and circumstances test. The regulation states:

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 which is operated primarily for the purpose of bringing about civic betterments and social improvements.

Section 1.501(c)(4)-l(a)(2)(i).

Section 1.501(c)(4)-l(a)(2)(ii) of the regulations provides that political campaign activities do not promote social welfare as defined in section 501(c)(4). The regulations under section 501(c)(4) clearly distinguish between acceptable social welfare activities such as lobbying and unacceptable activities such as political campaign intervention. The regulation states:

The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office.

Section 1.501(c)(4)-l(a)(2)(ii).

In order for an organization to engage in political campaign activities, there generally must be a candidate for public office on whose behalf or against whom the activity or intervention occurs. Section 1.501(c)(3)-l(c)(3)(iii) of the regulations states that the "term 'candidate for public office' means an individual who offers himself, or is proposed by others, as a contestant for an elective public office." In Rev. Rul. 76-456, 1976-2 C.B. 151, the organization at issue was formed for the purpose of elevating the standards of ethics in the conduct of campaigns for election to public office at the national, state and local levels, and had disseminated information concerning general campaign practices. The organization proposed a code of fair campaign practices, but did not solicit the signing or endorsement of the code by candidates for political office. We concluded that this did not constitute political intervention since the organization's activities only allowed citizens to increase their knowledge and understanding of election processes and participate more effectively in their selection of government officials, without any candidates even mentioned. At the same time we modified Rev. Rul. 66-258, 1966-2 C.B. 213, which was an identical organization except that it did solicit the signing or endorsement of its code of fair campaign practices by candidates for political office. We concluded that the latter organization was engaged in political intervention and therefore was not exempt under section 501(c)(3) of the Code. (Because these Rev. Ruls. contain a section 501(c)(3) analysis which prohibits all political campaign activities, the activities should be considered in absolute terms. However, for purposes of section 501(c)(4), we are determining whether political intervention is the primary activity of the organization.)

Whether an organization is "primarily engaged" in promoting social welfare is a facts and circumstances determination. Relevant factors include the manner in which the organization's activities

are conducted; resources used in conducting such activities, such as buildings and equipment; the time devoted to activities (by volunteers as well as employees); the purposes furthered by various activities; and the amount of funds received from and devoted to particular activities. See, e.g., Rev. Rul. 74-361, 1974-2 C.B. 159 (volunteer fire company that provides recreational facilities for members is primarily engaged in promoting social welfare where providing facilities primarily furthers exempt purposes); Rev. Rul. 68-45, 1968-1 C.B. 259 (organization's principal source of income is not sole factor in determining whether it is "primarily engaged" in promoting social welfare). In Rev. Rul. 81-95, 1981-1 C.B. 332, we concluded that "an organization may carry on lawful political activities and remain exempt under section 501(c)(4) of the Code as long as it is primarily engaged in activities that promote social welfare." The corollary to this is that if an organization's primary activities do not promote social welfare but are direct or indirect political intervention, the organization is not exempt under section 501(c)(4). The key is to determine the character of the organization's primary activities by looking at all of the facts and circumstances.

1. Precinct Organization:

Your activities with regard to recruitment of people to become active in local politics at the precinct level appear to be identical to the recruitment and organization that takes place in a political party. The Leadership School trains people to work in campaigns, and political involvement and get-out-the-vote activities are advocated in order to intervene and influence elections. Your focus is on getting people to become candidates and activists. While organizing down to the precinct or neighborhood level has enabled you to mobilize some limited legislative grassroots campaigns, this organizational basis has primarily been used to mobilize targeted voters to get to the polls on election day. It has also been used to identify and encourage to run for local office. From your inception, you have been part of X's precinct organization intended to facilitate intervention in the political process at every level of government. As stated above, it is also evident that you were interested in legislation and lobbying activities. However, after a careful review of the materials presented, it is apparent that the lobbying activities were secondary to political intervention. You primarily engage in activities intended to intervene in the political process and to influence the elections of those candidates who reflected your views. Your emphasis is focused on activities which were designed to result in the election of to public office at every level of government. Using the facts and circumstances test, we conclude that your precinct organizational basis was implemented primarily to intervene in political campaigns.

2. Voter Guides:

An organization which publishes and distributes candidate questionnaire results in the form of voter guides must demonstrate neutrality in order for the voter guides to be considered educational. A facts and circumstances test is utilized to determine whether activities involving voter guides are educational or whether they are political campaign activities. In Rev. Rul. 78-248, 1978-1 C.B. 154, examples are given as to the factors which should be considered when applying a facts and circumstances test. The factors which are indications that the activities are educational are as follows: 1) the publication reports on a neutral group of elected officials or candidates such as all members of Congress or all candidates for a particular office, 2) the publication reports elected officials' or candidates' views or their voting records on a wide range of subjects, 3) the publication includes no editorial opinion on the elected officials or candidates, or on their views, 4) the publication does not indicate approval of elected officials or candidates in the contents or structure of the publication, and 5) the organization makes the publication generally available to the public.

After looking at your voter guides, several patterns emerge. First, as mentioned above, the

candidates regularly have "No Response" or "Undecided" listed after all or part of the issues, whereas very few candidates were listed without a complete list of "Opposes" or "Supports" underneath their name and picture. Second, the issues chosen seem to have a direct correlation to the desired response from X's preferred candidate, or conversely to portray a candidate as against issues. While these factors are not explicit endorsements of candidates, the lack of responses from candidates and the wording and choice of issues to create a particular response along party lines is significant. In addition, the general nature of and approach taken with respect to the issues covered leads to responses which are arguably inaccurate. Additionally, the summary descriptions are so vague that they do not adequately cover any of the issues. Finally, the voter guides do not report on a neutral group of candidates as required by Rev. Rul. 78-248. The voter guides list the names of a neutral group of candidates, but they fully report the positions of only some of the candidates and almost all of the positions of the candidates. This reporting is so heavily weighted toward the Party as to not constitute reporting on a neutral group of candidates.

In our view, the voter guides are heavily weighted in favor of the candidates, especially those incumbents endorsed on the congressional scorecards. We conclude that these voter guides cannot be considered nonpartisan educational materials within the intent of the law. Inaccurate and/or incomplete information does not constitute education. The targeted distribution of the scorecards and voter guides also indicates that these publications are not nonpartisan educational activities. These documents were distributed to previously identified and individuals. The voter guides would have only limited educational value to anyone wishing to know the positions of candidates or to compare the positions of and candidates, since such a large percentage of candidates did not have their positions listed in the voter guides. In addition, the possible distortion of the candidate's position when translating a vote on legislation to a summary description is an additional factor we have considered in determining that the voter guides constitute political intervention. Based on all the available information, we conclude that the voter guides are not nonpartisan and constitute intervention in political campaigns.

3. Lobbying Activities:

Lobbying activities were considered in Rev. Rul. 68-656, 1968-2 C.B. 216, to not only be an acceptable activity for an organization described in section 501(c)(4) of the Code, but to constitute activities that promote social welfare. Rev. Rul. 68-656 provides that seeking favorable legislation is recognized by the section 501(c)(4) regulations as a permissible means of attaining social welfare goals. Additionally, Rev. Rul. 71-530, 1971-2 C.B. 237, concludes that an organization described in section 501(c)(4) may have lobbying as its only activity. A facts and circumstances test is to be used in determining whether an organization's activities primarily constitute political intervention or whether those activities constitute lobbying or educational activities. After reviewing all of the facts and circumstances presented in the administrative file as discussed above, we have concluded that your primary emphasis and primary activities constituted direct and indirect political intervention. While you engage in extensive lobbying activities, they are by no means your primary activity. Your first and primary emphasis is on getting people elected to public office. The administrative record contains a wealth of information regarding your organizational structure and activities relating to candidate recruitment. There is only, secondarily, an emphasis on lobbying and educational activities. Your organizational thrust is to organize at the neighborhood or precinct level in order to get elected to local offices; only secondarily is this precinct level organization utilized to influence legislation.

Accordingly, after looking at all of the facts and circumstances, we have concluded that your lobbying activity was not your primary activity.

CONCLUSION REGARDING YOUR PRIMARY ACTIVITY:

The emphasis throughout your materials is on electing to office people in order to impact legislation and policy as insiders. The overwhelming majority of the evidence in the administrative record, and thus the facts and circumstances in this case, denotes an organization that is intent upon intervening in political campaigns. The precinct organizational structure allows you to implement your policies as more and more are elected to office. While lobbying is usually mentioned, and we recognize that lobbying activities are being pursued, those activities are not your primary activity. An analysis of all of the facts and circumstances contained in the administrative file leads us to the conclusion that your primary activity constitutes political intervention.

CONCLUSION:

Based upon the materials submitted in connection with your application, we have concluded that your activities primarily constitute direct and indirect participation or intervention in political campaigns on behalf of or in opposition to candidates for public office. Therefore, you are not primarily engaged in activities that promote social welfare and do not qualify for recognition of exemption under section 501(c)(4) of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views to this office, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the Ohio Tax Exempt and Government Entities (TE/GE) office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 877-829-5500 (a toll free number) or sending correspondence to: Internal Revenue Service, TE/GE Customer Service, P.O. Box 2508, Cincinnati, OH 45201.

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service
Attn: T:EO:RA:T:3, Room 6137
1111 Constitution Ave, NW
Washington, D.C. 20224

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Robert C. Harper, Jr.

Manager, Exempt Organizations
Technical Group 3