

Internal Revenue Service
TEGE Appeals Programs
300 N. Los Angeles Street
Los Angeles, CA 90012

CERTIFIED

Department of the Treasury

Release Number: **201810011**
Release Date: 3/9/2018
Date: December 14, 2017

A

B

Taxpayer Identification Number:

Person to Contact:

Employee ID Number: ****

Tel: ****

Fax: ****

UIL Index:

501.03-00

501.06-01

501.06-02

Dear :

We considered your appeal of the adverse action proposed by the Director, Exempt Organizations, Rulings and Agreements. This is our final determination that you do not qualify for exemption from Federal income tax under Internal Revenue Code (the "Code") section 501(a) as an organization described in section 501(c) (6) of the Code.

Your primary activity is to provide bargaining and billing services for your members. In order to qualify for tax exemption under section 501(c)(6), an organization's activities must be directed toward the improvement of general business conditions in an industry or industries. You have not established that your 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 individuals. Treas. Reg. § 1.5019(c)(6)-1.

Organizations that are not exempt under section 501 generally are required to file federal income tax returns and pay tax, where applicable. For further instructions, forms, and information please visit www.irs.gov.

We will make this letter and the proposed adverse determination letter available for public inspection under Code section 6110 after deleting certain identifying information. We have provided to you, in a separate mailing, Notice 437, *Notice of Intention to Disclose*. Please review the Notice 437 and the documents attached that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437.

If you decide to contest this determination, you may file an action for declaratory judgment under the provisions of section 7428 of the Code in one of the following three venues: 1) United States Tax Court, 2) the United States Court of Federal Claims, or 3) the United States District Court for the District of Columbia. A petition or complaint in one of these three courts must be filed within 90 days from the date this determination letter was mailed to you. Please contact the clerk of the appropriate court for rules and the appropriate forms for filing petitions for declaratory judgment by referring to the enclosed Publication 892. You may write to the courts at the following addresses:

United States Tax Court
400 Second Street, N.W.
Washington, D.C. 20217

U.S. Court of Federal Claims
717 Madison Place, N.W.
Washington, D.C. 20439

U.S. District Court for the District of Columbia
333 Constitution Ave., N.W.
Washington, D.C. 20001

Processing of income tax returns and assessments of any taxes due will not be delayed if you file a petition for declaratory judgment under section 7428 of the Internal Revenue Code.

You may also be eligible for help from the Taxpayer Advocate Service (TAS). 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 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 1-877-777-4778.

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.

Sincerely yours,

Appeals Team Manager

CC:



**Department of the Treasury
Internal Revenue Service**

P.O. Box 2508
Cincinnati, OH 45201

Date: **MAR 30 2017**

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

W = Number

X = State

Y = State governing body

UIL:

501.03-00

501.06-01

501.06-02

Dear :

We considered your application for recognition of exemption from federal income tax under Section 501(a) of the Internal Revenue Code (the Code). Based on the information provided, we determined that you don't qualify for exemption under Section 501(c)(6) of the Code. This letter explains the basis for our conclusion. Please keep it for your records.

Issues

Do you qualify for exemption under Section 501(c)(6) of the Code? No, for the reasons stated below.

Facts

You are an unincorporated association. You indicated that your activities commenced more than W years ago (exact date not provided) in the state of X. According to your Constitution you are formed to promote the general welfare of the sports in which your members officiate; to secure uniformity in the interpretation and dispensation of the rules; to associate and educate officials in the promotion of a high standard of officiating; to foster and develop genuine friendship as well as mutual helpfulness among fellow umpires; and such other purposes as set forth in the Charter granted to you by Y (the governing body for high school athletics in X) along with its membership in any other recognized organization operating in the interest of participants, spectators and officials of the sports in which you officiate.

Your members provide umpire services for high school softball and baseball games, plus the occasional recreational softball and baseball game. You provide representation for your members before the Y and act as the bargaining and billing agent with the various high schools for your members. In order to be considered for membership, the applicant must pay dues for the respective year of participation, satisfactorily complete an umpire clinic approved by your board, and complete an application for membership. The amount of the annual membership dues will be determined by the Board.

You said that if you didn't provide this service for the teams then the Y would have to assign a different umpiring association to umpire the high school softball and baseball games.

You directly bill the high schools for services rendered then pay the working umpires. Your umpires are considered independent contractors and you issue Form 1099-MISC to them annually. All umpires pay you a % service fee. This fee is distributed to the booking agent (%), the secretary (%), and you (%). The % you retain is used to cover the cost of maintaining the website, the bank account, and paying the umpires.

Your income is derived from membership dues and gross receipts from services you provide. According to the financial information you provided, approximately % of the income you receive is from membership dues and the remainder comes from gross receipts from the services you provide.

Law

Section 501(c)(6) of the Internal Revenue Code provides for exemption of 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 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 particular services for individual persons. An organization, whose purpose is to engage in a regular business of a 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.

Rev. Rul. 56-65, 1956-1 C.B. 199, holds that a local organization whose principal activity consists of furnishing particular information and specialized individual services to its individual members engaged in a particular industry, through publications and other means to effect economies in the operation of their individual businesses, is performing particular services for individual persons. Such organization is not entitled to exemption under Section 501(c)(6) of the Code as a business league, even though it performs functions that are of benefit to the particular industry and the public generally.

Rev. Rul. 58-224, 1958-1 C.B. 242, held that an organization which operated a trade show as its sole activity, primarily for the purpose of rendering particular services to individual persons was not entitled to exemption as a business league under Section 501(c)(6) of the Code. The organization's sole activity consisted of staging an annual merchandise show (primarily exhibits by manufacturers), under the sponsorship of the chamber of commerce. The ruling concluded that the activities of the organization substantially served the exhibitors and retailers as a convenience and economy in the conduct of their businesses by providing selling opportunities for the distributors, which was found to be considered rendering particular services for individuals as distinguished from the improvement of business conditions generally.

Rev. Rul. 61-170, 1961-2 C.B. 112, describes a nurses' association which maintained an employment registry primarily for the employment of members is not entitled to exemption as a charitable organization or as a business league since its primary purpose was the operation of a regular business of a kind ordinarily carried on for profit and it is engaged in rendering particular services for individual persons rather than promoting the general business conditions of the nursing profession.

Rev. Rul. 68-264, 1968-1 C.B. 264, defined a particular service for the purpose of Section 501(c)(6) of the Code as including an activity that serves as a convenience or economy to members of the organization in the operation of their own businesses.

In Apartment Operations Ass'n v. Commissioner of Internal Revenue, 136 F.2d 435 (1943), the court determined that the organization was not exempt from tax as a business league. The organization was made up of apartment owners. It did not meet the description of a business league because it regularly carried on business of a kind ordinarily conducted for profit. It performed particular services for individual persons such as the furnishing of credit information, the supplying of an apartment shopping service, the making of arrangements for direct purchases by members at discount, and similar activities.

In Indiana Retail Hardware Ass'n., Inc. v. United States, 177 Ct. Cl. 288, 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 Section 501(c)(6) of the Code.

Application of law

To be exempt under Section 501(c)(6) of the Code, your activities must be directed to the improvement of business conditions of one or more lines of business, and not benefit any private shareholder or individual. As stated in Treas. Reg. Section 1.501(c)(6)-1, the purpose of a business league is to promote a common interest with activities 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 operate primarily to provide a service to your members by arranging employment opportunities, which causes impermissible private benefit.

You are similar to the organizations described in Rev. Rul. 56-65 and 58-224 in that you are formed to promote the economic interests of your members by providing them with employment opportunities.

You coordinate, schedule, and assign your member umpires to baseball and softball games and tournaments. You are similar to the organization in Rev. Rul. 61-170 because you were formed to provide employment opportunities for your members. By providing these employment services, you are serving the private interests of your members and do not meet the qualifications for exemption under Section 501(c)(6) of the Code.

Providing employment opportunities for your members provides a convenience that they would otherwise not have without your operation. Given that your primary activity is directed at providing a particular service to your members, you are similar to the situation described in Rev. Rul. 68-264 and not exempt under Section 501(c)(6) of the Code.

The organizations in Apartment Operations Ass'n. and Indiana Retail Hardware Ass'n. failed to qualify for exemption under Section 501(c)(6) of the Code because conducting services for their members was a substantial activity. Because your primary activity is arranging umpire jobs for your members, you are not exempt under Section 501(c)(6).

Conclusion

Based on the information provided we conclude that you are not operated as a business league described in Section 501(c)(6) of the Code. Your operations provide specific services to members and allow a convenience and private economic benefit. Therefore, you do not qualify for exemption under Section 501(c)(6).

If you don't agree

You have a right to file a protest if you don't agree with our proposed adverse determination. To do so, you must send a statement to us within 30 days of the date of this letter. The statement must include:

- Your name, address, employer identification number (EIN), and a daytime phone number
- A copy of this letter highlighting the findings you disagree with
- An explanation of why you disagree, including any supporting documents
- The law or authority, if any, you are relying on
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization, or your authorized representative
- One of the following declarations:

For an officer, director, trustee, or other official who is authorized to sign for the organization:

Under penalties of perjury, I declare that I examined this protest statement, including accompanying documents, and to the best of my knowledge and belief, the statement contains all relevant facts and such facts are true, correct, and complete.

For authorized representatives:

Under penalties of perjury, I declare that I prepared this protest statement, including accompanying documents, and to the best of my knowledge and belief, the statement contains all relevant facts 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 he or she hasn'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 provided a basis for us to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't provided a basis for reconsideration, we'll forward your case to the Office of Appeals and notify you. You can find more information about the role of the Appeals Office 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 at a later date because the law requires that you use the IRS administrative process first (Section 7428(b)(2) of the Code).

Where to send your protest

Please send your protest statement, Form 2848, if needed, and any supporting documents to the applicable address:

U.S. mail:

Internal Revenue Service
EO Determinations Quality Assurance
Room 7-008
P.O. Box 2508
Cincinnati, OH 45201

Street address for delivery service:

Internal Revenue Service
EO Determinations Quality Assurance
550 Main Street, Room 7-008
Cincinnati, OH 45202

You can also fax your statement 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 he or she received it.

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.

You can find all forms and publications mentioned in this letter on our website at www.irs.gov/formspubs. If you have questions, you can contact the person listed at the top of this letter.

Sincerely,

Jeffrey I. Cooper
Director, Exempt Organizations
Rulings and Agreements

Enclosure:
Publication 892