

Internal Revenue Service

Appeals Office
San Jose Appeals, MS-7100
55 S. Market St., Suite 440
San Jose, CA 95113

Department of the Treasury

Person to Contact:

Release Number: **201820019**

Release Date: 5/18/2018

Refer Reply to:

In Re:

EO Determination

Tax Period(s) Ended:

All

UIL:

501.06-01

Certified Mail

Dear

This is a final adverse 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).

We made the adverse determination for the following reason(s):

You are not operated for exempt purposes within the meaning of Internal Revenue Code § 501(c)(6) and Treasury Regulation § 1.501(c)(6)-1. You negotiate fees with the rink members, schedule and send member officials to the games, collect fees and redistribute almost all of the collected revenues to the officiating members, as your primary activities; thus, your activities are not directed to the improvement of business conditions of one or more lines of business. You primarily engage in activities which constitute the performance of particular services for individual persons who are your members.

You're required to file Federal income tax returns on Forms 1120, U.S. Corporation Income Tax Return. Mail your form to the appropriate Internal Revenue Service Center per the form's instructions. You can get forms and instructions by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676).

We'll 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 either:

- United States Tax Court,
- The United States Court of Federal Claims,
- The United States District Court for the District of Columbia.

You must file a petition or complaint in one of these three courts within 90 days from the date we mailed this determination letter to you. Contact the clerk of the appropriate court for rules and the appropriate forms for filing petitions for declaratory judgment. You can write to the courts at the following addresses:

United States Tax Court
400 Second Street, NW
Washington, DC 20217

US Court of Federal Claims
717 Madison Place, NW
Washington, DC 20005

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

Note: We will not delay processing income tax returns and assessing any taxes due even if you file petition for declaratory judgment under section 7428 of the Code.

Please refer to the enclosed Publication 892, How to Appeals an IRS Determination on Tax -Exempt Status.

You also have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels get prompt and proper handling. If you want Taxpayer Advocate assistance, please contact the Taxpayer Advocate for the IRS office that issued this letter. You may call toll-free, 1-877-777-4778, for the Taxpayer Advocate or visit www.irs.gov/advocate for more information.

If you have any questions, contact the person at the top of this letter.

Sincerely,

Appeals Team Manager

Enclosure: Publication 892



Department of the Treasury
Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Date: July 19, 2017

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

X = State

Y = Date of formation

Z = Organization

UIL:

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 were incorporated in the state of X on Y for the purpose of providing trained and qualified officiating services to amateur hockey organizations in your geographical area.

Membership is voluntary and available to any individual who has met the certification requirements established by Z. A 'member rink' is any ice skating facility in your regional area that hosts Z sanctioned games, which are scheduled by various hockey organizations or tournaments. Fees charged to member rinks are based on the type of game, age level and skill level of the players involved.

You do not create or schedule any league, tournament or individual game, rather various organizations contract with the member rinks to book ice time to host games. You simply provide the service of scheduling certified officials. You bill member rinks for your services, collect the funds and then redistribute the funds to the individual member officials.

You mentor new officials and evaluate all member officials, to strengthen their officiating skills. You also provide annual clinics and seminars, which focus on rule changes and updates from Z. You provide qualified, trained officials for member rinks based on levels of efficiency. Game assignments are made by your scheduler based on schedules provided by the rinks.

Membership dues and scheduling fees are your only sources of income. Scheduling fees account for approximately 98% of your annual revenue with the remainder coming from membership fees. Expenses consist of paying members for their officiating services and administrative costs. You pay your scheduler, a member of

your governing body, 4.75% of the funds received from scheduling fees and your treasurer receives 2%. You did not indicate if there was a cap on how much compensation they could receive.

Law

Section 501(c)(6) of the Code provides, in part, for the exemption from federal income tax of business leagues, 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 provides 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. 61-170, 1961-2 C.B. 112, describes an association composed of professional private duty nurses and practical nurses which operated a nurses' registry primarily to afford greater employment opportunities for its members. The association was not entitled to exemption as a business league described in section 501(c)(6) of the Code because its primary purpose was the operation of a regular business of the kind ordinarily carried on for profit and it was engaged in rendering particular services for individual persons rather than promoting the general business conditions of the nursing profession.

Rev. Rul. 71-175, 1971-1 C.B. 153, ruled on a nonprofit organization whose principal activity was the operation of a telephone-answering service for member doctors. Providing a telephone-answering service the organization relieved the individual members of securing this service commercially, resulting in a convenience or economy in the conduct of the medical practice of its individual members. Therefore, the organization was rendering particular services for individual persons as distinguished from the improvement of business conditions in the medical profession and public health area generally. Thus, the organization was not exempt under Section 501(c)(6) of the Code.

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 inure to the benefit any private shareholder or individual. You operate primarily to provide employment scheduling services for your members, which is a private benefit to your members and does not improve business conditions as described in Treas. Reg. Section 1.501(c)(6)-1. Additionally, two members of your governing body receive a percentage of your scheduling revenue as compensation with no stated limit, which inures to their benefit. Therefore, you are not exempt under Section 501(c)(6).

You are providing a service that affords your members employment opportunities similar to the organization denied exemption in Rev. Rul. 61-170. By providing these employment services, you are serving the private interests of your members and do not qualify for exemption under Section 501(c)(6) of the Code.

As noted in Rev. Rul. 71-175, rendering particular services for individuals is distinguished from the improvement of business conditions of a particular line of business. By providing employment services, you are providing services for the economy and convenience of your members, and not for the overall improvement of a line of business. Therefore, exemption under section 501(c)(6) of the Code is precluded.

You are similar to the organization described in Indiana Retail Hardware Ass'n., which failed to qualify for exemption under Section 501(c)(6) of the Code because conducting services for members is a substantial activity. Because your primary activity is arranging employment opportunities for your members, you are not exempt under Section 501(c)(6).

Conclusion

Based on the information provided, you fail to qualify for exemption under Section 501(c)(6) of the Code because you provide services to your members which furthers their private interests and are not directed toward the improvement of business conditions of one or more lines of business. Additionally, the payment of two of your governing body members a percentage of your revenue without a set limit inures to their benefit. Accordingly, 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,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosure:
Publication 892