



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
PO Box 2508
Cincinnati, OH 45201

Number: **202126023**
Release Date: 7/2/2021

UIL Number: 501.06-01

Date: April 5, 2021

Employer ID number:

Form you must file:

Tax years:

Person to contact:

Name:

ID number:

Telephone:

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 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 the Notice 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:
Notice 437
Redacted Letter 4034
Redacted Letter 4038



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

Date: February 2, 2021

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

B = Date
C = State
D = Name
E = Name
F = Names

UIL:

501.06-01

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 formed on B in the State of C as a nonprofit corporation by F, the developers. Your corporate purposes are to:

- Provide for the maintenance, preservation, and architectural control of D described in your Declaration of Restrictive Covenants recorded in E and all future amendments to the Restrictive Covenants;
- Operate and maintain the common areas and facilities serving D;
- Promote the health, safety and welfare of the lot owners of D.

Common areas, as defined in your Bylaws, is the real property which is conveyed to and owned by you for specific limited common uses and enjoyment of the lot owners of D.

Your Form 1024 indicates you will provide maintenance, preservation and architectural control of D. You have _____ class of members, who are the individual property owners. A person automatically becomes a member upon his/her becoming a property owner and will remain a member for so long as he/she is an owner. Specifically, your bylaws state your membership will be appurtenant to and may not be separated from ownership of specific real property. Additionally, each member is entitled to one vote.

Each member will be responsible for their pro-rata share of the expenses based on the amount of acreage they occupy. These will include property taxes, liability insurance, maintenance costs such as debris removal and lawn care maintenance of the common areas of D. Members will be billed quarterly for any expenses incurred during the previous quarter. The Board of Directors also have the authority to make emergency repairs to the Common Areas, and the Detention Ponds, the Drainage Easements, the Storm Water Detention and Drainage Facilities and shall have the power to Assess the Lot Owners and the Lot's expenses for emergencies which cannot be paid from the assessments for recurring expenses. The developer which is currently the largest property owner in D will be in charge of the activities related to maintaining your responsibilities.

You currently have a -member board consisting of the developers. Your bylaws provide that your affairs shall be conducted by the initial Board of Directors which shall consist of not less than and not more than directors. After the developers have sold all units/lots or elected to terminate its control of the Common Area, whichever shall occur first, your members shall meet and elect Directors who shall serve.

Law

IRC Section 501(c)(6) provides exemption from federal income tax for business leagues not organized for profit, and no part of the net earnings of which inure 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.

Revenue Ruling 59-391, 1959-2 C.B. 151, held that an organization composed of individuals, firms, associations and corporations, each representing a different trade, business, occupation or profession whose purpose is to exchange information on business prospects has no common business interest other than a mutual desire to increase their individual sales. The activities are not directed to the improvement of one or more lines of business, but rather to the promotion of the private interests of its members and is not exempt under IRC Section 501(c)(6).

Revenue Ruling 73-411, 1973-2 C.B. 180, held that a shopping center merchants' association whose membership is restricted to and required of the tenants of a one-owner shopping center and their common lessor, and whose activities are directed to promoting the general business interests of its members, does not qualify as a business league under IRC Section 501(c)(6). Moreover, the revenue ruling provides that the organization's right to exemption, if any, had to rest on its characterization as a chamber of commerce or board of trade or similar organization. The revenue ruling further indicates that chambers of commerce and boards of trade direct their efforts at promoting the common economic interests of all the commercial enterprises in a given trade community. In the case of a chamber of commerce or similar organizations, the common business interest is usually the general economic welfare of a community. Membership is voluntary and open generally to all business and professionals in the community.

Application of Law:

You are not described in IRC Section 501(c)(6) and Treas. Reg. Section 1.501(c)(6)-1 because you are not primarily operated to improve the business conditions of one or more lines of business as a whole as distinguished from the performance of particular services for individual persons. Your membership is limited to property owners in D. You collect assessments from members based on the amount of property they own to maintain common areas of D. This shows you are primarily engaged in the performance of particular services for individual persons, which precludes exemption under IRC Section 501(c)(6).

You are similar to the organization described in Rev. Rul. 59-391 since your members do not share a common business interest. Membership consists of owners of property located in D who share a common location of business, but not a common business interest.

As stated in Revenue Ruling 73-411, with a business league or similar organization, the common business interest is usually the general economic welfare of a community. It has been accepted that an organization seeking exemption from federal income tax under IRC Section 501(c)(6) must be one whose efforts are directed at promoting the common economic interests of all the commercial enterprises in a given trade community. You are not structured along any particular industry or business lines. You are composed of small businesses who own property in D. Therefore, to meet exemption under Section 501(c)(6), you must depend on being characterized as a chamber of commerce. Because of the restrictive nature of your membership, you do not meet the definition of a chamber of commerce within the meaning of Section 501(c)(6) as explained in this revenue ruling. Therefore, you fail to qualify under Section 501(c)(6).

Your Position

You wrote that you believe you meet the requirements under IRC Section 501(c)(6). You are an association of persons, various business owners, with a common business purpose consisting of the maintenance of the common areas of their adjoining commercial properties. Further, you are devoted to improving business conditions by allowing for D to be maintained in a manner to continue to be safe to traverse and aesthetically pleasing. You are not organized for profit, no part of the earnings inures to the benefit of any private shareholder or individual, and you will have no participation in lobbying or political campaigns. You believe all of these facts and circumstances meet the requirements of a business league under Section 501(c)(6).

Our response to your position

You failed to provide any additional information from which it can be concluded that you are primarily organized and operated in accordance with IRC Section 501(c)(6). As explained previously, your members have no common business interest and you are operated to provide particular services to your members. This is primary and excludes you from exemption under IRC Section 501(c)(6).

Conclusion

Your activities are not primarily directed to the improvement of business conditions of one or more lines of business nor for the common economic interests of all the businesses in a given trade community as in the case of a chamber of commerce, but rather to the provision of particular services to your members. Therefore, you do not meet the requirements 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 Decision 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
P.O. 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