



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

**Date:**  
April 21, 2022  
**Taxpayer ID number:**

**Form:**

**Tax periods ended:**

**Person to contact:**  
**Name:**  
**ID number:**  
**Telephone:**  
**Fax:**

Release Number: 202247012  
Release Date: 11/25/2022  
UIL Code: 501.04-00

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

**Why we are sending you this letter**

This is a final determination explaining why your organization doesn't qualify as an organization described in Internal Revenue Code (IRC) Section 501(c)(4) for the tax periods above.

In the future, if you believe your organization qualifies for tax-exempt status and would like a determination letter from the Internal Revenue Service, you can request a determination by filing Form 1024, Application for Recognition of Exemption Under Section 501(a), or Form 1024-A, Application for Recognition of Exemption Under Section 501(c)(4) of the Internal Revenue Code, (as applicable) and paying the required user fee.

Our adverse determination as to your exempt status was made for the following reasons: You have demonstrated that you are not operating exclusively for the promotion of social welfare. The promotion of social welfare does not include direct or indirect participation in political campaigns on behalf of or in opposition to any candidate for public office per Treasury Reg. 1.501(c)(4)-1(a)(2)(ii).

Organizations that are not exempt under IRC 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](http://www.irs.gov).

**What you must do if you disagree with this determination**

If you want to contest our final determination, you have 90 days from the date this determination letter was mailed to you to file a petition or complaint in one of the three federal courts listed below.

**How to file your action for declaratory judgment**

If you decide to contest this determination, you may file an action for declaratory judgment under the provisions of IRC Section 7428 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.

Please contact the clerk of the appropriate court for rules and the appropriate forms for filing an action for declaratory judgment by referring to the enclosed Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status. You may write to the courts at the following addresses:

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

U.S. Court of Federal Claims  
717 Madison Place, NW  
Washington, DC 20439

U.S. District Court for the District of Columbia  
333 Constitution Ave., N.W.  
Washington, DC 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 IRC Section 7428.

**Information about the IRS Taxpayer Advocate Service**

The IRS office whose phone number appears at the top of the notice can best address and access your tax information and help get you answers. However, you may be eligible for free help from the Taxpayer Advocate Service (TAS) if you can't resolve your tax problem with the IRS, or you believe an IRS procedure just isn't working as it should. TAS is an independent organization within the IRS that helps taxpayers and protects taxpayer rights. Contact your local Taxpayer Advocate Office at:

Or call TAS at 877-777-4778. For more information about TAS and your rights under the Taxpayer Bill of Rights, go to [taxpayeradvocate.irs.gov](http://taxpayeradvocate.irs.gov). Do not send your federal court pleading to the TAS address listed above. Use the applicable federal court address provided earlier in the letter. Contacting TAS does not extend the time to file an action for declaratory judgment.

**Where you can find more information**

Enclosed are Publication 1, Your Rights as a Taxpayer, and Publication 594, The IRS Collection Process, for more comprehensive information.

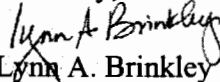
Find tax forms or publications by visiting [www.irs.gov/forms](http://www.irs.gov/forms) or calling 800-TAX-FORM (800-829-3676).

If you have questions, you can call the person shown at the top of this letter.

If you prefer to write, use the address shown at the top of this letter. Include your telephone number, the best time to call, and a copy of this letter.

Keep the original letter for your records.

Sincerely,



Lynn A. Brinkley

Acting Director, Exempt Organizations Examinations

Enclosures:

Publication 1

Publication 594

Publication 892



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

Date:  
2/2/2022  
Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:  
Name:  
ID number:  
Telephone:  
Fax

Address:

Manager's contact information:  
Name:  
ID number:  
Telephone:  
Response due date:  
3/3/2022

**CERTIFIED MAIL – Return Receipt Requested**

**Why you're receiving this letter**

We enclose a copy of our audit report, Form 886-A, Explanation of Items, explaining that we propose to determine that you do not qualify for tax-exempt status as an organization described in Internal Revenue Code (IRC) Section 501(c)(4).

**If you agree**

If you haven't already, please sign the enclosed Form 6018, Consent to Proposed Action, and return it to the contact person shown at the top of this letter. We'll issue a final adverse letter determining that you aren't an organization described in IRC Section 501(c)(4) for the periods above.

After we issue the final adverse determination letter, we'll announce that your organization is no longer eligible to receive tax deductible contributions under IRC Section 170.

**If you disagree**

1. Request a meeting or telephone conference with the manager shown at the top of this letter.
2. Send any information you want us to consider.
3. File a protest with the IRS Appeals Office. If you request a meeting with the manager or send additional information as stated in 1 and 2, above, you'll still be able to file a protest with IRS Appeals Office after the meeting or after we consider the information.

The IRS Appeals Office is independent of the Exempt Organizations division and resolves most disputes informally. If you file a protest, the auditing agent may ask you to sign a consent to extend the period of limitations for assessing tax. This is to allow the IRS Appeals Office enough time to consider your case. For your protest to be valid, it must contain certain specific information, including a statement of the facts, applicable law, and arguments in support of your position. For specific information needed for a valid protest, refer to Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status.

Fast Track Mediation (FTM) referred to in Publication 3498, The Examination Process, generally doesn't apply now that we've issued this letter.

4. Request technical advice from the Office of Associate Chief Counsel (Tax Exempt Government Entities) if you feel the issue hasn't been addressed in published precedent or has been treated inconsistently by the IRS.

If you're considering requesting technical advice, contact the person shown at the top of this letter. If you disagree with the technical advice decision, you will be able to appeal to the IRS Appeals Office, as explained above. A decision made in a technical advice memorandum, however, generally is final and binding on Appeals.

**If we don't hear from you**

If you don't respond to this proposal within 30 calendar days from the date of this letter, we'll issue a final adverse determination letter.

**Contacting the Taxpayer Advocate Office is a taxpayer right**

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 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](http://www.taxpayeradvocate.irs.gov) or call 877-777-4778.

**For additional information**

You can get any of the forms and publications mentioned in this letter by visiting our website at [www.irs.gov/forms-pubs](http://www.irs.gov/forms-pubs) or by calling 800-TAX-FORM (800-829-3676).

**If you have questions, you can contact the person shown at the top of this letter.**

**Sincerely,**

**Sean E. O'Reilly  
Director, Exempt Organizations  
Examinations**

**Enclosures:  
Form 886-A  
Form 6018  
Publication 892  
Publication 3498**

Form <b>886-A</b> ( )	Department of the Treasury – Internal Revenue Service <b>Explanations of Items</b>	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (last 4 digits)	Year/Period ended

**ISSUE**

Whether \_\_\_\_\_ is primarily engaged in social welfare activities and qualifies as exempt under section 501(c)(4)?

**FACTS**

\_\_\_\_\_ (“\_\_\_\_\_” hereafter) was formed as a nonprofit corporation in the \_\_\_\_\_ of \_\_\_\_\_ in \_\_\_\_\_. Its founder was \_\_\_\_\_, a \_\_\_\_\_ businessman and member of the \_\_\_\_\_. \_\_\_\_\_ did not request a determination letter; it files Forms \_\_\_\_\_ asserting status as a section is a 501(c)(4) organization. According to \_\_\_\_\_ tax return, \_\_\_\_\_ is dedicated to advocating and educating the public on issues, and to develop and advance an agenda for \_\_\_\_\_ to promote real solutions to move \_\_\_\_\_ forward. \_\_\_\_\_ is closely affiliated with a political action committee that was formed around the same time as \_\_\_\_\_ and is called \_\_\_\_\_. \_\_\_\_\_ is president of \_\_\_\_\_ and was treasurer of \_\_\_\_\_; \_\_\_\_\_ serves as counsel for both entities.

During the audit period, \_\_\_\_\_ reported receiving contributions of \$ \_\_\_\_\_ on its Form \_\_\_\_\_. \_\_\_\_\_ made two major types of expenditures in \_\_\_\_\_. First, it made contributions in the total amount of \$ \_\_\_\_\_ to \_\_\_\_\_. These contributions were marked as political on their ledger and \_\_\_\_\_ agrees these contributions constitute political campaign intervention. \_\_\_\_\_ filed reports with the \_\_\_\_\_ showing spending to support \_\_\_\_\_ candidates and/or oppose \_\_\_\_\_ candidates for \_\_\_\_\_ office.

Second, \_\_\_\_\_ paid about \$ \_\_\_\_\_ to \_\_\_\_\_, a company that provides general consulting and political strategy, communications strategy, direct mailing, online engagement, television and radio production, and telephone voter contact to political campaigns.

The \_\_\_\_\_ website provides a list of political candidates that it has helped get elected, all of whom are \_\_\_\_\_ candidates. In \_\_\_\_\_, \_\_\_\_\_ paid \_\_\_\_\_ about \$ \_\_\_\_\_ to produce two advertisements, one for radio and one for television.

Below is the Transcript from the radio ad:

Form <b>886-A</b> ( )	Department of the Treasury – Internal Revenue Service <b>Explanations of Items</b>	Schedule number or exhibit
Name of taxpayer	Tax Identification Number ( <i>last 4 digits</i> )	Year/Period ended

The television ad produced by \_\_\_\_\_ has essentially the same message, mentioning \_\_\_\_\_ times in favorable terms the \_\_\_\_\_ legislature and urging the viewer sign a petition on \_\_\_\_\_ website. \_\_\_\_\_ has not produced a copy of that petition. The video and radio commercials promote the \_\_\_\_\_ for the \_\_\_\_\_ of \_\_\_\_\_. Both the video and radio transcripts credit the \_\_\_\_\_ for the growth of the \_\_\_\_\_ through legislation.

Below is a chart of the total \_\_\_\_\_ expenses of \$ \_\_\_\_\_ reported by \_\_\_\_\_ :

The data comes from the “ \_\_\_\_\_ ” file provided by \_\_\_\_\_. The chart shows that \_\_\_\_\_ receives \$ \_\_\_\_\_ is paid \$ \_\_\_\_\_ and all other expenses total \$ \_\_\_\_\_ agrees that the payments to \_\_\_\_\_ are political contributions.

The \_\_\_\_\_ website states that “

\_\_\_\_\_.” After my interview, the \_\_\_\_\_ / site was taken down. \_\_\_\_\_ made both video and radio commercials for \_\_\_\_\_ also provided the video that they distributed to local television stations and was available on the internet. The video was shown on the organization’s social media sites.

## LAW

Section 501(c)(4) provides for the exemption from federal income tax of organizations not organized for profit but operated exclusively for the promotion of social welfare. Section 1.501(c)(4)-1(a)(2) of the Income Tax Regulations in part provides:

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. \* \*

Private benefit:

To qualify under section 501(c)(4), an organization must be “a community movement designed to accomplish community ends.” Erie Endowment v. United States, 316 F.2d 151, 156 (3d Cir. 1962). An organization does not qualify under section 501(c)(4) if it is operated primarily for the

Form <b>886-A</b> ( )	Department of the Treasury – Internal Revenue Service <b>Explanations of Items</b>	Schedule number or exhibit
Name of taxpayer	Tax Identification Number ( <i>last 4 digits</i> )	Year/Period ended

benefit of a private group such as its members, rather than for the purpose of benefitting the community as a whole. Even if an organization can establish some benefit to the community, it still does not meet the requirement of a section 501(c)(4) organization if it is operated primarily to benefit a private group rather than the community as a whole.

In American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), a school that trained individuals as campaign managers was denied exemption under IRC 501(c)(3) because it operated for the substantial nonexempt purpose of benefitting the private interests of Republican Party entities and candidates. Although the school had a legitimate educational program, the Tax Court held that it conducted its educational activities with the partisan objective of benefitting Republican interests. The court noted that the school's partisan purpose distinguished its activities from the educational organization in Rev. Rul. 76-456. The concept of impermissible private benefit applies to section 501(c)(4) organizations as well. See Contracting Plumbers Co-op. Restoration Corp. v. United States, 488 F.2d 684 (2d Cir. 1973).

Political campaign intervention:

Treasury Reg. 1.501(c)(4)-1(a)(2)(ii) provides that the promotion of social welfare does not include direct or indirect participation in political campaigns on behalf of or in opposition to any candidate for public office. Treasury Reg. 1.501(c)(3)-1(c)(3)(iii) provides that activities that constitute participation or intervention in a political campaign on behalf of or in opposition to a candidate include, but are not limited to, publishing or distributing written or printed statements or making oral statements on behalf of or in opposition to such candidate. In addition, the regulation says the term "candidate for public office" means an individual who offers himself, or is proposed by others, as a contestant for a national, State, or local elective public office.

An organization exempt under IRC 501(c)(4) may engage in some political campaign activities as long as it is primarily engaged in activities that promote social welfare. Section 1.501(c)(4)-1(a)(2). In the context of section 501(c)(3), courts have long held that the presence of a single substantial non-exempt purpose will preclude exempt status regardless of the number or importance of the exempt purposes, citing Better Business Bureau of Washington, D. C., Inc. v. United States, 326 U.S. 279 (1945) (interpreting very similar Social Security Act statute). Courts that have considered the issue in the context of section 501(c)(4) have adopted the same standard, citing Better Business Bureau and holding that a single substantial non-exempt purpose will preclude exemption under section 501(c)(4) because the organization is not primarily operating for the promotion of social welfare. See Contracting Plumbers Co-op. Restoration Corp. v. United States, 488 F.2d 684 (2d Cir. 1973); Commissioner v. Lake Forest, Inc., 305 F.2d 814, 818 (4th Cir. 1962); Vision Service Plan V. United States, 2005 WL 3406321 (E.D. Cal. 2005), aff'd., 265 Fed. Appx. 650, (9th Cir. 2008), cert. denied, 555 U.S. 1097 (2009).

A determination of what constitutes "more than insubstantial" is a question of fact to be determined under the facts and circumstances of each case. See Manning Ass'n v. Commissioner, 93 T.C. 596, 603 (1989); B.S.W. Group, Inc. v. Commissioner, 70 T.C. 352, 357 (1978). In general, when



Form <b>886-A</b> ( )	Department of the Treasury – Internal Revenue Service <b>Explanations of Items</b>	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (last 4 digits)	Year/Period ended

considering the issue of “more than insubstantial” in the context of separate activities, the courts have engaged in a more quantitative, rather than qualitative, analysis. In Church of Boston v. Commissioner, 71 T.C. 102 (1978) the court found that expenditures for non-exempt purposes that constituted 20% of total expenditures was enough to preclude exemption under section 501(c)(3). In World Family Corporation v. Commissioner, 81 T.C. 958 (1983), the court held that 10% non-exempt expenditures was insubstantial in the context of section 501(c)(3). In Bethel Conservative Mennonite Church v. Commissioner, 80 T.C. 352 (1983), rev'd., 746 F.2d 388 (7th Cir. 1984), the Tax Court held that expenditures for a medical aid plan comprising 22% of expenditures were not in furtherance of exempt purposes, were not insubstantial, and that the organization was not entitled to exemption under section 501(c)(3). (The Seventh Circuit reversed the Tax Court, finding that the church's medical aid plan, available to all members of congregation in good standing and their dependents, did not disqualify church for exemption.)

**Taxpayer’s position**

does not believe that it contributes more than % of its income to political parties. states that the commercials from are for the good of the growth of the and not political. agrees that the payments to were political. They do not agree that the payments for the commercials and the campaign promoting the were political. has notified us that they will be dissolving the organization sometime this year.

**Government’s Position**

does not qualify for exemption under section 501(c)(4) because it does not engage primarily in activities that promote social welfare. Instead, it engages almost entirely in activities that constitute political campaign intervention and in activities that serve a private benefit to the interests of the in admits to having made political contributions that account for percent of total expenditures during . Under whatever measure one uses to determine what is insubstantial, fails the test. expenditures on PCI were not insubstantial, and those expenditures alone preclude it from qualifying for exemption under section 501(c)(4). And taken into account together with activities to promote the , about % (\$ / \$ ) of expenditures did not promote social welfare.

We have reviewed the advertisements and commercial made by . We have also reviewed the radio transcripts. The radio transcripts state “

” “ . These advertisements promote the private interests of the

Form <b>886-A</b> ( )	Department of the Treasury – Internal Revenue Service <b>Explanations of Items</b>	Schedule number or exhibit
Name of taxpayer	Tax Identification Number <i>(last 4 digits)</i>	Year/Period ended

**Conclusion**

You are not operated exclusively for the promotion of social welfare within the meaning of section 501(c)(4) and the regulations thereunder. We have concluded, based on all the facts and circumstances that your activities do not further social welfare purposes because they constitute political campaign intervention and are focused on promoting the interests of the  
Therefore, does not qualify for exempt status under IRC § 501(c)(4) of the Code for tax year ending