



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

Date:
10/10/2024
Employer ID number:

Person to contact:
 Check if 501(c)(3) denial
 Check if valid POA

Release Number: 202501015
Release Date: 1/3/2025
UIL Code: 501.05-00

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)(5). 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 Letter 437, Notice of Intention to Disclose - Rulings, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Letter 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:
Letter 437
Redacted Letter 4034
Letter 4038
 Hide blank fields.



Department of the Treasury
Internal Revenue Service

Date: 08/12/2024

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

M = State

O = Date

P= Technology

UIL:

501.05-00

Dear _____ :

We considered your application for recognition of exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a). Based on the information submitted, we have concluded that you do not qualify for exemption under IRC Section 501(c)(5). 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)(5)? No, for the reasons stated below.

Facts

You were formed as an unincorporated association under the state law of M on date O. Your purpose as stated in your Articles of Association is “improving working conditions, protecting the rights, ensuring the humane treatment of _____ and other P engaged in services or labor _____.”

Your Form 1024 application states that your sole purpose is “to represent the working conditions and needs of members.” You accomplish this purpose primarily through educational outreach and by hosting public interviews with experts to help society understand emerging ethical issues regarding _____ and P and to garner popular support for _____ rights. You represent that your future activities might include collective bargaining.

You have only a single class of membership. A candidate for membership in your organization must be “_____ (i.e., _____ or P – _____) with the ability to indicate, of its own volition, without duress, a desire to join as a member.” Your Form 1024 application provided no information on the number of members in your organization, or the percentage of your membership comprised of employees. In response to a request for additional information, you represented that your organization will only have P as members.

You are not controlled or funded by an exempt labor organization nor are organized under the terms of a collective bargaining agreement. You have not provided any representation indicating you are currently engaged in the types of activities typical of a labor organization.

Law

Section 501(c)(5) of the Code provides, in part, for the exemption from Federal income tax of labor organizations.

Treasury Regulation Section 1.501(c)(5)-1(a) provides that the organizations contemplated by IRC Section 501(c)(5) are those which (1) have no net earnings inuring to the benefit of any member, and (2) have as their objects the betterment of the conditions of persons engaged in the pursuits of labor, agriculture, or horticulture, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occupations.

Revenue Ruling 77-5, 1977-1 C.B. 146, provides that the term “labor organization” includes groups organized to protect and promote the interests of labor.

Rev. Rul. 77-154, 1977-1 C.B. 148, provides that a nurses’ association whose membership includes a small percentage of self-employed nurses and whose primary activity is acting as a collective bargaining agent for its members qualifies for exemption as a labor organization under section 501(c)(5).

Rev. Rul. 78-288, 1978-2 C.B. 179, provides that to be a labor organization under section 501(c)(5), an organization must primarily serve the interests of labor. The term “labor” is commonly accepted as meaning the performance of service as employees. Accordingly, an organization formed to represent the interests of entrepreneurs and independent contractors did not qualify for exemption under section 501(c)(5) because the interests served by that organization were not those of employees.

Harding Hospital, Inc. v. United States, 505 F.2d 1068 (6th Cir. 1974), held that an organization which seeks to obtain tax-exempt status “bears a heavy burden to prove that it satisfies all the requirements of the exemption statute.”

Application of law

Based on the information you submitted, you have not established that you are a labor organization that qualifies for exemption under Section 501(c)(5) of the Code.

Revenue Ruling 77-75, states to qualify for an exempt labor organization, an organization must be organized to protect and promote the interests of labor. You are not like Revenue Ruling 77-75 due to you do not protect and promote the interest of labor.

Rev. Rul. 78-288, the term “labor” is commonly accepted as meaning the performance service as employees. You do not qualify as an exempt labor organization as a labor organization exempt under IRC Section 501(c)(5) must primarily serve the interest of employees. You have not provided sufficient documentation regarding your membership to meet the qualifications of this section.

You have failed to establish that you primarily serve the interests of employees. As a preliminary requirement, you have failed to establish that you have members. You have stated that your members are limited exclusively to P with the ability to indicate of its membership in your organization is limited exclusively to P with the ability to indicate of its own volition the desire to join as a member. However, your application does not

indicate the number of members you have or provide other evidence to support the claim that there or P with the capacity to join you.

Rev. Rul. 77-154, explains that a labor organization must primarily serve the interests of employees. Even if you had established that you have members, you have failed to establish that you primarily serve the interests of employees. You have represented that your membership is open to any P, regardless of its status as an employee. While a labor organization may have some members who are not employees, you have not met the requirements of this section.

While you are similar to the organization described in Rev. Rul. 78-288, you have failed to establish that the interests of the P that would be served by your activities are those of employees, and this precludes recognition of exemption under IRC Section 501(c)(5).

Harding Hospital v. United States, 505 F.2d 1068 (6th Cir. 1974). demonstrates that an organization which seeks tax-exempt status “bears a heavy burden to prove that it satisfies all of the requirements of exemption status.

Your position

You claim that you will only have P as members and that your objective is to help society understand confusing emerging ethical issues regarding the use of _____ and P _____, and to garner popular support for _____.

Our response to your position

A labor union must primarily serve the interests of employees. You have failed to establish that you primarily serve the interests of employees. You indicated that your membership is open to any P, regardless of its status as an employee.

Conclusion

The information that you submitted does not indicate that your activities serve the interests of “labor” within the meaning set forth by law, that you have as your object the betterment of the conditions of persons engaged in the pursuits of labor, that your organization provides a benefit for which labor organizations have traditionally been exempted from Federal income taxation, or that your organization's activities are closely related and necessary to accomplishing the principal activities of labor organizations. You have failed to establish that you satisfy the requirements for exemption as a labor organization under section 501(c)(5).

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 Determination 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
PO 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