



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Release Number: **201147034**
Release Date: 11/25/2011
Date: August 2, 2011
UIL Code: 501.32-00
501.06-01

Contact Person:
Identification Number:
Contact Number:
Employer Identification Number:
Form Required To Be Filed:
Tax Years:

Dear

This is our final determination that you do not qualify for exemption from Federal income tax under Internal Revenue Code section 501(a) as an organization described in Code section 501(c)(6).

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

You are not organized and operated for purposes described in Section 501(c)(6) of the Code. Specifically you fail to qualify because your activities further the private interests of your members, you provide a particular service to your members and your activities are not directed to the improvement of business conditions of one or more lines of business.

You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file. File the returns in accordance with their instructions, and do not send them to this office. Failure to file the returns timely may result in a penalty.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. Please 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 Notice 437. If you agree with our deletions, you do not need to take any further action.

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. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at

1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Lois G. Lerner
Director, Exempt Organizations

Enclosure
Notice 437
Redacted Proposed Adverse Determination Letter
Redacted Final Adverse Determination Letter



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: July 14, 2011

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

LEGEND

UIL:

N= Name of Founder/President

P=Address

B=Name of State

C=Date of Incorporation

D=Area of Operation

F=Name of Hospital

G=Name of Suites

w=Amount of membership dues

x= Amount of membership dues

Dear

We have considered your application for recognition of exemption from federal income tax under Internal Revenue Code section 501(a). Based on the information provided, we have concluded that you do not qualify for exemption under Code sections 501(c)(6) or 501(c)(4). The basis for our conclusion is set forth below.

Issues:

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

Letter 4034 (CG) (11-2005)
Catalog Number 47628K

2. Do you qualify for exemption under other subsections of section 501(c)(4) of the Code. No for the reasons described below.

Facts

You filed Articles of Incorporation in B on C. Your Articles of Incorporation indicate that you are organized and operated for the purpose of providing information regarding local services to short-term visitors to the D area. The name and address of the incorporator are N and P respectively. The Registered office of the Corporation is located at P. The President, Secretary and Treasurer of the organization is N. N is also the owner and Manager of G located at the P address.

Your mission statement states you are formed to provide a resource for visitors to the D area who are seeking short-term housing during their stay. You are being formed to connect visitors to providers of short-term housing. This is an organization of housing long term to join and upkeep a web-site for linkage to the businesses to serve medical patients families or patients while on medical appointments.”

Your primary activity is the operation of a website. The main purpose of the website is to connect visitors to your community in need of short-term housing to providers of such housing. The following description found on your website states:

“Specializing in weekly and monthly rates for F Patients, corporate housing visits, corporate housing transfers, holiday visits or just that place to stay while your new home awaits you, find out for yourself why we are so excited about bringing you the best in extended stay short term housing and accommodations”.

A typical description of an available rental property lists desirable amenities such as a pool, free DVD rental, private tanning salon, state of the art fitness facility and business center. The web page also includes a map of the local community that marks the location of the available rental properties. The web page also provides some visitor information such as local restaurants and places of worship.

Your articles of incorporation indicate you are a membership organization. However on the application form 1024 page 3 you indicate “no members” in response to question 7 and in your bylaws Article III, section 2.1 states “this corporation shall have no members”. However Article V of your Articles of Incorporation indicates Registered members and Article VI indicates each member shall be entitled to one vote. The primary membership requirement is members have to be businesses that offer short or long-term housing and cannot be a hotel or motel. Members’ properties are promoted on the website as illustrated in the following statement: “Our members offer

corporate housing, temporary housing, relocation housing, furnished apartments, short-term rental, furnished rental and patient housing for a week, a month or a year". The website also states: "Our short-term housing member's hope is to make your extended stay the most wonderful and unique experience you have ever had."

In addition, you solicit members through your website as indicated by the following statement: "If your short term housing or alternate housing accommodations are qualified to become a member of M, you will be listed on the members' page with a description of your property and a link to your website and a photo." Further, the website reads: "The high- traffic web site is a great way to help drive more visitors to your (member's) web site."

You have eight members to date. Membership fees are w for the first year and subsequent years are x, per year. The website is controlled by a website builder and developer. N is your primary point of contact for potential renters of the properties. N also owns the first entity, G, listed on your website. G consists of several single-family homes, townhomes, and apartments with rentals ranging from approximately 300 dollars to 2000 dollars per month. In addition, G is the only entity listed that has any reviews (over 20) by satisfied renters. As of now, N is the sole member of your governing body and is also your President, Secretary and Treasurer.

Your only source of income consists of membership fees. Your only expense is to maintain the website that promotes your members.

Law

IRC 501(c)(6) provides for the exemption of business leagues, chambers of commerce, real estate boards, boards of trade and professional football 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.

Section 1.501(c)(6)-1 of the Income Tax Regulation states that a business league is an association of persons having some common business interests, 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. Its activities should be directed towards the improvement of business conditions in one or more lines of business as distinguished from the performance of particular services for individual persons.

Revenue Ruling 55-444 states that an organization formed to promote the business of a particular industry that carries out its purposes primarily by conducting a general advertising campaign to encourage the use of products and services of the industry as a whole is exempt from tax notwithstanding that such advertising to a minor extent constitutes the performance of particular services for its members.

Revenue Ruling 56-84 states that an organization, operated primarily for the purpose of promoting, selling and handling the national advertising in its members' publications, is engaged in the performance of particular services for individual members as distinguished from activities for the improvement of the business conditions of its members as a whole and, therefore, is not entitled to exemption from Federal income tax as a business league.

Revenue Ruling 59-234, 1959-2 CB 149, (Jan. 01, 1959), describes a real-estate board whose primary purpose or activity is the operation of a multiple listing system is considered to be rendering particular services for its members and is not exempt from Federal income tax as an organization described in section 501(c)(6) of the Internal Revenue Code of 1954.

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. 73-411 1973-2 C.B. 180 states 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 or chamber of commerce under section 501(c)(6) of the Code

Rev. Rul. 76-400, 1976-2 C.B. 153 states that a nonprofit organization formed as a membership organization of business and professional women that promotes the acceptance of women in business and the professions qualifies for exemption under section 501(c)(6) of the Code

Revenue Ruling 83-164 1983-2 C.B. 95 states that an organization whose members represent diversified businesses that own, rent, or lease computers produced by a single computer manufacturer does not qualify for exemption from federal income tax as a business league under section 501(c)(6) of the Code.

In National Muffler Dealers Association vs. United States 565 F.2d 845 (1977) the court agreed with the district court that the Association does not benefit an entire "line of business" as required by the treasury Regulations and accordingly, does not merit an exemption as a business league under Section 501(c)(6) of the Internal Revenue Code.

IRC 501(c)(4) of the Code provides for the exemption from federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Regulations states that 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 betterment.

Revenue Ruling 78-132, 1978-1 CB 157 describes a community cooperative organization formed to facilitate the exchange of personal services among members is operating primarily for the private benefit of its members and is not exempt from tax as a social welfare organization under section 501(c)(4) of the Code.

Application of Law

You are not described in Section 501(c)(6) of the Code because you are not organized and operated as a Business league.

You are not described in Section 1.501(c)(6)-1 of the Income Tax Regulation because you are promoting the common business interests of your restricted membership and not a line of business. Also your purpose is to provide a particular service to your members, and thereby provide private benefit to your members.

You are not similar to the organization described in Revenue Ruling 55-444. Your purpose and activities are directed at the promotion of your members' businesses, eight in number to date and restricted to those providing short or long term housing and cannot be hotels or motels, not the industry as a whole.

You are similar to the organization described in Revenue Ruling 56-84 in that you are engaged in the performance of particular services for individual members. You are providing advertising for your members who are businesses that offer short and long term housing.

You are like the organization described in Revenue Ruling 59-234, 1959-2 CB 149, and Revenue Ruling 61-170 because the operation of the website promoting your members provides a particular service to your members. Your activities are focused on the promotion of the private interests of your members.

You are like the organization in Revenue Ruling 73-411 because your membership is

restricted to short term housing, apartment and condo owners.

You are unlike the organization in Revenue Ruling 76-400 because your membership is restricted and your purpose is to secure a competitive advantage for your members rather than to improve conditions for the industry as a whole.

You are like the organizations in Revenue Ruling 83-164 and the organization in National Muffler Dealers Association vs. United States 565 F.2d 845 (1977) because your activities do not benefit an entire "line of business."

You are also not described in section 501(c)(4) of the Code and Section 1.501(c)(4)-1(a)(2)(i) of the Regulations because you are not operated for the promotion of social welfare of the community.

Like the organization in Revenue ruling 78-132 you are operated to set up a website to promote your member businesses and as such your purpose is to operate for the private benefit of your members.

Applicant's Position

You believe you qualify under section 501(c)(6) because you are involved in networking activities by putting a website together and conducting meetings to discuss ideas and business. You are a network or association of housing owners that developed a website to inform people of low cost and affordable housing in the area for people who cannot afford hotels. All your income comes from members as dues and all income is spent on the website for information and upkeep. Hotels and Motels are not permitted to be members. There are 8 properties in the organization. No application is needed and new companies if they open are encouraged to join. No new members have joined in the past 5 years. Finally, you indicate exemption under Section 501(c)(6) would allow you to link to F's website.

Service Response to Applicant's Position

Your primary purpose is the operation of a website that provides a link to certain properties of your members. These properties are short term housing, apartments, condominiums etc that are rented out to patients and their families seeking short term housing at F or other individuals seeking short term housing. By operating a website that promotes your members properties you are offering particular services to your members and therefore you operate for the private benefit of your members. In addition your Founder N who is also your President, Secretary and Treasurer and the owner of G is directly benefitted by your activities. Therefore we conclude you do not qualify for exemption under Section 501(c)(6) of the Code.

Conclusion

1. The facts show that you are not organized and operated for purposes described in Section 501(c)(6) of the Code. Specifically, you fail to qualify because your activities further the private interests of your members, you provide a particular service to your members and your activities are not directed to the improvement of business conditions of one or more lines of business. Accordingly, you do not qualify for exemption under section 501(c)(6) of the Internal Revenue Code.
2. You are not described in section 501(c)(4) because your activities further the private interests of your members.

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter.

We will consider your statement and decide if that information affects our determination. If your statement does not provide a basis to reconsider our determination, we will forward your case to our Appeals Office. You can find more information about the role of the Appeals Office in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*.

Types of information that should be included in your appeal can be found on page 2 of Publication 892, under the heading "Regional Office Appeal". The statement of facts (item 4) must be declared true under penalties of perjury. This may be done by adding to the appeal the following signed declaration:

"Under penalties of perjury, I declare that I have examined the statement of facts presented in this appeal and in any accompanying schedules and statements and, to the best of my knowledge and belief, they are true, correct, and complete."

Your appeal will be considered incomplete without this statement.

If an organization's representative submits the appeal, a substitute declaration must be included stating that the representative prepared the appeal and accompanying documents; and whether the representative knows personally that the statements of facts contained in the appeal and accompanying documents are true and correct.

An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you during the appeal process. To be represented during the appeal process, you must file a proper power of attorney, Form 2848, *Power of Attorney and Declaration of Representative*, if you have not already done so. For more information about representation, see Publication 947, *Practice Before the IRS and Power of Attorney*. All forms and publications mentioned in this letter can be found at www.irs.gov, Forms and Publications.

If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter to you. That letter will provide information about filing tax returns and other matters.

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

Mail to:

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

Deliver to:

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

You may also fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Lois G. Lerner
Director, Exempt Organizations

Enclosure, Publication 892