



Department of the Treasury
Internal Revenue Service
Independent Office of Appeals
550 Main Street, Room 9-491
Cincinnati, OH 45202

Date: DEC 08 2022

Person to contact:

Name:

Employee ID Number

Phone:

Employer ID number:

Uniform issue list (UIL):

Release Number: 202309016

Release Date: 3/3/2023

501.08-00, 501.32-00, 503.01-00

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) of the Code.

We made the adverse determination for the following reasons:

You have not established that you meet the requirements of section 501(c)(6) of the Code. You have not shown that you are 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. You have not demonstrated that you are an organization of the same general class as a chamber of commerce or board of trade. You have not shown that your activities are 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. Your net earnings also inure to the benefit of private shareholders or individuals.

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 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 Section 6110 of the Code after deleting certain identifying information. We 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 can file an action for declaratory judgment under the provisions of Section 7428 of the Code in either:

- The United States Tax Court,
- The United States Court of Federal Claims, or
- 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 | US Court of Federal Claims | US District Court for the District of Columbia |
| 400 Second Street, NW | 717 Madison Place, NW | 333 Constitution Avenue, NW |
| Washington, DC 20217 | Washington, DC 20005 | Washington, DC 20001 |

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

You also have the right to contact the Taxpayer Advocate Service (TAS). 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 or call 877-777-4778.

TAS assistance is not a substitute for established IRS procedures, such as the formal appeals process. TAS 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.

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

Sincerely,

Doug O'Donnell
Acting Commissioner
By

Valeria B. Farr
Acting Appeals Team Manager

Enclosures:
IRS Appeals Survey



Department of the Treasury
Internal Revenue Service
PO Box 2508
Cincinnati, OH 45201

Date: DEC 22 2021

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

B = state

C = Date

J percent = %

x dollars = dollar amount

y dollars = dollar amount

z dollars = dollar amount

UIL:

501.00-00

501.06-00

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 were formed in the state of B on C as a nonprofit corporation. Your Articles of Incorporation state that you are organized to promote the sport of and racing for and other race You also provide a structured environment that allow racers to safely participate in competitions. You encourage good sportsmanship in a competitive environment.

Your Articles of Incorporation also indicate that you have one class of members and each has full voting rights. No part of net earnings, property, or assets shall inure to the benefit of any private person or director. Upon dissolution, your assets remaining after the payment of debts shall be conveyed to a charity as determined by your membership at the final meeting.

On the contrary, your application states upon dissolution all assets would be distributed to participating tracks evenly.

You stated on your application that your activities are:

Letter 4034 (Rev. 01-2021)
Catalog Number 47628K

- Providing _____ at each race event that is held on _____ from _____ through _____
- Hosting a year-end awards banquet each year in _____
- Scheduling races with the _____
- Providing a set of rules and regulations to keep racers and _____ safe.

Your primary funding comes from sponsorships, race fees, donations, and memberships. Your application indicates that a member is any racer who pays x dollars annually to register his/her race number. Members _____ towards the race season. At the end of the season, _____ from sponsorships and race _____ are distributed to the top _____ points holders in all _____ classes.

Your total income over the last _____ years is y dollars and out of which z dollars were paid to the top _____ points holders. The payout is around j percent of total income.

Law

IRC Section 501(c)(6) provides for exemption from federal income tax for business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), 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 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 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 private interests of its members and is not exempt under IRC Section 501(c)(6).

In Rev. Rul. 70-244, 1970-1 C.B. 132, the organization's membership consists of business and professional persons in the community. Its articles of incorporation state it was formed to bring together members and their guests to exchange idea for improving business conditions within the community. It does not have any specific program directed to the improvement of business conditions in the community. Since this organization has no program designed to improve business conditions of one or more lines of business, it is held that the organization is not exempt from federal income tax under IRC Section 501(c)(6).

Rev. Rul. 73-411, 1973-2 C.B. 180, describes an organization that was not structured along industry or business lines but was composed of and restricted to various types of businesses and commercial endeavors comprising a shopping center. Therefore, its 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 indicated 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. The ruling held that organization did not qualify for exemption under IRC Section 501(c)(6) because its activities were directed to promoting the general business interests of its members.

Rev. Rul. 77-206, 1977-1 C.B. 19, held that cash rebates made by an exempt business association to member and nonmember exhibitors who participate in the association's annual industry trade show, that represent a portion of an advance floor deposit paid by each exhibitor to insure the show against financial loss, and which are made to all exhibitors on the same basis, and which may not exceed the amount of the deposit, do no adversely affect the association's exemption status under IRC Section 501(c)(6).

Rev. Rul. 81-60, 1981-1 C.B. 335, relied on well established principles under IRC Section 501(c)(6) to hold that a refund of excess dues to members of an exempt agricultural organization in the same proportion as the dues are paid does not constitute inurement, and therefore does not disqualify an organization from exemption under IRC Section 501(c)(5) or Section 501(c)(6).

King County Insurance Association, 37 B.T.A. 288 (1938), acq. 1938-1 C.B. 17 stated that pro rata refunds of excess dues to members do not affect an association's status as an exempt business league.

In American Kennel Club v. Hoey, 148 F.2d 920 (2nd Cir. 1945), the court held that an association of dog owners, most of whom were not in the business of raising and selling dogs, did not further a common business interest and thus was not exempt under IRC Section 501(c)(6).

In Bluetooth SIG, Inc. v. United States, 611 F.3d 617 (9th Cir. 2010), the court examined an organization that was formed to advance the common business interests of its members in the development and regulation of technical standards for the compatibility and interoperability of wireless products and devices within a wireless personal area network. The organization develops specifications and use applications and promotes consumer awareness and marketing through its Bluetooth technology and trademark. The court held that the organization was not a tax-exempt business league under IRC Section 501(c)(6) because the organization's activities exclusively benefit its members, rather than an entire line of business. The court noted that it "strains credulity" for the organization to argue that its services indirectly benefit the industry as a whole simply by generating consumer awareness of the availability and reliability of its technology. The court reiterated in order to decide whether a particular entity qualifies as a business league under the Section 501(c)(6), a business league must have the following characteristics:

- (1) It must be an association of persons having some common business interest
- (2) Its purpose must be to promote this common business interest
- (3) It must not be organized for profit
- (4) It should not be engaged in a regular business of a kind ordinarily conducted for a profit
- (5) Its activities should be directed toward the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons
- (6) It must be the same general class as a chamber of commerce or a board of trade

Application of law

You are not described in IRC Section 501(c)(6) and Treas. Reg. Section 1.501(c)(6)-1 because the facts show you are not formed to promote the common business interests of a particular industry or trade, but rather you are formed to promote a sport. Your members come together with a common interest, however, you have not demonstrated that the interest is a business interest. You also have not demonstrated you have met any of the Section 501(c)(6) characteristics spelled out in Bluetooth SIG, Inc.

You are similar to Rev. Rul. 70-244 and Rev. Rul. 73-411 that you do not have any programs to improve any business conditions and promote the general business interests of your members.

You are distinguished from Rev. Rul. 77-206, Rev. Rul. 81-60, and King County Insurance Association that you distribute excess of sponsorships and race income to top points holders. The distribution is more than x dollars of the annual membership fee. In addition, you further the private interest of your members by sharing your excess income which is similar to Rev. Rul. 59-391.

Your membership is primarily interested in a sport, not in any business. Hobbies are activities that aren't conducted as businesses. You are similar to American Kennel Club that does not further a common business interest but further the common interest of hobbyists.

Conclusion

Based on the above facts and law, we conclude you do not qualify for exemption under IRC Section 501(c)(6). Your activities are not directed to the improvement of business conditions of one or more lines of business nor do you share any common business interest. Rather, you facilitate for and your members have no common business interest. Accordingly, you do not qualify for exemption as an organization described in 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 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