



Department of the Treasury
Internal Revenue Service
1111 Constitution Ave., NW
Washington, DC 20224

Date: October 2, 2015

Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

Number: 201552032
Release Date: 12/24/2015

UIL: 501.04-00, 501.04-03

Dear

This letter is our final determination that you don't qualify for tax-exempt status under Section 501(c)(4) of the Internal Revenue Code (the Code). 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 federal income tax returns for the tax years listed at the top of this letter using the required form (also listed at the top of this letter) within 30 days of this letter unless you request an extension of time to file.

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection (as required under Section 6110 of the Code) 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 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 contact the person listed at the top of this letter. If you have questions about your federal income tax status and responsibilities, call our customer service number at 1-800-829-1040 (TTY 1-800-829-4933 for deaf or hard of hearing) or customer service for businesses at 1-800-829-4933.

Sincerely,

Jeffrey I. Cooper
Director, Exempt Organizations
Rulings and Agreements

Enclosures:

Notice 437

Redacted Letter 4034, *Proposed Adverse Determination under IRC Section 501(a) Other Than 501(c)(3)*

Redacted Letter 4040, *Final Adverse Determination under IRC Section 501(a) Other Than 501(c)(3) - No Protest*



Department of the Treasury
Internal Revenue Service
 1111 Constitution Ave. N.W.
 Washington, D.C. 20224

Date: August 13, 2015

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

UIL:

501.04-00, 501.04-03

Legend:

Date1 =
State =
Viewpoint =
Date2 =
Year =
Party =

Dear :

We considered your application for recognition of exemption from federal income tax under Section 501(a) of the Internal Revenue Code (the Code). Based on the information provided, we determined that you failed to establish that you qualify for exemption under Section 501(c)(4) of the Code. This letter explains the basis for our conclusion. Please keep it for your records.

Facts

You incorporated on Date1 in State. Your Bylaws state that your purpose is "to help promote Viewpoint values in the state of State by assisting local Viewpoint grassroots organizations."

In Part II, Line1 of Form 1024, you describe your activities and operations. You state that you: 1) have an "annual bill for website maintenance," 2) engage in "phone conferences for vetting candidates," and 3) hold "debate forums in public areas." You add that "everyone is allowed to attend these events." In Part II, Line 15 of Form 1024, you state that you plan to spend money attempting to influence elections. You do not further describe the activity that you will undertake to pursue this goal nor state the amount of money or time that you will spend on this activity.

On Date2 we sent you a letter requesting more information. We asked you to describe in further detail your candidate forums, phone conferences, activity to influence elections, and any other activities.

In your written reply, you responded that your only activity in Year was a forum "for candidates to the Party State chairman position," a "non-publicly elect[ed]" position. All legally qualified candidates were invited to attend and received the same amount of time to respond to questions. You stated that you selected questions "based on issues important to the party, and how the candidate hoped to move the party forward." Your senior officers proctored the event and no candidate was favored over another. You state that members of the public were invited to attend and that you did not spend any money on this forum. You stated that you did not hold any phone conferences "due to lack of support and scheduling conflict,"

causing you to cancel "all phone conferences this year." You stated that to date you had no other activities. You state that you had no expenditures to date. All of your members who carry on your activities are uncompensated volunteers.

You stated that you have no planned activities at this time, but that if you do, you will do your best to comply with all applicable federal laws. In addition to not having spent any funds in the past or at present, you state that you "intend on spending nothing [in the future] if possible." However, if you do spend money in the future, it "will be for building expenses, at most a few hundred each year but [you] do not have any planned at this time."

Since receiving your reply to our letter sent on Date2, we made several attempts to contact you via telephone to clarify your past, current, and future activities. After we left several voicemails, we spoke with one of your board members who said that it was not possible to talk during working hours. The board member said that another board member would call instead to discuss your activities. However, we never received a call from the other board member or any further communication from your representatives.

Law

I.R.C. § 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.

Treas. Reg. § 1.501(c)(4)-1(a)(2)(i) provides 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 § 501(c)(4) is one that is operated primarily for the purpose of bringing about civic betterments and social improvements.

Treas. 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.

Rev. Rul. 81-95, 1981-1 C.B. 332, considers the effect of engaging in political campaign activities on a § 501(c)(4) organization. The ruling refers to five revenue rulings, including Rev. Rul. 78-248, 1978-1 C.B. 154, for other examples of what constitutes participation or intervention in political campaigns. Each of those rulings involves a § 501(c)(4) organization. The organization was primarily engaged in activities designed to promote social welfare. In addition, it conducted activities involving participation and intervention in political campaigns on behalf of or in opposition to candidates for nomination or election to public office. The ruling concludes that, because the organization's primary activities promoted social welfare, its lawful participation or intervention in political campaigns on behalf of or in opposition to candidates for public office would not adversely affect its exempt status under § 501(c)(4).

Rev. Rul. 2007-41, 2007-41 C.B. 1421, provides 21 examples illustrating the application of the facts and circumstances to be considered to determine whether an organization exempt from income tax under § 501(a) has participated in, or intervened in, any political campaign on behalf of or in opposition to any candidate for public office. The presentation of public forums or debates is a recognized method of educating the public that is not political campaign intervention, citing Rev. Rul. 66-256, 1966-2 C.B. 210. Providing a forum for candidates is not, in and by itself, prohibited political activity unless the forum is operated in a manner to show bias for or against a particular candidate, referencing Rev. Ruls. 74-574, 1974-2 C.B. 160; 86-95, 1986-2 C.B. 73.

Rev. Proc. 2015-9, 2015-2 I.R.B. 249, § 4.01, provides that a favorable determination letter or ruling will be issued to an organization only if its application and supporting documents establish that it meets the

particular requirements of the section under which exemption from Federal income tax is claimed. A determination letter or ruling on exempt status is issued based solely upon the facts and representations contained in the administrative record. The applicant is responsible for the accuracy of any factual representations contained in the application.

In *Peoples Prize v. Commissioner*, T.C. Memo 2004-12 (2004), the court upheld the Service's determination that the organization failed to establish exemption where the organization fails to provide requested information, stating, "[Applicant] has, for the most part, provided only generalizations in response to repeated requests by [the Service] for more detail on prospective activities. Such generalizations do not satisfy us that [applicant] qualifies for the exemption."

Levy Family Tribe Foundation, Inc. v. Commissioner, 69 T.C. 615 (1978), provides that an applicant for exemption carries the burden to sufficiently describe its activities in order to meet the operational test of § 501(c)(3). The court states, "[N]owhere in the administrative record is there any description or explanation of how this activity furthers an exempt purpose. The record is replete with unsupported generalizations. These explanations are too general and lack the facts necessary to establish public, rather than personal, purposes of the organization."

In *New Dynamics Foundation v. United States*, 70 Fed. Cl. 782, 798 (Fed. Cl. 2006), the U.S. Court of Federal Claims held that the Service properly denied tax exempt status under § 501(c)(3) to a nonprofit corporation that was organized to promote and contribute to charitable causes. In reaching this conclusion, the court stated, "It is well-accepted that, in initial qualification cases [any] gaps in the administrative record are resolved against the applicant," adding that courts "can draw inferences adverse to a taxpayer seeking exempt status where the taxpayer fails to provide evidence concerning its operations, or where the evidence is vague or inconclusive."

Bubbling Well Church of Universal Love, Inc. v. Commissioner, 74 T.C. 531 (1980), provides that an application for tax-exempt status "calls for open and candid disclosure of all facts bearing upon [an Applicant's] organization, operations, and finances to assure [that there is not] abuse of the revenue laws." Further, in the absence of such disclosure, "the logical inference is that the facts, if disclosed, would show that the [Applicant] fails to meet the requirements of [§] 501(c)(3)." See also, *Founding Church of Scientology v. United States*, 188 Ct. Cl. 490, 498, 412 F.2d 1197, 1201 (1969), cert. denied, 397 U.S. 1009 (1970).

Application of law

Based on our analysis of the information you submitted with your application, we have determined that you did not establish that you are operated exclusively for the promotion of social welfare within the meaning of § 501(c)(4) and the regulations thereunder. Therefore, you do not qualify for exemption from federal income tax as an organization described in § 501(c)(4).

An organization has the burden of proof to describe its activities to sufficient detail to permit the Service to determine whether it meets the definition of the code section under which exemption is sought. The courts have ruled against applicants for tax exemption when the applicant's proposed activities are especially ambiguous. See *Levy Family Tribe*, 69 T.C. 615. Further, where an organization provides mere generalizations in response to repeated requests by the Service for more detail on prospective activities, the courts have ruled against the applicant for exemption when such generalizations fail to show applicant qualifies for exemption. See e.g., *Peoples Prize*, T.C. Memo 2004-12. In addition, it is well accepted that in initial application cases, any gaps in the administrative record are resolved against the applicant and especially in cases where the applicant fails to provide evidence concerning its operations or where the

evidence is vague or inconclusive. See *New Dynamics*, 70 Fed. Cl. 782. Exemptions from income tax are matters of legislative grace where the courts have consistently construed strictly in favor of the Service. See, e.g., *Bubbling Well Church*, 74 T.C. 531; also see, *Founding Church of Scientology*, 188 Ct. Cl. 490.

The information you have submitted, thus far, is insufficient for us to conclude that you operate exclusively for the promotion of social welfare within the meaning of § 501(c)(4). Rev. Proc. 2015-9, 2015-2 I.R.B. 249, § 4.01, provides that a favorable determination letter or ruling will be issued to an organization only if its application and supporting documents establish that it meets the particular requirements of the section under which exemption from Federal income tax is claimed. The ruling is based solely upon the facts and representations contained in the administrative record. We have twice requested in writing descriptions of your past, current, and planned activities – in your initial Form 1024 application for exemption and in our letter requesting additional information dated Date2. Moreover, we made multiple attempts to set up a telephone call with your representatives, but were unable to schedule a time within your representative's limited availability. In your application, you state that you have a website, engage in phone conferences to vet candidates, and hold public debates forums. In response to our letter dated Date2, you did provide a description of your only activity thus far, namely a one-time forum in Year for all Party candidates to the Party State chairman position. While this activity may meet the definition of social welfare by furthering voter education purposes within the examples of Rev. Rul. 2007-41, 2007-41 C.B. 1421, you have still failed to describe your planned activities for the future. You provided only that you might spend funds on building expenses and gave a statement that you will comply with federal law. In another response, you stated that to have no plans to spend money, but any money that you might spend will be on overhead costs rather than social welfare work. You have provided only vague descriptions of activities and your subsequent response says that you have no planned activities for the future. Based solely on the administrative record, we do not have sufficient information to determine whether your future activities will fulfill social welfare purposes and therefore, you have not met your burden described in Rev. Proc. 2015-9, 2015-2 I.R.B. 249, § 4.01.

Additionally, you state in your application for exemption that you plan to influence elections in the future but failed to provide any information about future plans. While organizations operating for the promotion of social welfare within the meaning of § 501(c)(4) may engage in some political campaign activity, you must primarily engage in activities that promote social welfare within the meaning of § 1.501(c)(4)-1(a)(2)(i). As this determination is based on all the facts and circumstances, and you have failed to describe your activities to a sufficient degree to enable us to make a determination as to how much of your time and expenditures are devoted to non-social welfare activity, we cannot conclude that you will operate primarily for the promotion of social welfare in future years.

Unlike the organization described in Rev. Rul. 81-95, 1981-1 C.B. 332, you have not established that you are primarily engaged in activities designed to promote social welfare. Overall, the information you provided is insufficient to establish exemption despite our repeated attempts to contact you for additional information. You have not demonstrated you are operated exclusively for the promotion of social welfare under § 501(c)(4).

Conclusion

Based on our analysis of the information you provided in connection with your application, we have determined that you are not operated exclusively for the promotion of social welfare within the meaning of § 501(c)(4) because you have not established that your primary activities promote social welfare. Accordingly, you are not exempt under § 501(c)(4).

If you don't agree

You have a right to file a protest if you don't agree with our proposed adverse determination. To do so, you must send a statement to us within 30 days of the date of this letter. The statement must include:

- Your name, address, employer identification number (EIN), and a daytime phone number
- A copy of this letter highlighting the findings you disagree with
- An explanation of why you disagree, including any supporting documents
- The law or authority, if any, you are relying on
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization, or your authorized representative
- One of the following declarations:

For an officer, director, trustee, or other official who is authorized to sign for the organization:

Under penalties of perjury, I declare that I examined this protest statement, including accompanying documents, and to the best of my knowledge and belief, the statement contains all relevant facts and such facts are true, correct, and complete.

For authorized representatives:

Under penalties of perjury, I declare that I prepared this protest statement, including accompanying documents, and to the best of my knowledge and belief, the statement contains all relevant facts 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 he or she hasn'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 provided a basis for us to reconsider our determination. You also have a right to a conference after you submit your statement. If you want a conference, you must request it when you file your protest statement.

You can also ask the Office of Appeals to review your application for tax-exempt status. Your right to request Appeals review is in addition to your right to a conference, as outlined in Revenue Procedure (Rev. Proc.) 2015-4 and Rev. Proc. 2015-9. You must notify us in writing if you want us to forward your case to the Appeals Office. You can find more information about the process and the role of the Appeals Office in Section 7 of Rev. Proc. 2015-9 and Publication 4227, *Overview of the Appeals Process*.

If the person representing you in this process is not an officer, director, trustee, or other official who is authorized to sign for the organization, he or she must file Form 2848, as explained above, and otherwise meet the requirements in Publication 216, *Conference and Practice Requirements*.

Where to send your protest

Please send your protest statement, any request for consideration by the Office of Appeals, Form 2848, if needed, and any supporting documents to the applicable address:

U.S. mail:

Street address for delivery service:

You can also fax your statement 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 he or she received it.

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.

You can find all forms and publications mentioned in this letter on our website at www.irs.gov/formspubs. If you have questions, you can contact the person listed at the top of this letter.

Sincerely,

Jeffrey I. Cooper
Director, Exempt Organizations
Rulings & Agreements

Enclosure:

Publication 892