

NO PROTEST RECEIVED.
Internal Revenue Service

District Director

CASE CLOSED 11-18-97.

Department of the Treasury

P.O. Box 2508
Cincinnati, OH 45201

Person to Contact:

Telephone Number

Refer Reply to:
EP/EO

Employer Identification Number:

Date: OCT 10 1997

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(3) of the Internal Revenue Code of 1986 and its applicable Income Tax Regulations. Based on the available information, we have determined that you do not qualify for the reasons set forth on Enclosure I.

Consideration was given to whether you qualify for exemption under other subsections of section 501(c) of the Code and we have concluded that you do not.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1041 if you are a trust or Form 1120 if you are a corporation or an unincorporated association. Contributions to you are not deductible under section 170 of the Code.

You have the right to protest this proposed determination if you believe that it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892, "Exempt Organizations Appeal Procedures for Unagreed Issues". The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the Office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office, or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

10/7/97

10/9/97

[REDACTED]

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b) (2) of the Internal Revenue code provides in part that:

A declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within the time specified, this will become our final determination. In that event, appropriate State officials will be notified of this action in accordance with the provisions of section 6104(c) of the Code.

Sincerely yours,

[REDACTED]
District Director

Enclosures: 3

ENCLOSURE I

FACTS:

Organization's purpose as per their Articles of Incorporation are "to establish a program for providing worker's compensation insurance for the benefit of its members". Per the organization's application for exemption, their activities will be to collect member dues and worker's compensation insurance premiums, make payments of such premiums to the insurance company, as well as establish a schedule of safety violation and standards and to determine and assess fines, suspensions, expulsions and other sanctions for violations of such standards.

LAW:

Section 501(c) (3) of the Code provides, in part, for the exemption from Federal income tax for:

Organizations organized and operated exclusively for charitable, religious or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c) (3) -1(a) (1) of the Regulations states:

In order to qualify under section 501(c) (3) of the Code, an organization must be both organized and operated exclusively for one or more exempt purposes. If an organization fails to meet either the organizational or operational test, it is not exempt.

Section 1.501(c) (3) -1(a) (2) of the Regulations states:

The term "exempt purpose or purposes", means any purpose or purposes specified in section 501(c) (3) of the Code.

Section 1.501(c) (3) -1(b) (1) (i) of the Regulations states:

An organization is organized exclusively for one or more exempt purposes only if its articles of organization:

- (a) Limit the purposes of such organization to one or more exempt purposes; and
- (b) Do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c) (3) -1(b) (1) (ii) of the Regulations states:

In meeting the organizational test, the organization's purposes, as stated in its articles, may be as broad as, or more specific than, the purposes stated in section 501(c) (3).

Section 1.501(c)(3)-1(b)(1)(iii) of the Regulations states:

An organization is not organized exclusively for one or more exempt purposes if its articles expressly empower it to carry on, otherwise than as an insubstantial part of its activities, activities which are not in furtherance of one or more exempt purposes, even though such organization is, by the terms of such articles, created for a purpose that is no broader than the purposes specified in section 501(c)(3).

Section 1.501(c)(3)-1(b)(1)(iv) of the Regulations states:

In no case shall an organization be considered to be organized exclusively for one or more exempt purposes, if, by the terms of its articles, the purposes for which such organization is created are broader than the purposes specified in section 501(c)(3).

Section 1.501(c)(3)-1(c)(1) of the Regulations states that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations states that an organization is not operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. It must not be operated for the benefit of designated individuals or the persons who created it.

Section 1.501(c)(6)-1 of the Income Tax Regulations states, in part: "A business league is an association of persons having some common business interest, the purpose of which is to promote such common interest.... It is an organization of the same general class 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."

GOVERNMENT'S POSITION:

The organization's purpose and activities do not fall within the scope of purposes designated by 501(c)(3); and therefore the organization does not meet either the organizational or operational test. Providing workers compensation insurance for the benefit of members does not serve a public purpose but rather serves the private interests of the members. As the activity constitutes a "particular service" to the members, the organization also would not qualify under section 501(c)(6).

TAXPAYERS POSITION:

The taxpayer has indicated their preliminary agreement to denial of exemption by signing a Form 6018.