

United States Senate

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Committee on Homeland Security and Governmental Affairs

Carl Levin, Chairman

John McCain, Ranking Minority Member

**IRS AND TIGTA MANAGEMENT FAILURES
RELATED TO 501(c)(4) APPLICANTS ENGAGED IN
CAMPAIGN ACTIVITY**

**MAJORITY STAFF REPORT
WITH
MINORITY STAFF DISSENTING VIEWS**

REPORT EXHIBITS

Part 10 OF 10

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	Joint Committee on Taxation Press Release, dated March 16, 2000, regarding "Report of Investigation Relating to Internal Revenue Service Handling of Tax-Exempt Organization Matter."	1666
	Permanent Subcommittee on Investigations letter to Internal Revenue Service Acting Commission Daniel I. Werfel, dated May 23, 2014, urging IRS to suspend Lois Lerner from her office as Director of the Office of Exempt Organizations.	1675
	Treasury Inspector General letter to The Honorable Sander M. Levin, July 19, 2013, regarding TIGTA audit report.	1677
	<i>IRS list reveals concerns over Tea Party 'propaganda,'</i> <u>USA Today</u> , September 18, 2013, together with IRS list of Political Advocacy Cases.	1680
	<i>Does the IRS really have it in for tea party groups?,</i> <u>The Colorado Independent</u> , March 28, 2012, together with IRS Letter to Waco Tea Party Group and IRS Letter to Progressive Group.	1696

The following is correspondence between the Permanent Subcommittee on Investigations and the Internal Revenue Service, March 2012 - March 2013:

1. Subcommittee letter of March 30, 2012;
IRS response of June 4, 2012 (PSI-IRS-02-000001-026).
2. Senator Levin letter of June 13, 2012;
IRS response of July 13, 2012 (PSI-IRS-03-000001-002).
3. Subcommittee letter of July 27, 2012;
IRS response of August 24, 2012 (PSI-IRS-04-000001-008).
4. Subcommittee letter of August 31, 2012;
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5. Subcommittee letter of September 27, 2012;
IRS response of October 17, 2012 (PSI-IRS-06-000001-003).
6. Subcommittee letter of October 23, 2012;
IRS response of November 23, 2012 (PSI-IRS-07-000001-119).
7. Subcommittee letter of January 4, 2013;
IRS response of March 15, 2013 (PSI-IRS-08-000001-108).

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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

March 30, 2012

VIA U.S. MAIL & EMAIL (Floyd.Williams@IRS.gov)

The Honorable Douglas H. Shulman
Commissioner
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Dear Commissioner Shulman:

Some entities claiming tax-exempt status as social welfare organizations under 26 U.S.C. §501(c)(4) appear to be engaged in political activities more appropriate for political organizations claiming tax-exempt status under 26 U.S.C. §527. Because of the urgency of the issues involved in this matter, please provide the following information by April 20, 2012.

- (1) Are entities seeking tax-exempt status under Section 501(c)(4) required to submit an application to the IRS for review and approval, or can they hold themselves out as having that tax-exempt status without filing an application or undergoing IRS review?
- (2) For entities that submit an application for tax-exempt status under Section 501(c)(4), please indicate:
 - (a) the approximate average number of days between the date on which an entity submits an application for 501(c)(4) tax-exempt status and the date on which that application is approved or denied;
 - (b) if it is not provided on a routine basis, approximately what percentage of such applicants receive an IRS questionnaire seeking information about any political activities, and how the IRS determines whether and when to send that questionnaire; and
 - (c) approximately how many days after an application is filed that questionnaire is typically sent.
- (3) A 1997 letter from the IRS denying tax-exempt status to the National Policy Forum, copy attached, made public in connection with a Senate investigation into federal election campaigns, indicates that the IRS based its denial on the fact that the organization was engaged in partisan political activity, stating that "partisan political activity does not promote social welfare as defined in section 501(c)(4)," and "benefit[s] select individuals or groups, instead of the community as a whole."

Is it still the position of the IRS that a 501(c)(4) organization cannot engage in any partisan political activity, even as a secondary activity?

- (4) Is it the position of the IRS that an entity claiming tax-exempt status under Section 501(c)(4) can engage in nonpartisan political activity as a secondary activity, and that political activity can consume up to 49% of the entity's expenditures and resources?
- (5) A Treasury regulation applicable to 501(c)(4) organizations states: "The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office." Treas.Reg. §1.501(c)(4)-1(a)(2)(ii). Would the IRS generally view it as a violation of that regulation if a 501(c)(4) organization:
 - (a) made a cash contribution to a political organization which is tax-exempt under Section 527 and functions as a campaign committee to elect a particular candidate to public office?
 - (b) made a cash contribution to a political action committee which was established under the Federal Election Campaign Act (FEC Act) and which routinely makes cash contributions to campaign committees, each of which was established to elect a particular candidate to public office?
 - (c) made a cash contribution to a political action committee or Section 527 political organization which makes independent expenditures on behalf of or in opposition to one or more candidates for public office?
 - (d) made a cash contribution to a national political party which engages in partisan political campaigns to elect multiple candidates from the same political party to public office?
 - (e) made a cash contribution to a political action committee or Section 527 political organization which is engaged in partisan political activity, but does not campaign on behalf of or in opposition to any particular candidate for public office?
 - (f) made a cash contribution to a political action committee or Section 527 political organization which is engaged in nonpartisan political activity and does not campaign on behalf of or in opposition to any particular candidate for public office?
- (6) Would the IRS generally view it as a violation of Treasury Regulation §1.501(c)(4)-1(a)(2)(ii), if a 501(c)(4) organization were to coordinate its political activities with a campaign committee, political action committee, or national political party? Please explain.

- (7) I understand that some persons have petitioned the Treasury Department to clarify or revise Treasury Regulation §1.501(c)(4)-1(a)(2)(ii). Please indicate whether the IRS plans to engage in such a rulemaking, whether it would first solicit comments on what should be included in that rulemaking, and whether or when any such rulemaking effort has been scheduled to begin.
- (8) If the IRS were to deny an entity's request to be treated as tax exempt under Section 501(c)(4), would the IRS automatically apply corporate income taxes to that entity or would it allow the entity to apply for tax-exempt status on other grounds?
- (9) If the IRS were to determine that an entity was impermissibly participating in partisan political activity, does the IRS have unilateral authority to reclassify it as a Section 527 political organization instead of a Section 501(c)(4) social welfare organization?
- (10) If an entity were denied tax-exempt status by the IRS under Section 501(c)(4), how would past contributions and income earned on those funds generally be treated under the tax code?
- (11) What considerations does the IRS use to determine when an entity that is denied tax-exempt status under Section 501(c)(4) should be subject to a penalty? What penalties are available and how are they calculated?
- (12) Please provide a copy of the standard questionnaire that the IRS sends to entities claiming tax-exempt status under Section 501(c)(4) to obtain information about their political activities. In addition, please provide any written guidance provided to IRS agents regarding the issue of political activity in connection with Section 501(c)(4).
- (13) Please indicate how many letter rulings have been issued by the IRS since January 1, 2007, to deny or revoke the tax-exempt status of an organization under Section 501(c)(4) due to involvement with partisan or nonpartisan political activity. If the IRS has issued 10 or less such letter rulings, please provide copies of all such letters. If the IRS has issued more than 10 such letter rulings, please provide a sample containing discussions of the widest variety of issues related to the denial of tax-exempt status under Section 501(c)(4) due to partisan or nonpartisan political activity.

Thank you for your assistance on this matter. If you have any questions, please contact me, or have your staff contact Kaye Meier of my staff at kaye_meier@levin.senate.gov or 202/224-9110.

Sincerely,



Carl Levin
Chairman
Permanent Subcommittee on Investigations



DEPUTY COMMISSIONER

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

June 4, 2012

The Honorable Carl Levin
Chairman
Permanent Subcommittee on Investigations
Senate Committee on Homeland Security
and Government Affairs
United States Senate
Washington, D.C. 20515

Dear Senator Levin:

I am responding to your letter to Commissioner Shulman dated March 30, 2012, requesting information about the tax-exempt sector. We appreciate your interest and support of the IRS efforts in the administration of the tax law as it applies to tax-exempt organizations. This response follows the telephone conversation held with your staff on May 4, 2012.

Question 1. Are entities seeking tax-exempt status under Section 501(c)(4) required to submit an application to the IRS for review and approval, or can they hold themselves out as having tax-exempt status without filing an application or undergoing IRS review?

The law allows section 501(c)(4) organizations to hold themselves out as tax-exempt. Organizations also can apply for IRS recognition as tax-exempt. Whether an organization is self-declared under section 501(c)(4) or has been determined by the IRS to meet the requirements of section 501(c)(4), the organization must file Form 990 annual information returns.

Question 2.

To assist in responding to your specific sub-questions, we are providing background information about our system for processing applications for tax-exempt status, as well as the statutory disclosure rules that govern public inspection of IRS documents relating to tax-exempt organizations.

Application Process

All applications for tax-exempt status, including applications for status under section 501(c)(4), are filed with a centralized IRS Submission Processing Center, which enters the applications into the EP/EO Determination System and processes the attached user fees. The application is then sent to the Exempt Organizations ("EO") Determinations office in Cincinnati, Ohio for initial technical screening.

This technical screening is conducted by experienced revenue agents who review the applications and, based on that review, separate the applications into the following four categories:

- Applications that can be approved immediately based on the completeness of the application and the information submitted;
- Applications that need only minor additional required information in the file in order to approve the application;
- Applications that do not contain the information needed to be considered substantially complete; and
- Applications that require further development by an agent in order to determine whether the application meets the requirements for tax-exempt status.

Organizations whose applications fall into the fourth category are sent letters informing them that more development of their application is needed, and that they will be contacted once their application has been assigned to a revenue agent. The applications are sent to unassigned inventory, where they are held until a revenue agent with the appropriate level of experience for the issues involved in the matter is available to further develop the case.¹

Once the case is assigned, the revenue agent notifies the organization and reviews the application. Based upon established precedent and the facts and circumstances set forth in the application, the revenue agent requests additional information and documentation to complete the file pertaining to the exempt status application materials² (the so-called "administrative record") and makes a determination. Where an application for exemption presents issues that require further development to complete the application record, the revenue agent engages in a back and forth dialogue with the organization in order to obtain the needed information. This back and forth dialogue helps applicants better understand the requirements for exemption and what is needed to meet them, and allows the IRS to obtain all the information relevant to the determination.

¹ Enclosure A describes the criteria used to determine the appropriate level of experience.

² The application for recognition of tax exempt status, any papers submitted in support of the application, and any letter or other document issued by the IRS with respect to the application. See IRC § 6104(a), (d)(5).

Tools are available to promote consistent handling of full development cases. For example, in situations where there are a number of cases involving similar issues (such as credit counseling organizations, down payment assistance organizations, organizations that were automatically revoked and are seeking retroactive reinstatement, and most recently, advocacy organizations), the IRS will assign cases to designated employees to promote consistency. Additionally, in these cases, EO Technical (an office of higher graded specialists in Exempt Organizations), in consultation with the IRS Office of Chief Counsel, may develop educational materials to assist the revenue agents in issue spotting and crafting questions to develop cases consistently.

It is important to develop a complete administrative record for the application. Because the administrative record must either support exemption or denial, it is important for the record to be complete. If the application is approved, not only is the administrative record made publicly available (with certain limited exceptions outlined below), but organizations that act as described in the administrative record have reliance on the IRS determination. If the application is denied, the organization may seek review from the Office of Appeals. The Appeals Office, which is independent of Exempt Organizations, reviews the complete administrative record and makes its own independent determination of whether the organization meets the requirements for tax-exempt status. It is to the organization's benefit to have all of its materials in the file in the event EO Determinations denies exemption and the organization seeks Appeals review. If, based on the information in the administrative record, the Appeals Office decides the organization meets the requirements for tax-exempt status, the application will be approved. If the Appeals Office agrees that the application should be denied, the organization may challenge its non-exempt status by paying any tax owed as a taxable entity, and seeking a refund in federal court.

In those cases where the application raises issues for which there is no established published precedent or for which non-uniformity may exist, EO Determinations may refer the application to EO Technical. In EO Technical, the applications are reviewed by tax law specialists whose job is to interpret and provide guidance on the law and who work closely with IRS Chief Counsel attorneys on the issues.

Similar to the process in EO Determinations, EO Technical tax law specialists develop cases based on the facts and circumstances of the issues in the specific application. EO Technical staff engages in a back and forth dialogue with the organization in order to obtain the information needed to complete the administrative record. If, upon review of all of the information submitted, it appears that an organization does not meet the requirements for tax-exempt status, a proposed denial explaining the reasons the organization does not meet the requirements is issued. The organization is then entitled to a "conference of right" where it may provide additional information. Following the conference of right, a final determination is issued. If the application is approved, the administrative record is made publicly available, and if the organization acts as described in the application record, it has reliance on the IRS determination. If the application is denied, the applicant may challenge its non-exempt status by paying any tax owed as a taxable entity, and seeking a refund in federal court.

Statutory Disclosure Rules

Public disclosure regarding tax exempt organization filings is principally governed by sections 6103, 6104 and 6110 of the Internal Revenue Code. Generally, section 6103 of the Code prohibits the disclosure of information about specific taxpayers unless the disclosure is authorized by a provision of the Code. Section 6104 of the Code requires the IRS to make certain materials available for public inspection, including an organization's approved application for recognition of tax exemption and Form 990 annual information returns.³ If the IRS approves an organization's application for tax-exempt status, section 6104(a) requires that the application and supporting materials be made available for public inspection. The only exception to that requirement is found in section 6104(a)(1)(D), which exempts from disclosure information that the IRS determines relates to any "trade secret, patent, process, style of work, or apparatus of the organization" that would adversely affect the organization or information that could adversely affect national defense.

The long-standing statutory requirements regarding exemption applications, including Form 1024, are separate from those requiring public availability of Form 990 annual information returns, which are contained in section 6104(b). Under section 6104(b), Form 990 annual information returns are also subject to public inspection, with the sole exception of donor information contained in Schedule B of the Form 990. The withholding of names and addresses of donors from public disclosure applies only to Form 990; this exception does not extend to information obtained from Form 1024 and supporting materials.⁴

In light of the statutory requirement to make approved applications public, organizations are notified that information they provide will be available for public inspection on page two of the Form 1024 instructions. This notice is reiterated in any development letters sent to the organizations. The administrative record of approved applications, including the application, supporting documents and correspondence between the applicant and the IRS are available upon request.

Under section 6110 of the Code, if the IRS ultimately denies the application for recognition of tax-exempt status, the denial letter and background information will be open to public inspection, with certain identifying and other information redacted.

³ The disclosure rules have been in place since 1958, and the legislative history provided the following rationale for public disclosure of exemption applications: "[the] committee believes that making these applications available to the public will provide substantial additional aid to the Internal Revenue Service in determining whether organizations are actually operating in the manner in which they have stated in their applications for exemption." H.R. Rep. No. 85-262, at 41-42 (1957). In 1987, Congress added what is now section 6104(d) to the Code, that requires organizations to make their returns available to the public, and in 1996 extended this rule to application materials.

⁴ The withholding exception does not apply to donor information for organizations that file Form 990-PF or to those section 527 organizations that are required to file Form 990 or 990-EZ.

For entities that submit an application for tax-exempt status under Section 501(c)(4), please indicate:

- (a) the approximate average number of days between the date on which an entity submits an application for 501(c)(4) tax-exempt status and the date on which the application is approved or denied;**

The average case processing time for determination cases closed in FY2011 was 104 days. However, it is difficult to predict how long it will take to fully process any specific application. Case processing time can vary greatly depending on a number of factors, including whether the case can be closed through technical screening or requires full development, the availability of an agent with the appropriate experience level to fully develop the application, the particular issues and individualized facts and circumstances presented in the application, the back and forth dialogue between the revenue agent and the applicant to fully develop the application, and whether a case is transferred to EO Technical.

- (b) if it is not provided on a routine basis, approximately what percentage of such applicants receive an IRS questionnaire seeking information about any political activities, and how the IRS determines whether and when to send that questionnaire; and**

We understand that the reference in your letter to "questionnaire" is intended to relate to development letters the IRS sends to organizations in the ordinary course of the application process to obtain the information as the IRS deems necessary to make a determination whether the organization meets the legal requirements for tax-exempt status. There is no standard questionnaire used in the determinations process seeking information about political activities.

The IRS contacts the organization and solicits additional information when the organization does not provide sufficient information in response to the questions on the Form 1024 to make a determination or if issues are raised by the application. When an application needs further development, the case is assigned to a revenue agent with the appropriate level of experience for the issues involved in the application.

The general procedures for requesting additional information to develop an application are included in section 7.20.2 of the Internal Revenue Manual. Although there is a template letter that describes the general information on the case development process, the letter does not, and could not, specify the information to be requested from any particular organization because of the broad range of possible facts. Enclosure B is a copy of the template letter.

The amount and nature of development necessary to process an application to ensure that the legal requirements of tax-exemption are satisfied depends on several factors, which include the comprehensiveness of the information provided in the application and the issues raised by the application. Consequently, revenue agents prepare individualized questions and requests for documents relevant to the application, which are attached to the above described general template letter. With certain types of applications where the issues are similar or more complex, EO Technical, in coordination with Chief Counsel, may develop educational materials to assist the revenue agents in issue spotting and crafting questions to develop those cases consistently.

The revenue agent uses sound reasoning based on tax law training and his or her experience to review the application and identify the additional information needed to make a proper determination regarding the organization's exempt status. The revenue agent prepares individualized questions and requests for documents based on the facts and circumstances set forth in the particular application.

The below chart provides the total number of applications closed for FY 2008-2011,⁵ as well as preliminary information for part of 2012.⁶ The below chart provides the percentage of all exemption applications closed each year through the technical screening process (i.e., no development letters sent).

	Fiscal Year				
	2008	2009	2010	2011	2012
Total number of applications closed	84,220	77,305	65,590	61,004	28,570
Percentage of applications closed through technical screening	59%	57%	56%	60%	70%

Although we are able to produce the number of cases closed during this time period that received development letters, our systems do not track the specific types of questions asked in the development letters for these cases. Therefore, manual review of each file would be necessary to determine the particular organization and the development letters sent.

⁵ Reports of the IRS data requested are created and published by Statistics of Income (SOI) Division. The IRS Data Book provides information on IRS activities conducted during a fiscal year period (October 1 through September 30). Data Book information is updated annually. This SOI data is from IRS Data Book, Table 24, Closures of Applications for Tax-Exempt Status, by Organization Type and Internal Revenue Code Section, Fiscal Year 2008 (and subsequent fiscal years 2009-2011) at <http://www.irs.gov/taxstats/index.html>. This data reflects all case closures for the Exempt Organizations Determinations function. These include not only initial applications for tax-exempt status, but also other determinations, such as public charity and private foundation status determinations, advance approval of scholarship grant procedures, and group determinations of tax-exempt status.

⁶ The data for FY 2012 reflects the preliminary information available through the second quarter from October 1, 2011 through March 30, 2012. SOI Data Book information is updated annually, with the complete FY 2012 information expected in March 2013.

(c) approximately how many days after an application is filed that questionnaire is typically sent.

As mentioned above, organizations whose applications fall into the fourth category are sent letters informing them that more development of their application is needed, and that they will be contacted once their application has been assigned to a revenue agent. The applications are sent to unassigned inventory, where they are held until a revenue agent with the appropriate level of experience for the issues involved in the matter is available to further develop the case. Once the case is assigned, the revenue agent notifies the organization and reviews the application.

Based upon the established precedent and the facts and circumstances set forth in the application, the revenue agent will request additional information and documentation to complete the file. If applicable, the revenue agent will coordinate with EO Technical and Chief Counsel to develop requests for information to be issued to the organization. For all of these reasons, it is difficult to predict the time frame between the filing of an application for tax-exemption and the issuance of a development letter.

Question 3. A 1997 letter from the IRS denying tax-exempt status to the National Policy Forum, copy attached, made public in connection with a Senate investigation into federal election campaigns, indicates that the IRS based its denial on the fact that the organization was engaged in partisan political activity, stating that "partisan political activity does not promote social welfare as defined in section 501(c)(4)," and "benefit[s] select individuals or groups, instead of the community as a whole." Is it still the position of the IRS that a 501(c)(4) organization cannot engage in any partisan political activity, even as a secondary activity?

As noted above, section 6103 of the Internal Revenue Code prohibits the disclosure of information about specific taxpayers unless the disclosure is authorized by some provision in the Internal Revenue Code. Section 6104(a) of the Code permits public disclosure of an application for recognition of tax exempt status and supporting materials only after the organization has been recognized as exempt. Under section 6110 of the Code, if the IRS ultimately denies the application for recognition of tax-exempt status, the denial letter is subject to public inspection, with identifying and other information redacted, to assist the public in understanding the IRS' reasoning while also protecting the identity of the organization. Although you reference what appears to be a proposed denial letter that may have been made available publicly by sources other than the IRS, IRS Disclosure Counsel has advised that section 6103 continues to apply and we are legally prohibited from discussing taxpayer information.⁷ However, we are able to respond to your question generally.

To qualify for exemption as a social welfare organization described in section 501(c)(4),

⁷ Section 6103(f) of the Code sets forth the means by which congressional committees may obtain access to return and return information (that is not otherwise made publicly available under sections 6104 and 6110). We are available to discuss these rules in more detail with your staff.

the organization must be primarily engaged in the promotion of social welfare, not organized or operated for profit, and the net earnings of which do not inure to the benefit of any private shareholder or individual.⁸ The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office.⁹ Nevertheless, a section 501(c)(4) social welfare organization can engage in political activities as long as it is primarily engaged in activities that promote social welfare.¹⁰ The regulations do not impose a complete ban on political activity by section 501(c)(4) organizations.¹¹ Whether an organization meets the requirements of section 501(c)(4) depends upon all of the facts and circumstances of the particular applicant, and no one factor is determinative.

A revenue agent must first determine whether activities undertaken by the organization primarily further an exempt purpose. If the organization is engaged in some activities that do not promote social welfare, then the agent must review the scope of the activities to determine whether, based on all the facts and circumstances, the organization's exempt activities are the primary activities. If the application is unclear or not sufficiently detailed as to whether the primary activity conducted by the organization is exempt social welfare activity, the revenue agent will need to follow-up on this issue in a development letter.

It is also important to note that section 6110(k)(3) provides that determination letters (including both proposed and final letters) may not be used or cited as precedent. Determination letters are based on the specific facts and circumstances of the applicant.

Question 4. Is it the position of the IRS that an entity claiming tax-exempt status under section 501(c)(4) can engage in nonpartisan political activity as a secondary activity, and that political activity can consume up to 49% of the entity's expenditures and resources.

To determine whether an organization operates primarily for the promotion of social welfare, the courts and the IRS consider all the facts and circumstances, including but not limited to the organization's stated purposes, expenditures, principal source of revenue, number of employees and volunteers, and time and effort.¹² The IRS has taken no position on a fixed percentage or any one factor in precedential guidance.

⁸ IRC § 501(c)(4); Treas. Reg. § 1.501(c)(4)-1.

⁹ Treas. Reg. § 1.501(c)(4)-1(a)(2)(ii).

¹⁰ Rev. Rul. 81-95, 1981-1 C.B. 332.

¹¹ Rev. Rul. 81-95, 1981-1 C.B. 332.

¹² Treas. Reg. § 1.501(c)(4)-1(a)(2) (No percentage test established). Rev. Rul. 68-45, 1968-1 C.B. 259 (Principal source of income does not determine an organization's primary activity under § 501(c)(4); all the facts and circumstances are considered). See, generally *Haswell v. United States*, 500 F.2d 1133, 1142, 1147 (Cl. Ct. 1974) ("A percentage test . . . is not appropriate. Such a test obscures the complexity of balancing the organization's activities in relation to its objectives and circumstances in the context of the totality of the organization."). See, *Contracting Plumbers v. United States*, 488 F.2d 684, 686 (2d Cir. 1973) (multiple factors relevant in applying this standard, including formative history, stated purposes, and actual operations). See generally *Seasongood v. Commissioner*, 227 F.2d 907, 909, 912 (6th Cir. 1955) (expenditures, employees, and organization's time and effort considered).

Question 5. A Treasury regulation applicable to 501(c)(4) organizations states: "The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office." Treas. Reg. § 1.501(c)(4)-1(a)(2)(ii). Would the IRS generally view it as a violation of that regulation if a 501(c)(4) organization:

- (a) Made a cash contribution to a political organization which is tax-exempt under Section 527 and functions as a campaign committee to elect a particular candidate to public office?**
- (b) Made a cash contribution to a political action committee which was established under the Federal Election Campaign Act (FEC Act) and which routinely makes cash contributions to campaign committees, each of which was established to elect a particular candidate to public office?**
- (c) Made a cash contribution to a political action committee or Section 527 political organization which makes independent expenditures on behalf of or in opposition to one or more candidates for public office?**
- (d) Made a cash contribution to a national political party which engages in partisan political campaigns to elect multiple candidates from the same political party to public office?**
- (e) Made a cash contribution to a political action committee or Section 527 political organization which is engaged in partisan political activity, but does not campaign on behalf of or in opposition to any particular candidate for public office?**
- (f) Made a cash contribution to a political action committee or Section 527 political organization which is engaged in nonpartisan political activity and does not campaign on behalf of or in opposition to any particular candidate for public office?**

As noted previously, a section 501(c)(4) organization may directly or indirectly participate or intervene in a political campaign as long as it is primarily engaged in activities that promote social welfare. Treasury regulations provide that promotion of social welfare does not include certain activities, including political campaign intervention.¹³ This regulation does not prohibit a section 501(c)(4) organization from engaging in such activity. Rather, the political campaign intervention activity does not count towards the organization's exempt activities that promote social welfare. Therefore, if the organization engages in such activity, it has "violated" no rule under the regulations. As discussed, all facts and circumstances are relevant in determining whether the requirements for tax exemption are ultimately satisfied.

The same legal requirements apply in each of the facts patterns articulated in your questions. With respect to each of the fact patterns that you specify, while depending

¹³ Treas. Reg. § 1.501(c)(4)-1(a)(2)(ii).

on the facts and circumstances, political activity would not be for a social welfare purpose, the organization does not violate any Internal Revenue Code rule applicable to section 501(c)(4) organizations if it engages in such activity. All the facts and circumstances need to be considered to determine whether this activity affects the section 501(c)(4) organization's tax-exempt status.¹⁴

Question 6. Would the IRS generally view it as a violation of Treasury Regulation § 1.501(c)(4)-1(a)(2)(ii), if a 501(c)(4) organization were to coordinate its political activities with a campaign committee, political action committee, or national political party? Please explain.

As stated, section 501(c)(4) organizations may engage in some political campaign activity provided that such intervention, along with other activity that does not promote social welfare, does not constitute the organization's primary activities. The tax law does not explicitly prohibit a section 501(c)(4) organization from coordinating political activity.

However, such coordination could raise issues of primary activity, inurement or private benefit. Thus, for example, if an organization's activities are conducted primarily for the benefit of a political party or any other private group of individuals, rather than the community as a whole, the organization is not operated primarily to promote social welfare. Accordingly, conferring a sufficient amount of private benefit on select individuals will preclude exemption under section 501(c)(4) if that private benefit is the primary activity of the organization.¹⁵

Question 7. I understand that some persons have petitioned the Treasury Department to clarify or revise Treasury Regulation § 1.501(c)(4)-1(a)(2)(ii). Please indicate whether the IRS plans to engage in such a rulemaking, whether it would first solicit comments on what should be included in that rulemaking, and whether or when any such rulemaking effort has been scheduled to begin.

The IRS, in collaboration with the Treasury Department's Office of Tax Policy ("Treasury"), annually develops a list of the guidance that Treasury and the IRS intend to work on during the upcoming guidance plan year. Certain types of guidance are issued in proposed form to allow an opportunity for public comment.

The IRS is aware of the current public interest in this issue and will seriously consider any proposed changes. Treasury and the IRS have not yet established the list of the

¹⁴ Rev. Rul. 68-45, 1968-1 C.B. 259. See also, e.g. *Contracting Plumbers Coop. Restoration Corp. v. U.S.*, 488 F.2d 684 (2d Cir. 1973) (There are multiple factors relevant in applying this standard, including formative history, stated purposes, and actual operations). Note that tax may apply in certain cases under Internal Revenue Code section 527(f).

¹⁵ IRC § 501(c)(4); Treas. Reg. § 1.501(c)(4)-1. See *Contracting Plumbers Coop. Restoration Corp. v. U.S.*, 488 F.2d 684, 687 (2d Cir. 1973) (Organization was not primarily devoted to the common good when it provided substantial and different benefits to both the public and its private members). *American Campaign Academy v. Commissioner*, 92 T.C. 1053, 1078 (1989), a section 501(c)(3) case, held that an organization was not operated exclusively for exempt purposes when it conferred substantial private benefits on a political party and its candidates.

guidance that Treasury and the IRS intend to work on from July 1, 2012, through June 30, 2013. The selection of items for the 2012-2013 Guidance Priority List will be made in collaboration with Treasury after review and evaluation of comments received.

Question 8. If the IRS were to deny an entity's request to be treated as tax-exempt under Section 501(c)(4), would the IRS automatically apply corporate income taxes to that entity or would it allow the entity to apply for tax-exempt status on other grounds?

When a section 501(c)(4) organization receives a final determination letter denying its application for tax-exempt status, the letter advises the organization that it must file Federal income tax returns for the years listed in the letter within 30 days of the issuance of the denial letter, unless the organization requests an extension of time to file. Enclosure C is a copy of this standard final denial letter.

If the revenue agent assigned to the case believes that the organization may not meet the requirements of a section 501(c)(4) organization, but may meet the requirements of another tax-exempt provision, the issue of whether the organization wants to be considered for exemption under that other provision could be discussed with the organization through development letters prior to the final resolution of the application. If the organization indicates that it does not want to proceed under the other provision and continues to pursue section 501(c)(4) exemption, the IRS would deny the application and the organization would be treated as a taxable entity.

Please note that some organizations withdraw their application for exemption when they learn that a denial is forthcoming. Others do not formally withdraw, but do not respond to requests for information necessary to develop their applications. After additional failed attempts to get the information from the applicant, those applications are closed as "failure to establish."

Question 9. If the IRS were to determine that an entity was impermissibly participating in partisan political activity, does the IRS have unilateral authority to reclassify it as a Section 527 political organization instead of a Section 501(c)(4) social welfare organization?

Whether an organization fails to qualify under section 501(c)(4) does not determine whether it is a political organization under section 527. Section 527 applies to a party, committee, or other organization that is organized and operated primarily for the purpose of accepting contributions or making expenditures for an exempt function (as defined in section 527(e)(2)). Subject to certain exceptions, to be tax-exempt under section 527, a political organization is required to give notice electronically to the Service.¹⁶

¹⁶ Section 527(i)(1); Rev. Rul. 2003-49, 2003-1 C.B. 903. Section 527 also provides for the taxation of certain organizations that do not provide notice to the IRS. IRC § 527(f), (i)(4).

As noted above, if the revenue agent assigned to the case believes that the organization may not meet the requirements of a section 501(c)(4) organization, but may meet the requirements of another tax-exempt provision, the issue of whether the organization wants to be considered for exemption under that other provision could be discussed with the organization through development letters prior to the final resolution of the application. If the organization indicates that it does not want to proceed under the other provision and continues to pursue section 501(c)(4) exemption, the IRS would deny the application and the organization would be treated as a taxable entity.

Question 10. If an entity were denied tax-exempt status by the IRS under Section 501(c)(4), how would past contributions and income earned on those funds generally be treated under the tax code?

If an organization is denied tax-exempt status, the organization is a taxable entity as of the date the organization originated. The final adverse determination letter states that the organization is required to file Federal income tax returns, generally a Form 1120, U.S. Corporation Income Tax. The tax treatment of the organization's contributions and other income is determined under normal rules of Subtitle A.

Question 11. What considerations does the IRS use to determine when an entity that is denied tax-exempt status under Section 501(c)(4) should be subject to a penalty? What penalties are available and how are they calculated?

There is no penalty specifically applicable to an organization as a result of a denial of tax-exempt status. An organization that is denied tax-exempt status is advised in the final denial letter that it has 30 days from the final denial letter to either file its income tax returns or request additional time to file the taxable returns. If the organization timely filed Form 990 annual returns during the period of time that the application for tax-exempt status was pending and timely files its taxable returns once tax-exemption is denied, the organization will not be subject to penalties. If the organization does not timely file taxable returns, the organization may be subject to failure to file or failure to pay penalties under section 6651 of the Code.

The failure to file penalty under section 6651(a)(1) of the Code, is calculated at a rate of 5 percent of the amount required to be shown as tax on the return if the failure to file is for not more than 1 month, with an additional 5 percent for each additional month or fraction thereof that the failure to file continues, not to exceed 25 percent in the aggregate.

The failure to pay tax penalty under section 6651(a)(2) of the Code, is calculated at a rate of 0.5 percent of the amount of the tax shown on the return if the failure to pay is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof that the failure to pay continues, not to exceed 25 percent in the aggregate.

Penalties assessed may be abated if the organization can show that the failure to file or failure to pay was due to reasonable cause and not due to willful neglect.¹⁷

Question 12. Please provide a copy of the standard questionnaire that the IRS sends to entities claiming tax-exempt status under Section 501(c)(4) to obtain information about their political activities. In addition, please provide any written guidance provided to IRS agents regarding the issue of political activity in connection with Section 501(c)(4).

There is no standard questionnaire used to obtain information about political activities. Although there is a template development letter that describes the general information on the case development process, the letter does not specify the information to be requested from any particular organization. Enclosure B is a copy of the template letter. The amount and type of development necessary to process a section 501(c)(4) application to ensure that the legal requirements of tax-exemption are satisfied depends on several factors, which include the comprehensiveness of the information provided in the application and the issues raised by the application. Consequently, revenue agents prepare individualized questions and requests for documents relevant to the application, which are then attached to the above described general template letter.

In connection with recent cases, EO Technical prepared a draft educational guide sheet on the issue of political activity for section 501(c)(4) applications that was shared for comment with some employees in EO Determinations. That guide sheet was neither mandated nor finalized.

Question 13. Please indicate how many letter rulings have been issued by the IRS since January 1, 2007, to deny or revoke the tax-exempt status of an organization under Section 501(c)(4) due to involvement with partisan or nonpartisan political activity. If the IRS has issued 10 or less such letter rulings, please provide copies of all such letters. If the IRS has issued more than 10 such letter rulings, please provide a sample containing discussions of the widest variety of issues related to the denial of tax-exempt status under Section 501(c)(4) due to partisan or nonpartisan political activity.

Preliminarily, as previously stated, section 6103 of the Internal Revenue Code prohibits the disclosure of information about specific taxpayers unless the disclosure is authorized by some provision of the Internal Revenue Code. Section 6104(a) of the Code permits public disclosure of an application for recognition of tax-exempt status and supporting materials only after the organization has been recognized as exempt. Under section 6110 of the Code, if the IRS ultimately denies the application for recognition of tax-exempt status, the denial letter and background information is subject to public inspection, with identifying and other information redacted, to assist the public understand the IRS reasoning while also protecting the identity of the organization.

¹⁷ IRC § 6651(a).

The application process for tax-exempt status does not involve the revocation of tax-exemption; rather, it only concerns the denial of applications. IRS data on the denial of applications is kept in reports published by the IRS Statistics of Income (SOI) Division. The Data Book provides information on IRS activities conducted during a fiscal year period (October 1 through September 30). We have attached these reports as Enclosures D-1 through D-5. For your convenience, however, we are replicating the total number of determination denials for section 501(c)(4) organizations for FY 2007-2012 in the chart below.

Note that the number of denials does not reflect a full picture of applications not approved. Some organizations withdraw their application for exemption when they learn that a denial is forthcoming. Others do not formally withdraw, but do not respond to requests for information necessary to develop their applications. After additional failed attempts to get the information, those applications are closed as "failure to establish."

Fiscal Year	The Number of Social Welfare Organization Applications that were Denied
2007	8
2008	*
2009	3
2010	3
2011	6
2012 ¹⁸	6

* Fewer than 3

Please note that although IRS automated systems track the numbers of applications closed as denied, they do not track the names of the applicant organizations or the reasons for the denials. Absent manual review of the files, we are unable to state whether any of these denials were issued due to involvement with partisan or nonpartisan political activity.

¹⁸ The data for FY 2012 reflects the preliminary information available for October 1, 2011 through April 11, 2012. SOI Data Book information is updated annually, with the complete FY 2012 information expected in March 2013.

I hope this information is helpful. If you have questions, please contact me or have your staff contact Catherine Barre at (202) 622-3720.

Sincerely,

A handwritten signature in cursive script that reads "Steven T. Miller".

Steven T. Miller
Deputy Commissioner for Services and
Enforcement

Enclosures

EXEMPT ORGANIZATION DETERMINATIONS CASE ASSIGNMENT GUIDE
CASE GRADING CRITERIA

CASE COMPLEXITY FACTORS	GRADE LEVEL DISTINCTIONS		
	GS-11	GS-12	GS-13
Analysis of Application	Application is basic; facts regarding nature and purpose are easily discernible. Private benefit/inurement issues unlikely but possible.	Application is complex and facts must be determined through analysis and questioning of applicant. Private benefit/inurement issues possible.	Application is extremely complex (e.g., involves inurement, private benefit, related entities) and significant additional documentation is required of applicant.
Factual Complexity of Issues	Issues are of average complexity and sensitivity. Established case development methods and procedures are usually adequate.	Issues may be sensitive or involve controversy. Case development methods and procedures must be adapted to case.	Case development methods and procedures must be adapted to unique situations. Issues are novel and unusual and involve the largest and most complex EO's.
Application of Tax Law	Tax laws are in most cases applicable but occasionally involve unusual interpretation and application.	Tax laws are not always directly applicable. Research and analysis are required to establish proper interpretation and use of precedents.	Tax laws or other legal issues involve points of law without precedent or with conflicting precedents. Research and analysis are necessary to establish significant similarities with related issues.
Interpersonal Skills	Contacts are with representatives of applicants, organization members and contributors. Tact and diplomacy are required to resolve and elicit information and resolve questions and problems.	Contacts are with a variety of EO representatives and officers of considerable prominence in the community including accountants and legal representatives. Considerable tact and skillful negotiations are necessary since issues discussed are sometimes controversial and sensitive.	Contacts are with officials of very large or prominent organizations and persons with national reputations in business, legal and accounting circles and others of outstanding political, social or economic influence. Considerable tact and discretion are required for resolution of issues.
Impact of Work	Determination decision may impact other organizations; applicant's sole source of income may be from donations; and, the likelihood of media attention is limited.	Determination decision may affect larger organizations of regional or national stature; applicant's income is from a variety of sources; and media attention is likely.	Determination decision may impact other organizations nationwide; applicant has significant resources and determination decision may have significant social and economic implications with recurring effects in prior or subsequent tax years; and, widespread media attention is probable.

Revised November 25, 2002

Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Department of the Treasury

Date: *

*
*
*
*

Employer Identification Number:

XX-XXXXXXX

Person to Contact - Group #:

Specialist Name - XXXX

ID# XXXXXXXX

Contact Telephone Numbers:

XXX-XXX-XXXX Phone

XXX-XXX-XXXX Fax (859-669-3783 for TEDS)

Cases)

Response Due Date:

*

Dear Sir or Madam:

We need more information before we can complete our consideration of your application for exemption. Please provide the information requested on the enclosed Information Request by the response due date shown above. Your response must be signed by an authorized person or an officer whose name is listed on your application. Also, the information you submit should be accompanied by the following declaration:

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

If we approve your application for exemption, we will be required by law to make the application and the information that you submit in response to this letter available for public inspection. Please ensure that your response doesn't include unnecessary personal identifying information, such as bank account numbers or Social Security numbers, that could result in identity theft or other adverse consequences if publicly disclosed. If you have any questions about the public inspection of your application or other documents, please call the person whose name and telephone number are shown above.

To facilitate processing of your application, please attach a copy of this letter and the enclosed Application Identification Sheet to your response and all correspondence related to your application. This will enable us to quickly and accurately associate the additional documents with your case file. Also, please note the following important response submission information:

- Please don't fax and mail your response. Faxing and mailing your response will result in unnecessary delays in processing your application. Each piece of correspondence submitted (whether fax or mail) must be processed, assigned, and reviewed by an EO Determinations specialist.
- Please don't fax your response multiple times. Faxing your response multiple times will delay the processing of your application for the reasons noted above.

Name
EIN

- Please don't call to verify receipt of your response without allowing for adequate processing time. It takes a minimum of three workdays to process your faxed or mailed response from the day it is received.

If we don't hear from you by the response due date shown above, we will assume you no longer want us to consider your application for exemption and will close your case. As a result, the Internal Revenue Service will treat you as a taxable entity. If we receive the information after the response due date, we may ask you to send us a new application.

*****DELETE IF NOT A 501(c)(3) APPLICATION*****

In addition, if you don't respond to the information request by the due date, we will conclude that you have not taken all reasonable steps to complete your application for exemption. Under Internal Revenue Code section 7428(b)(2), you must show that you have taken all the reasonable steps to obtain your exemption letter under IRS procedures in a timely manner and exhausted your administrative remedies before you can pursue a declaratory judgment. Accordingly, if you fail to timely provide the information we need to enable us to act on your application, you may lose your rights to a declaratory judgment under Code section 7428.

*****DELETE IF NO POWER OF ATTORNEY*****

We have sent a copy of this letter to your representative as indicated in Form 2848, Power of Attorney and Declaration of Representative.

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

Sincerely yours,

Specialist Name
Exempt Organizations Specialist

Enclosure: Information Request
Application Identification Sheet

Letter 1312 (Rev. 05-2011)

Additional Information Requested:

Name
EIN

PLEASE DIRECT ALL CORRESPONDENCE REGARDING YOUR CASE TO:

Selective:

(EDS Cases)

US Mail:

Internal Revenue Service
Exempt Organizations
P. O. Box 2508
Cincinnati, OH 45201
ATT: Specialist Name
Room XXXX
Group XXXX

Street Address for Delivery Service:

Internal Revenue Service
Exempt Organizations
550 Main St, Federal Bldg.
Cincinnati, OH 45202
ATT: Specialist Name
Room XXXX
Group XXXX

(TEDS Cases)

US Mail:

Internal Revenue Service
Exempt Organizations
P. O. Box 12192
Covington, KY 41012-0192

Street Address for Delivery Service:

Internal Revenue Service
Exempt Organizations
201 Rivercenter Blvd
ATTN: Extracting Stop 312
Covington, KY 41011



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Date:

Contact Person: (Specialist Name)

Identification Number: (Specialist ID #)

Contact Number: (Specialist Phone #)

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

Third Party Communication

Date:

Category:

Comment [B1]: Delete this section if you do not have a Third Party Communication.

Dear Applicant:

This is our final determination that you do not qualify for exemption from Federal income tax as an organization described in Internal Revenue Code section 501(c)(). Recently, we sent you a letter in response to your application that proposed an adverse determination. The letter explained the facts, law and rationale, and gave you 30 days to file a protest. Since we did not receive a protest within the requisite 30 days, the proposed adverse determination is now final.

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.

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, you should 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

Letter 4040 (CG) (11-2005)
Catalog Number 47635Z

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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
Rulings & Agreements

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

Letter 4040 (CG) (11-2005)
Catalog Number 476352

Table 24. Tax-Exempt Organization and Other Entity Applications or Disposals, by Type of Organization and Internal Revenue Code Section, Fiscal Year 2007

Type of organization, Internal Revenue Code section	Total applications or disposals	Approved	Disapproved	Other [1]
	(1)	(2)	(3)	(4)
Tax-exempt organizations and other entities, total	91,742	72,869	1,628	17,245
Section 501 (c) by subsection, total [2]	91,689	72,856	1,628	17,205
(1) Corporations organized under act of Congress	d	0	d	d
(2) Title-holding corporations	158	111	d	d
(3) Religious, charitable, and similar organizations [3]	85,771	68,278	1,607	15,886
(4) Social welfare organizations	1,867	1,394	8	465
(5) Labor and agriculture organizations	233	188	0	45
(6) Business leagues	1,615	1,370	6	239
(7) Social and recreation clubs	1,036	711	d	d
(8) Fraternal beneficiary societies	25	16	0	9
(9) Voluntary employees' beneficiary associations	356	286	3	67
(10) Domestic fraternal beneficiary societies	44	21	0	23
(12) Benevolent life insurance associations	116	94	0	22
(13) Cemetery companies	174	156	0	18
(14) State-chartered credit unions	10	7	0	3
(15) Mutual insurance companies	d	21	d	d
(17) Supplemental unemployment benefit trusts	6	3	0	3
(19) War veterans' organizations	131	99	0	32
(25) Holding companies for pensions and other entities	106	101	0	5
Section 501 (d) Religious and apostolic associations	5	5	0	0
Section 521 Farmers' cooperatives	28	8	0	20
Nonexempt charitable trusts	20	0	0	20

d—Not shown to avoid disclosure about specific taxpayers. However, data are included in the appropriate totals.

[1] Includes applications withdrawn by the organization; applications which failed to provide the required information; incomplete applications; IRS refusals to rule on applications; applications forwarded to other than the IRS National Office; IRS correction disposals; and others.

[2] No applications were filed for teachers' retirement funds [section 501(c)(11)]; corporations to finance crop operations [section 501(c)(16)]; employee-funded pension trusts [section 501(c)(18)]; black lung trusts [section 501(c)(21)]; multiemployer pension plans [section 501(c)(22)]; veterans' associations founded prior to 1880 [section 501(c)(23)]; trusts described in section 4049 of the Employee Security Act of 1974 (ERISA) [section 501(c)(24)]; State-sponsored high-risk health insurance organizations [section 501(c)(26)]; and State-sponsored workers' compensation reinsurance organizations [section 501(c)(27)].

[3] Includes private foundations. Not all Internal Revenue Code section 501(c)(3) organizations are required to apply for recognition of tax exemption, including churches, integrated auxiliaries, subordinate units, and conventions or associations of churches.

SOURCE: Tax Exempt and Government Entities, Exempt Organizations, Rulings and Agreements, Determinations SE:T:EO:RA:D

Table 24. Closures of Applications for Tax-Exempt Status, by Organization Type and Internal Revenue Code Section, Fiscal Year 2008 (Revised March 2011)

	Applications for tax-exempt status [1]			
	Total (1)	Approved (2)	Disapproved (3)	Other [2] (4)
Tax-exempt organizations and other entities, total [3]	84,220	69,957	1,242	13,021
Section 501 (c) by subsection, total	84,180	69,943	1,240	12,997
(2) Title-holding corporations	114	93	0	21
(3) Religious, charitable, and similar organizations [4]	79,107	65,761	1,221	12,125
(4) Social welfare organizations	1,492	1,202	d	d
(5) Labor and agriculture organizations	269	235	0	34
(6) Business leagues	1,477	1,236	6	175
(7) Social and recreation clubs	894	681	d	d
(8) Fraternal beneficiary societies	20	11	d	d
(9) Voluntary employees' beneficiary associations	249	197	4	48
(10) Domestic fraternal beneficiary societies	40	18	d	d
(12) Benevolent life insurance associations	91	66	0	25
(13) Cemetery companies	155	148	d	d
(14) State-chartered credit unions	8	5	0	3
(15) Mutual insurance companies	26	15	d	d
(17) Supplemental unemployment benefit trusts	4	4	0	0
(19) War veterans' organizations	129	101	0	27
(25) Holding companies for pensions and other entities	106	100	0	6
Section 521 Farmers' cooperatives	26	d	d	d
Nonexempt charitable trusts	14	d	0	d

d—Not shown to avoid disclosure of specific taxpayer data. However, data are included in the appropriate totals.

[1] Reflects all case closures for the Exempt Organizations Determinations function. These include not only initial applications for tax-exempt status, but also other determinations, such as public charity and private foundation status determinations, advance approval of scholarship grant procedures, and group determinations of tax-exempt status.

[2] Includes applications withdrawn by the organization; applications that did not provide the required information; incomplete applications; IRS refusals to rule on applications; applications forwarded to other than the Washington, DC office; IRS correction disposals; and others.

[3] No applications were filed for corporations organized under an act of Congress (section 501(c)(1)); teachers' retirement funds (section 501(c)(11)); corporations to finance crop operations (section 501(c)(16)); employee-funded pension trusts (section 501(c)(18)); black lung trusts (section 501(c)(21)); multiemployer pension plans (section 501(c)(22)); veterans' associations founded prior to 1980 (section 501(c)(23)); trusts described in section 4049 of the Employee Security Act of 1974 (ERISA) (section 501(c)(24)); State-sponsored high-risk health insurance organizations (section 501(c)(26)); State-sponsored workers' compensation reinsurance organizations (section 501(c)(27)); and religious and apostolic associations (section 501(d)). Tax-exempt status for legal services organizations (section 501(c)(20)) was revoked effective June 20, 1992.

[4] Includes private foundations. Not all Internal Revenue Code section 501(c)(3) organizations are required to apply for recognition of tax exemption, including churches, integrated auxiliaries, subordinate units, and conventions or associations of churches.

NOTE: Revised March 2011 to correct errors attributed to a transition in reporting systems.

SOURCE: Tax Exempt and Government Entities, Exempt Organizations.

Table 24. Closures of Applications for Tax-Exempt Status, by Organization Type and Internal Revenue Code Section, Fiscal Year 2009 (Revised March 2011)

	Applications for tax-exempt status [1]			
	Total (1)	Approved (2)	Disapproved (3)	Other [2] (4)
Tax-exempt organizations and other entities, total [3]	77,305	62,459	480	14,366
Section 501 (c) by subsection, total	77,221	62,392	480	14,349
(1) Corporations organized under an act of Congress	6	0	0	6
(2) Title-holding corporations	137	112	0	25
(3) Religious, charitable, and similar organizations [4]	70,824	56,943	472	13,209
(4) Social welfare organizations	1,922	1,507	3	412
(5) Labor and agriculture organizations	601	543	0	58
(6) Business leagues	1,960	1,742	d	d
(7) Social and recreation clubs	1,115	848	d	d
(8) Fraternal beneficiary societies	16	5	0	11
(9) Voluntary employees' beneficiary associations	257	210	d	d
(10) Domestic fraternal beneficiary societies	45	25	0	20
(12) Benevolent life insurance associations	76	56	0	20
(13) Cemetery companies	209	194	0	15
(14) State-chartered credit unions	d	d	0	0
(15) Mutual insurance companies	6	3	d	d
(17) Supplemental unemployment benefit trusts	6	d	0	d
(19) War veterans' organizations	175	142	0	33
(25) Holding companies for pensions and other entities	62	57	0	5
(27) State-sponsored workers' compensation reinsurance organizations	d	0	0	d
501 (d) Religious and apostolic associations	59	55	0	4
Section 521 Farmers' cooperatives	13	7	0	6
Nonexempt charitable trusts	12	5	0	7

[1] Reflects all case closures for the Exempt Organizations Determinations function. These include not only initial applications for tax-exempt status, but also other determinations, such as public charity and private foundation status determinations, advance approval of scholarship grant procedures, and group determinations of tax-exempt status.

[2] Includes applications withdrawn by the organization; applications that did not provide the required information; incomplete applications; IRS refusals to rule on applications; applications forwarded to other than the Washington, DC office; IRS correction disposals; and others.

[3] No applications were filed for teachers' retirement funds (section 501(c)(11)); corporations to finance crop operations (section 501(c)(16)); employee-funded pension trusts (section 501(c)(18)); black lung trusts (section 501(c)(21)); multiemployer pension plans (section 501(c)(22)); veterans' associations founded prior to 1980 (section 501(c)(23)); trusts described in section 4049 of the Employee Security Act of 1974 (ERISA) (section 501(c)(24)); and State-sponsored high-risk health insurance organizations (section 501(c)(26)). Tax-exempt status for legal service organizations (section 501(c)(20)) was revoked effective June 20, 1992.

[4] Includes private foundations. Not all Internal Revenue Code section 501(c)(3) organizations are required to apply for recognition of tax exemption, including churches, integrated auxiliaries, subordinate units, and conventions or associations of churches.

NOTE: Revised March 2011 to correct errors attributed to a transition in reporting systems.

SOURCE: Tax Exempt and Government Entities, Exempt Organizations.

Table 24. Closures of Applications for Tax-Exempt Status, by Organization Type and Internal Revenue Code Section, Fiscal Year 2010

Type of organization, Internal Revenue Code section	Applications for tax-exempt status [1]			
	Total	Approved	Disapproved	Other [2]
	(1)	(2)	(3)	(4)
Tax-exempt organizations and other entities, total [3]	65,690	53,693	517	11,380
Section 501 (c) by subsection, total	65,548	53,668	517	11,363
(1) Corporations organized under an act of Congress	6	d	0	d
(2) Title-holding corporations	155	117	0	38
(3) Religious, charitable, and similar organizations [4]	59,945	48,934	500	10,511
(4) Social welfare organizations	1,741	1,447	3	291
(5) Labor and agriculture organizations	310	273	0	37
(6) Business leagues	1,695	1,509	6	180
(7) Social and recreation clubs	884	710	d	d
(8) Fraternal beneficiary societies	16	11	0	5
(9) Voluntary employees' beneficiary associations	162	133	d	d
(10) Domestic fraternal beneficiary societies	37	18	d	d
(12) Benevolent life insurance associations	77	66	0	11
(13) Cemetery companies	155	148	0	7
(14) State-chartered credit unions	d	d	0	0
(15) Mutual insurance companies	16	8	4	4
(17) Supplemental unemployment benefit trusts	5	d	0	d
(19) War veterans' organizations	164	135	0	29
(25) Holding companies for pensions and other entities	177	151	0	26
(26) State-sponsored high risk health insurance organizations	d	0	0	d
Section 501 (d) Religious and apostolic associations	14	d	0	d
Section 521 Farmers' cooperatives	23	d	0	d
Nonexempt charitable trusts	5	0	0	5

d—Not shown to avoid disclosure of specific taxpayer data. However, data are included in the appropriate totals, when possible.

[1] Reflects all case closures for the Exempt Organizations Determinations function. These include not only initial applications for tax-exempt status, but also other determinations, such as public charity and private foundation status determinations, advance approval of scholarship grant procedures, and group determinations of tax-exempt status.

[2] Includes applications withdrawn by the organization; applications that did not provide the required information; incomplete applications; IRS refusals to rule on applications; applications forwarded to other than the Washington, DC office; IRS correction disposals; and others.

[3] No applications were filed for teachers' retirement funds (section 501(c)(11)); corporations to finance crop operations (section 501(c)(16)); employee-funded pension trusts (section 501(c)(18)); black lung trusts (section 501(c)(21)); multiemployer pension plans (section 501(c)(22)); veterans' associations founded prior to 1880 (section 501(c)(23)); trusts described in section 4049 of the Employee Retirement Income Security Act of 1974 (ERISA) (section 501(c)(24)); State-sponsored workers' compensation reinsurance organizations (section 501(c)(27)); and the National Railroad Retirement Investment Trust (section 501 (c)(28)). Tax-exempt status for legal services organizations (section 501(c)(20)) was revoked effective June 20, 1992.

[4] Includes private foundations. Not all Internal Revenue Code section 501(c)(3) organizations are required to apply for recognition of tax exemption, including churches, integrated auxiliaries, subordinate units, and conventions or associations of churches.

SOURCE: Tax Exempt and Government Entities, Exempt Organizations.

Table 24. Closures of Applications for Tax-Exempt Status, by Organization Type and Internal Revenue Code Section, Fiscal Year 2011

Type of organization, Internal Revenue Code section	Closures of applications for tax-exempt status [1]			
	Total	Approved [2]	Disapproved	Other [2, 3]
	(1)	(2)	(3)	(4)
Tax-exempt organizations and other entities, total [4]	61,004	54,713	217	6,074
Section 501(c) by subsection, total	60,980	54,701	217	6,062
(1) Corporations organized under an act of Congress	d	d	0	0
(2) Title-holding corporations	92	81	0	11
(3) Religious, charitable, and similar organizations [5]	55,319	49,677	205	5,437
(4) Social welfare organizations	1,777	1,559	6	212
(5) Labor and agriculture organizations	294	268	0	26
(6) Business leagues	1,655	1,542	4	109
(7) Social and recreation clubs	1,012	855	0	157
(8) Fraternal beneficiary societies	39	32	0	7
(9) Voluntary employees' beneficiary associations	153	123	0	30
(10) Domestic fraternal beneficiary societies	49	41	0	8
(12) Benevolent life insurance associations	91	81	0	10
(13) Cemetery companies	282	267	0	15
(14) State-chartered credit unions	5	d	0	d
(15) Mutual insurance companies	13	d	d	d
(17) Supplemental unemployment benefit trusts	d	d	0	0
(19) War veterans' organizations	177	153	0	24
(25) Holding companies for pensions and other entities	17	14	d	d
(27) State-sponsored workers' compensation reinsurance organizations	d	0	0	d
Section 501(d) Religious and apostolic associations	13	6	0	7
Section 521 Farmers' cooperatives	5	d	0	d
Nonexempt charitable trusts	6	d	0	d

d—Not shown to avoid disclosure of specific taxpayer data. However, data are included in the appropriate totals, when possible.

[1] Reflects all case closures for the Exempt Organizations Determinations function. These include not only initial applications for tax-exempt status, but also other determinations, such as public charity and private foundation status determinations, advance approval of scholarship grant procedures, and group determinations of tax-exempt status.

[2] Beginning with Fiscal Year 2010, IRS initiated a revised application procedure that allows additional time for application closures. Therefore, fewer applications are reported in the "Other" category and more applications are reported in the "Approved" category.

[3] Includes applications withdrawn by the organization; applications that did not provide the required information; incomplete applications; IRS refusals to rule on applications; applications forwarded to other than the Washington, DC, office; IRS correction disposals; and others.

[4] No applications were filed for teachers' retirement funds (section 501(c)(11)); corporations to finance crop operations (section 501(c)(16)); employee-funded pension trusts (section 501(c)(18)); black lung trusts (section 501(c)(21)); multiemployer pension plans (section 501(c)(22)); veterans' associations founded prior to 1880 (section 501(c)(23)); trusts described in section 4049 of the Employee Retirement Income Security Act of 1974 (ERISA) (section 501(c)(24)); State-sponsored high-risk health insurance organizations (section 501(c)(26)); and the National Railroad Retirement Investment Trust (section 501(c)(28)). Tax-exempt status for legal services organizations (section 501(c)(20)) was revoked effective June 20, 1992.

[5] Includes private foundations. Not all Internal Revenue Code section 501(c)(3) organizations are required to apply for recognition of tax exemption, including churches, integrated auxiliaries, subordinate units, and conventions or associations of churches.

SOURCE: Tax Exempt and Government Entities, Exempt Organizations.

CARL LEVIN
MICHIGAN

United States Senate

WASHINGTON, DC 20510-2202

June 13, 2012

The Honorable Douglas H. Shulman
Commissioner
Internal Revenue Service
10th Street and Pennsylvania Avenue, NW
Washington, D.C. 20004

Dear Commissioner Shulman:

Thank you for the June 4, 2012, response by Steven Miller, Deputy Commissioner for Services and Enforcement, to my March 30, 2012, letter. Internal Revenue Code Section 501(c)(4) organizations are increasingly active in partisan political campaigns. These organizations, working in conjunction with independent expenditure committees, or "Super PACs" that can raise unlimited amounts of money from individuals, corporations and unions, are able to avoid revealing their funding sources by hiding behind their tax-exempt status. This trend of using our tax code to limit campaign disclosure is deeply troubling.

A 1997 letter from the IRS denying tax-exempt status to the National Policy Forum, which was included in my March 30 letter, indicates that the IRS based its denial on the fact that the organization was engaged in partisan political activity, stating that "partisan political activity does not promote social welfare as defined in section 501 (c)(4)," and that the applicant "benefit[s] select individuals or groups, instead of the community as a whole."

The June 4 response from Mr. Miller has a somewhat weaker interpretation, as follows:

"To qualify for exemption as a social welfare organization described in section 501 (c)(4), the organization must be primarily engaged in the promotion of social welfare, not organized or operated for profit, and the net earnings of which do not inure to the benefit of any private shareholder or individuals. The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. Nevertheless, a section 501 (c)(4) social welfare organization can engage in political activities as long as it is primarily engaged in activities that promote social welfare."

At a minimum, under either the 1997 letter or Mr. Miller's interpretation, a message needs to be sent to Section 501(c)(4) entities on an urgent basis to ensure they understand that any political activities they undertake must constitute a secondary and not the primary activity of their organization. To make that message crystal clear, I urge the IRS to remind all 501(c)(4)

The Honorable Douglas H. Shulman
June 13, 2012
Page Two

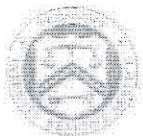
organizations about their obligation to observe that restriction on their activities if they want to retain their tax exempt status.

I hope you will do that within the next 30 days. Please let me know what your decision is. If you have any questions, please contact me, or have your staff contact Kaye Meier of my staff at kaye_meier@levin.senate.gov or 202-224-9110. Thanks.

Sincerely,

A handwritten signature in black ink that reads "Carl Levin". The signature is written in a cursive, slightly slanted style.

Carl Levin



TREASURY AND
GOVERNMENT FINANCE
DIVISION

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

JUL 13 2012

The Honorable Carl Levin
United States Senate
Washington, D.C. 20510

Dear Senator Levin:

I am responding to your letter to Commissioner Shulman dated June 13, 2012, requesting the IRS to remind section 501(c)(4) organizations regarding the limitations of engaging in non-exempt political activities. We appreciate your interest on this issue. The IRS recognizes the importance of outreach and educational materials to ensure that section 501(c)(4) organizations are aware of the requirements under the tax law.

The IRS takes steps to continually inform organizations of their responsibilities as social welfare organizations to help them avoid jeopardizing their tax-exempt status. For those seeking information on the requirements for section 501(c)(4) tax exempt status, we provide educational materials and published resources on our website at www.irs.gov/charities, including the responsibilities and limitations of these organizations. For instance, the web-page with general information on Social Welfare Organizations contains the following narrative with web links to educational resources:

The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. However, a section 501(c)(4) social welfare organization may engage in some political activities, so long as that is not its primary activity.

However, any expenditure it makes for political activities may be subject to tax under section 527(f). For further information regarding political and lobbying activities of section 501(c) organizations, see Election Year Issues, Political Campaign and Lobbying Activities of IRC 501(c)(4), (c)(5), and (c)(6) Organizations, and Revenue Ruling 2004-6.

Enclosed are print-outs of some of the aforementioned publicly-accessible pages on social welfare organizations and political activity limitations on the IRS website. These informative web-pages are regularly updated.

The IRS also addresses the issue of political activities during the application process.

In Form 1024, *Application for Recognition of Exemption under Section 501(a)*, under Schedule B: Organizations Described in Section 501(c)(4), the first question touches on the issue of political activity, and the Form Instructions references Publication 557, *Tax-Exempt Status for Your Organization*, which also addresses political activity under the chapter that includes specific information on section 501(c)(4) organizations. For instance, page 51 of Pub. 557, specifically states:

Political activity. Promoting social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. However, if you submit proof that your organization is organized exclusively to promote social welfare, it can obtain exemption even if it participates legally in some political activity on behalf of or in opposition to candidates for public office. See the discussion in chapter 2 under Political Organization Income Tax Return.

When an applicant is recognized as tax-exempt, the IRS sends an approved determination letter, along with an educational booklet, Publication 4221-NC, *Compliance Guide for Tax-Exempt Organizations (Other than 501(c)(3) Public Charities and Private Foundations)*, about the various tax law requirements applicable to section 501(c)(4) organizations. This booklet contains useful information to ensure organizations understand their responsibilities under the tax law, including activities that may jeopardize exempt status and the limitations on political activities.

We also address the issue of political activities in the Forms 990 and 990-EZ, the annual information returns filed by tax-exempt organizations under section 501(c)(4). Organizations that engage in direct or indirect political campaign activities are required to complete a separate schedule (Schedule C).

As the above illustrates, the IRS actively educates section 501(c)(4) organizations at multiple stages in their development about their responsibilities under the tax law. We believe this approach is the appropriate method by which to educate organizations on their responsibilities.

I hope this information is helpful. If you have questions, please contact me or have your staff contact Catherine Barre at (202) 622-3720.

Sincerely,



Lois G. Lerner
Director, Exempt Organizations

Enclosures (2)

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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

MICHAEL L. ALEXANDER, STAFF DIRECTOR
NICHOLAS A. ROSSI, MINORITY STAFF DIRECTOR

July 27, 2012

VIA U.S. MAIL & EMAIL (Catherine.M.Barre@irs.gov)

The Honorable Douglas H. Shulman
Commissioner
Internal Revenue Service
10th Street and Pennsylvania Avenue, NW
Washington, D.C. 20004

Dear Commissioner Shulman:

I am writing to express my concern about how the IRS interprets the law regarding the extent to which 501(c)(4) "social welfare" organizations can engage in partisan political activity. The July 13, 2012 response by Lois G. Lerner, Director of Exempt Organizations, to my June 13, 2012 letter was unsatisfactory.

In the response, Ms. Lerner stated that "The IRS takes steps to **continually inform** organizations of their responsibilities as social welfare organization to help them avoid jeopardizing their tax-exempt status," and "**actively educates** section 501(c)(4) organizations at multiple states in their development about their responsibilities under the tax law." [*Emphasis added.*]

Her discussion does not describe an IRS initiative to "continually inform" or "actively educate." Rather, it shows the IRS is passively making some information available once a 501(c)(4) entity is already in existence. Further, her discussion of the explanatory materials available to the public, and the materials themselves, are confusing. This leads to a predictable result: organizations are using Internal Revenue Code Section 501(c)(4) to gain tax exempt status while engaging in partisan political campaigns. There is an absurd tangle of vague and contradictory materials that the IRS provides. Making the problem worse is that the IRS knows there is a problem because of the public nature of the activity, but has failed to address it.

First, the law.

26 U.S.C. §501(c)(4) states that "Civic leagues or organizations not organized for profit but operated **exclusively for the promotion of social welfare**, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes" are exempt from taxation.¹ [*Emphasis added.*] *Merriam-Webster* defines "exclusively" as "single, sole; whole; undivided." Therefore, it would appear that the law prevents entities that organize under Section 501(c)(4) from *any* activity that is not operated exclusively for the promotion of social welfare or an association of employees.

¹ 26 U.S.C. §501(c)(4).

Consistent with the law is a 1997 letter from the IRS denying tax-exempt status to a group called the National Policy Forum. The letter indicates that the IRS based its denial on the fact that the organization was engaged in partisan political activity, stating that "partisan political activity does not promote social welfare as defined in section 501(c)(4)," and that the applicant "benefit[s] select individuals or groups, instead of the community as a whole."²

One part of Internal Revenue Service Publication 557 in its guidance states, consistent with the law, that:

"If your organization is not organized for profit and will be operated **only** to promote social welfare to benefit the community, you should file Form 1024 to apply for recognition of exemption from federal income tax under section 501(c)(4)."³ [*Emphasis added.*]

Another part of Internal Revenue Service Publication 557 starts off by agreeing with the law and states, "Promoting social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office."⁴ The IRS is accurately and clearly stating, in some places at least, that "social welfare" advocacy does not include campaigning for or against a candidate or candidates.

So far, so good - - until that same Publication 557 states: "However, if you submit proof that your organization is organized exclusively to promote social welfare, it can obtain an exemption [from taxes] even if it participates legally in some political activity on behalf of or in opposition to candidates for public office."⁵

That language seems inconsistent with the other referenced parts of Publication 557 (as well as being inconsistent with law and precedent), unless it means that the exemption isn't available for the political activity portion funded by 501(c)(4) receipts.

Further, an IRS regulation that interprets Section 501(c)(4) 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."⁶ [*Emphasis added.*]

So the IRS regulation says the law's requirement of "exclusively" really means "primarily," something very different from "exclusively."

The IRS webpage cites an internal training article which states:

"'[S]ocial welfare' is inherently an abstruse concept that continues to defy precise definition. Careful case-by-case analyses and close judgments are still required."⁷ [*Emphasis added.*]

Fair enough.

² Internal Revenue Service letter to the National Policy Forum, February 21, 1997.

³ Publication 557 (Rev. October 2011), pg. 51.

⁴ *Id.*

⁵ *Id.*

⁶ Treasury Regulations, Subchapter A, Sec. 1.501(c)(4)-1.

⁷ <http://www.irs.gov/charities/nonprofits/article/0,,id=156372,00.html>.

In its Compliance Guide for Tax-Exempt Organizations, the IRS gives direction regarding how to make a case-by-case evaluation whether a communication is political.⁸ That Guide says that the following factors indicate that an advocacy communication is political campaign activity:

- The communication identifies a candidate for public office;
- The timing of the communication coincides with an electoral campaign;
- The communication targets voters in a particular election;
- The communication identifies the candidate's position on the public policy issue that is the subject of the communication;
- The position of the candidate on the public policy issue has been raised as distinguishing the candidate from others in the campaign, either in the communication itself or in other public communications; and
- The communication is not part of an ongoing series of substantially similar advocacy communications by the organization on the same issue.

The guide further lays out the factors that indicate when an advocacy communication is not political campaign activity:

- The absence of any one or more of the factors listed above;
- The communication identifies specific legislation, or a specific event outside the control of the organization, that the organization hopes to influence;
- The timing of the communication coincides with a specific event outside the control of the organization that the organization hopes to influence, such as a legislative vote or other major legislative action (for example, a hearing before a legislative committee on the issue that is the subject of the communication);
- The communication identifies the candidate solely as a government official who is in a position to act on the public policy issue in connection with the specific event (such as a legislator who is eligible to vote on the legislation); and
- The communication identifies the candidate solely in the list of key or principal sponsors of the legislation that is the subject of the communication.

It is clear from the application of those factors that what is going on in the U.S. with certain 501(c)(4) organizations in their television advertisements are political campaign activities.

Below are two transcripts of advertisements that were put on television by 501(c)(4) organizations. As you can see, the subject of Advertisement #1 is a Democratic Senator, and the subject of Advertisement #2 is a Republican Senator. This is not a partisan issue.

Television Advertisement #1:

“It’s time to play: Who is the biggest supporter of the Obama agenda in Ohio. It’s Sherrod Brown. Brown backed Obama’s agenda a whopping 95 percent of the time. He voted for budget busting ObamaCare that adds \$700 billion to the deficit. For Obama’s \$453 billion tax increase. And even supported cap-and-trade which could have cost Ohio over 100,000 jobs. Tell Sherrod Brown, for real job growth, stop spending and cut the debt. Support the new majority agenda at newmajorityagenda.org.”

⁸ Compliance Guide for Tax-Exempt Organizations, pgs. 4-5.

Television Advertisement #2:

“Before Wall Street gave him \$200,000 in campaign cash. ... Before he voted to let bank CEOs take millions in taxpayer funded bonuses. ... Dean Heller was a stockbroker. No wonder he voted against Wall Street reform; against holding the big banks accountable. Heller even voted to risk your Social Security here, in the stock market. Dean Heller: he votes like he still works for Wall Street, and that’s bad for you.”

Those ads, and so many like them, clearly fit the factors the IRS has laid out in its guide for what constitutes a political campaign activity. The advertisements make no pretense at nonpartisanship; they are blatantly and aggressively partisan communications.

Entities that file under Section 501(c)(4) of the Internal Revenue Code and take advantage of its tax exemption benefits should have to make a choice: either lose their exempt status (and pay taxes) or eliminate the partisan political activity.

The IRS needs to immediately review the activities of 501(c)(4) entities engaging in running partisan political ads or giving funds to Section 527 organizations that run such ads. The IRS needs to advise 501(c)(4) entities of the law in this area and the factors it will look at in reviewing 501(c)(4) status and tax exemption issues.

Please provide me with the following information no later than August 10, 2012:

1. How can the IRS interpret the explicit language in 26 U.S.C. §501(c)(4), which provides that 510(c)(4) entities must operate “exclusively” for the promotion of social welfare, to allow any tax exempt partisan political activity by 501(c)(4) organizations?
2. Since partisan political activity does not meet the IRS definition of “promoting social welfare,” how can an organization that participates in any partisan political activity be “organized exclusively to promote social welfare?”
3. The Exempt Organizations 2011 Annual Report and 2012 Work Plan states: “As in any election year, EO will continue its work to enforce the rules relating to political campaigns and campaign expenditures. In FY 2012, EO will combine what it has learned from past projects on political activities with new information gleaned from the redesigned Form 990 to focus its examination resources on serious allegations of impermissible political intervention.”⁹
 - a. Typically, how long after a complaint to the IRS does a compliance review begin?
 - b. What approximate time does it take to review the complaint?
 - c. How many persons are involved in the enforcement of the 501(c)(4) rules?
4. The Exempt Organizations 2011 Annual Report and 2012 Work Plan states that 501(c)(4) organizations “can declare themselves tax-exempt without seeking a determination from the

⁹ Exempt Organizations 2011 Annual Report and 2012 Work Plan, pg. 8.

IRS. EO will review organizations to ensure that they have classified themselves correctly and that they are complying with applicable rules.”¹⁰

- a. Why does the IRS allow 501(c)(4) organizations to self-declare?
- b. When an organization “self declares” as a 501(c)(4) organization, how does the IRS get notice and how long does it take the IRS to conduct the review to ensure that that organization has classified itself correctly?

5. The IRS Compliance Guide for Tax-Exempt Organizations states:

“When a 501(c)(4), (5) or (6) organization’s communication explicitly advocates the election or defeat of an individual to public office, the communication is considered political campaign activity. A tax-exempt organization that makes expenditures for political campaign activities shall be subject to tax in an amount equal to its net investment income for the year or the aggregate amount expended on political campaign activities during the year, whichever is less.”¹¹

- a. How does the IRS keep track of these explicit communications and ensure that the organization pays this tax?
- b. What is the reason for the requirement that the tax will be based on “whichever is less” between its net investment income for the year or the aggregate amount expended on political campaign activities?
- c. What tax would an organization have to pay if it spends *all* of its income on political advertising (therefore it has NO net investment income)?

6. Ms. Lerner’s letter quotes the IRS webpage on Social Welfare Organizations:

“The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. However, a section 501(c)(4) social welfare organization may engage in *some* political activities, so long as that is not its primary activity. However, any expenditure it makes for political activities may be subject to tax under section 527(f).” [*Emphasis added.*]

- a. What is the statutory basis of the language that allows 501(c)(4) organizations to engage in *some* political activities?
- b. How does the IRS keep track of these political activities and ensure that the organization pays the tax under section 527(f)?

7. In her July 13 letter, Ms. Lerner states that the IRS also addresses the issue of political activities in the Forms 990 and 990-EZ.

Are Forms 990 and 990-EZ made public? If so, where can they be accessed?

8. Internal Revenue Service Publication 557 states that, if a 501(c)(4) entity can “submit proof that [the] organization is organized exclusively to promote social welfare, it can obtain an

¹⁰

Id.

¹¹

Compliance Guide for Tax-Exempt Organizations, pgs. 3-4.

exemption even if it participates legally in some political activity on behalf of or in opposition to candidates for public office."¹²

Have the following 501(c)(4) organizations a) applied for; and if so, b) received the described exemption for political activity from the IRS?

- a. Crossroads Grassroots Policy Strategies
 - b. Priorities U.S.A.
 - c. Americans Elect
 - d. American Action Network
 - e. Americans for Prosperity
 - f. American Future Fund
 - g. Americans for Tax Reform
 - h. 60 Plus Association
 - i. Patriot Majority USA
 - j. Club for Growth
 - k. Citizens for a Working America Inc.
 - l. Susan B. Anthony List
9. Have you reminded 501(c)(4)s which publicly seem to be operating in the partisan political arena as to the factors you will consider in determining whether they are engaging in partisan political activity? If not, why not?

I have enclosed a copy of Ms. Lerner's letter. If you have any questions, please contact me, or have your staff contact Kaye Meier of my staff at kaye_meier@levin.senate.gov or 202/224-9110. Again, it is urgent that I receive your answers by August 10, 2012.

Sincerely,



Carl Levin
Chairman
Permanent Subcommittee on Investigations

cc: Dr. Tom Coburn
Ms. Lois G. Lerner

¹² Publication 557 (Rev. October 2011), pg. 51.



DEPUTY COMMISSIONER

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

August 24, 2012

The Honorable Carl Levin
Chairman
Permanent Subcommittee on Investigations
Senate Committee on Homeland Security
and Government Affairs
United States Senate
Washington, D.C. 20515

Dear Senator Levin:

I am responding to your letter to Commissioner Shulman dated July 27, 2012, requesting additional information about section 501(c)(4) organizations. This response supplements the previous responses dated June 4, 2012 and July 13, 2012, and addresses the additional questions raised in your recent letter.

Question 1. How can the IRS interpret the explicit language in 26 U.S.C. §501(c)(4), which provides that 510(c)(4) entities must operate “exclusively” for the promotion of social welfare, to allow any tax exempt partisan political activity by 501(c)(4) organizations?

We note that the current regulation has been in place for over 50 years. Moreover, unlike Internal Revenue Code section 501(c)(3), which specifically provides that organizations may “not participate in, or intervene in . . . any political campaign on behalf of (or in opposition to) any candidate for public office.”), section 501(c)(4) does not contain a specific rule or limitation on political campaign intervention by social welfare organizations.

Question 2. Since partisan political activity does not meet the IRS definition of “promoting social welfare,” how can an organization that participates in any partisan political activity be “organized exclusively to promote social welfare?”

As stated above, long standing Treasury Regulations have interpreted “exclusively” as used in section 501(c)(4) to mean primarily. Treasury Regulation § 1.501(c)(4)-1(a)(2)(i), promulgated in 1959, provides: “An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting the common good and general welfare of the people of the community.” Applying this Treasury Regulation, Revenue Ruling 81-95, 1981-1 C.B. 332, concluded that “an organization may carry on lawful political activities and remain exempt under section 501(c)(4) as long as it is primarily engaged in activities that promote social welfare.”

Question 3. The Exempt Organizations 2011 Annual Report and 2012 Work Plan states: "As in any election year, EO will continue its work to enforce the rules relating to political campaigns and campaign expenditures. In FY 2012, EO will combine what it has learned from past projects on political activities with new information gleaned from the redesigned Form 990 to focus its examination resources on serious allegations of impermissible political intervention."

- a. Typically, how long after a complaint to the IRS does a compliance review begin?**
- b. What approximate time does it take to review the complaint?**

The IRS routinely receives examination referrals from a variety of sources including the public, media, Members of Congress or their staff, and has a long standing process for handling referrals so that they receive an impartial, independent review from career employees. When the IRS receives a referral about a particular organization, it is promptly forwarded to the Classification unit of the Exempt Organizations (EO) Examination office in Dallas, Texas. Pursuant to IRM 4.75.5.4(1), within 30 days of receiving the referral, the Classification staff begins evaluating whether the referral has examination potential, should be considered in a future year, needs additional information to make a decision, or falls within the categories of matters that are referred for EO Referral Committee review.¹ Although IRM 4.75.5.4(1) sets a goal of 90 days to complete reviews of referrals, the time it takes to fully review a particular referral varies, depending on such factors as the issues involved and the availability of relevant information (i.e. organization's Forms 990, external sources such as media reports, internet searches, etc.).

In those cases in which the IRS needs additional information about the subject of a referral that is not readily available, such as its Form 990 that has not been filed yet for the tax year at issue, Classification may suspend classifying the referral and places it in the follow-up category until the additional information is available. Once the additional information is received, reviewed, and supports the referral being classified as having examination potential, the referral is sent to unassigned inventory, until a revenue agent with the appropriate level of experience for the issues involved in the matter is available to conduct an examination.

Once in inventory, there are numerous factors that can affect how long it takes to complete the examination process. While it is difficult to predict how long any single examination will take, for cases closed in FY 2011, the average time it took to close a case was 210 days.

- c. How many persons are involved in the enforcement of the 501(c)(4) rules?**

¹ Pursuant IRM 4.75.5(4), cases forwarded for Committee review include those: containing evidence or allegations of political or lobbying activities; involving sensitive information submitted by an elected official or a Member of Congress (or Congressional staff); or involving other factors indicating that review by the EO Referral Committee would be desirable for reasons of fairness or integrity.

The Exempt Organizations (EO) function is responsible for the enforcement of section 501(c)(4) statutory rules and regulations as well as those applicable to all other types of tax-exempt organizations.

For FY 2011, the total number of EO staff was 889. Other than the 14 employees in the Director's office, the three EO offices are staffed as follows:

- Rulings and Agreements (R &A), which includes EO Determinations and EO Technical, ensures organizations meet legal requirements during the application or private letter ruling process, and through guidance. In FY 2011, R&A had 332 employees.
- EO Examinations (Exam) is comprised of various units, including the Classification unit, the EO Compliance Unit, and the Review of Operations unit. Exam develops processes to identify areas of noncompliance, develops corrective strategies, and coordinates with other EO functions to ensure compliance, so that organizations maintain their exempt status. In FY 2011, Exam had 531 employees.
- EO Customer Education and Outreach (CE&O) coordinates, assists and supports the development of educational materials and outreach efforts for organizations to understand their responsibilities under the tax law. In FY 2011, CE&O had a staff of 12 employees.

The employees in these functions are responsible for the regulation of all types of tax-exempt organizations, including section 501(c)(4) organizations.

Question 4. The Exempt Organizations 2011 Annual Report and 2012 Work Plan states that 501(c)(4) organizations “can declare themselves tax-exempt without seeking a determination from the IRS. EO will review organizations to ensure that they have classified themselves correctly and that they are complying with applicable rules.”

a. Why does the IRS allow 501(c)(4) organizations to self-declare?

The Internal Revenue Code expressly provides that certain tax-exempt organizations must give notice to the IRS, by filing an application for exemption, in order to claim tax-exempt status. The Internal Revenue Code does not require an organization to provide notice to the IRS to be treated as described in section 501(c)(4). By contrast, for example, Section 508 generally requires an organization to provide notice to the IRS before it will be treated as described in section 501(c)(3).

b. When an organization “self declares” as a 501(c)(4) organization, how does the IRS get notice and how long does it take the IRS to conduct the review to ensure that the organization has classified itself correctly?

As with other tax exempt organizations, organizations claiming to be tax-exempt

under section 501(c)(4) generally are required to file a Form 990² on an annual basis.³

The Exempt Organizations office of the IRS is responsible for the compliance of over one million organizations with diverse goals and purposes. In order to ensure the highest degree of compliance with tax law while working with limited resources, EO maintains a robust and multi-faceted post-filing compliance program that conducts reviews of exempt organizations in various ways, such as:

- Review of Operations (ROO) reviews: Because a ROO review is not an audit, the ROO carries out its post-filing compliance work without contacting taxpayers. Instead, the ROO looks at an organization's Form 990, website, and other publicly available information to see what it is doing and whether it continues to be organized and operated for tax-exempt purposes. If it appears from a ROO review that an organization may not be compliant, the organization is referred for examination.
- Compliance checks: In a compliance check, IRS contacts taxpayers by letter when we discover an apparent error on a taxpayer's return or wish to obtain further information or clarification. A compliance check is an efficient and effective way to maintain a compliance presence without an examination. We also use compliance check questionnaires to study specific parts of the tax-exempt community or specific cross-sector practices.
- Examinations: Examinations, also known as audits, are authorized under Section 7602 of the Code. For exempt organizations, an examination determines an organization's continued qualification for tax-exempt status. We conduct two different types of examinations: correspondence and field.

Because the IRS cannot review every existing organization in every tax year, we use the review techniques described above to maximize our coverage of the tax exempt sector in both our general program work and our project work. The project work, which results from our strategic planning process, is designed to focus on specific areas affecting the EO sector and to direct more effective use of our resources in the effort to strengthen compliance and improve tax administration. Described in the EO 2012 Work Plan, the sections 501(c)(4), (5) and (6) Self-Declarers is one such project. This project focuses on organizations that hold themselves out as being tax-exempt rather than seeking IRS recognition of their exempt status.

Question 5. The IRS Compliance Guide for Tax-Exempt Organizations states:

² Reference to the Form 990 includes the entire applicable Form 990-series annual information returns, such as Forms 990, 990-EZ, 990-PF, and 990-N e-postcard.

³ Treas. Reg. § 1.6033-1(a)(1).

“When a 501(c)(4), (5) or (6) organization’s communication explicitly advocates the election or defeat of an individual to public office, the communication is considered political campaign activity. A tax-exempt organization that makes expenditures for political campaign activities shall be subject to tax in an amount equal to its net investment income for the year or the aggregate amount expended on political campaign activities during the year, whichever is less.”

- a. How does the IRS keep track of these explicit communications and ensure that the organization pays this tax?**

Tax-exempt organizations filing Forms 990 or 990-EZ are required to report political activities. Organizations that engage in direct or indirect political campaign activities are also required to complete Schedule C of Form 990 or 990-EZ. Organizations subject to tax under section 527(f) are required to comply with the statutory reporting and payment rules. The IRS also receives referrals regarding such activities from a variety of sources that are handled through an impartial, independent review. See the response to question 3 for the description on the IRS referral process.

- b. What is the reason for the requirement that the tax will be based on “whichever is less” between its net investment income for the year or the aggregate amount expended on political campaign activities?**

The statute under section 527(f) explicitly states that a 501(c) organization is subject to its tax based on “an amount equal to the lesser of – (A) the net investment income of such organization for the taxable year, or (B) the aggregate amount expended during the taxable year for such an exempt function.”

- c. What tax would an organization have to pay if it spends *all* its income on political advertising (therefore it has NO net investment income)?**

Under the statute cited above, an organization that otherwise meets the requirements of section 501(c)(4) social welfare tax-exempt status, which spends all its income on political advertising and has no net investment income would not owe any tax under section 527(f). It may however, through such spending (and depending on the otherwise applicable facts of the case), no longer qualify as an organization that is tax-exempt under section 501(c)(4) .

Question 6. Ms. Lerner’s letter quotes the IRS webpage on Social Welfare Organizations:

“The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. However, a section 501(c)(4) social welfare organization may engage in some political activities, so long as that is not its primary activity. However, any expenditure it makes for political activities may be subject to tax under section 527(f). [*Emphasis added.*]

- a. What is the statutory basis of the language that allows 501(c)(4) organizations to engage in *some* political activities?**

Please see responses to questions 1 and 2, above.

- b. How does the IRS keep track of these political activities and ensure that the organization pays the tax under section 527(f)?**

Section 501(c)(4) organizations filing Forms 990 or 990-EZ are required to report political activities. Organizations that engage in direct or indirect political campaign activities are also required to complete Schedule C of Form 990 or 990-EZ. Organizations subject to tax under section 527(f) are required to comply with the statutory reporting and payment rules. The IRS also receives referrals regarding such activities from a variety of sources that are handled through an impartial, independent review. See the response to question 3 for the description on the IRS referral process.

Question 7. In her July 13 letter, Ms. Lerner states that the IRS also addresses the issue of political activities in the Forms 990 and 990-EZ.

Are Forms 990 and 990-EZ made public? If so, where can they be accessed?

Yes, Forms 990 and 990-EZ are made public. Tax-exempt organizations are required to make their returns widely available for public inspection.⁴ Organizations are required to allow the public to inspect the Forms 990, 990-EZ, 990-N, and 990-PF they have filed with the IRS for their three most recent tax years.⁵ Exempt organizations also are required to provide copies of these information returns when requested, or make them available on the Internet.⁶ The annual information returns also are available from the IRS,⁷ as well as from third-party sources that post them on their websites.

Question 8. Internal Revenue Services Publication 557 states that, if a 501(c)(4) entity can “submit proof that [the] organization is organized exclusively to promote social welfare, it can obtain an exemption even if it participates legally in some political activity on behalf of or in opposition to candidates for public office.”

Have the following 501(c)(4) organizations a) applied for; and if so, b) received the described exemption for political activity from the IRS?

- a. Crossroads Grassroots Policy Strategies**
b. Priorities U.S.A.

⁴ IRC § 6104(d); Treas. Reg. §§ 301.6104(d)-1 and -2.

⁵ IRC § 6104(d)(2); Treas. Reg. § 301.6104(d)-1(a).

⁶ IRC § 6104(d)(1); Treas. Reg. § 301.6104(d)-2.

⁷ IRC § 6104(b); Treas. Reg. § 301.6104(b)-1. Due to disclosure laws, an organization must submit Form 4506-A, *Request for Public Inspection or Copy of Exempt or Political Organization IRS Form*, to the IRS office indicated on the form or accompanying instructions.

- c. Americans Elect**
- d. American Action Network**
- e. Americans for Prosperity**
- f. American Future Fund**
- g. Americans for Tax Reform**
- h. 60 Plus Association**
- i. Patriot Majority USA**
- j. Club for Growth**
- k. Citizens for a Working America Inc.**
- l. Susan B. Anthony List**

Initially, to clarify, section 501(c)(4) organizations do not receive "exemption for political activity." Rather, organizations are recognized under section 501(c)(4) as tax-exempt when they demonstrate that they plan to be primarily engaged in activities that promote social welfare. If they meet that standard, the fact that they engage in other activities that do not promote social welfare, such as political campaign intervention, will not preclude recognition of their tax-exempt status. Whether an organization meets the statutory and regulatory requirements of section 501(c)(4) depends upon all of the facts and circumstances, and no one factor is determinative.

As discussed in our response to you dated June 4, 2012, section 6103 of the Internal Revenue Code prohibits the disclosure of information about specific taxpayers unless the disclosure is authorized by some provision in the Internal Revenue Code. The IRS cannot legally disclose whether the organizations on your list have applied for tax exemption (unless and until such application is approved). Section 6104(a) of the Code permits public disclosure of an application for recognition of tax exempt status only after the organization has been recognized as exempt.

Searching the names exactly as provided, our records show that the following organizations have been recognized by the IRS as tax exempt under section 501(c)(4).

Americans For Prosperity
American Future Fund
60 Plus Association
Patriot Majority USA
Citizens for a Working America Inc.

With respect to the other organizations for which you inquired, we will be able to determine if they have been recognized by the IRS as tax-exempt with additional information, such as an address or EIN, that specifically identifies the organization. Organizations often have similar names or maintain multiple chapters with variations of the same name. With respect to many of the other organizations you identified, numerous organizations in our records have very similar names. IRS staff can work with your staff in identifying the specific

organizations for which you are interested. IRS staff is also available to assist your staff to navigate searchable databases on the IRS public website. As previously discussed, information on organizations with applications currently pending legally cannot be provided unless and until the application is approved. Please note that organizations that hold themselves out as tax-exempt without IRS recognition and organizations that have pending applications for recognition are required to file annual returns/notices.

Question 9. Have you reminded 501(c)(4)s which publicly seem to be operating in the partisan political arena as to the factors you will consider in determining whether they are engaging in partisan political activity? If not, why not?

As described in the July 13, 2012 response, the IRS takes several steps to continually educate organizations of the requirements under the tax law and inform them of their responsibilities to avoid jeopardizing their tax-exempt status. We believe these steps ensure the IRS administers the nation's tax laws in a fair and impartial manner.

I hope this information is helpful. If you have questions, please contact me or have your staff contact Catherine Barre at (202) 622-3720.

Sincerely,



Steven T. Miller
Deputy Commissioner
for Services and Enforcement

JOSEPH I. LIEBERMAN, CONNECTICUT, CHAIRMAN

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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

August 31, 2012

The Honorable Douglas H. Shulman
Commissioner
Internal Revenue Service
10th Street and Pennsylvania Avenue, NW
Washington, D.C. 20004

Dear Commissioner Shulman:

Thank you for the August 24, 2012 response by Steven T. Miller, Deputy Commissioner for Services and Enforcement, to my July 27, 2012 letter.

I find it unacceptable that the IRS appears to be passively standing by while organizations that hold themselves out to be "social welfare" organizations clearly ignore the tax code with no apparent consequences.

Frankly, the response that "long standing Treasury Regulations have interpreted 'exclusively'" as used in section 501(c)(4) to mean "primarily" and the argument that "section 501(c)(4) does not contain a specific rule or limitation on political campaign intervention by social welfare organizations" are not persuasive. The word "exclusively" as written in the statute is clear and speaks for itself. Its clarity is not diminished because the section does not mimic words in another section, which words are also clear.

As a follow-up to your letter, I would like to know the following:

- I. If the IRS determines that an organization that has been given 501(c)(4) status has not engaged primarily in social welfare activities, but instead was primarily engaged in activity within the scope of section 527, what are the consequences for the organization? What are the consequences for such an organization having not filed timely Forms 8871 and 8872? Must they file such forms after the fact? What taxes would be due? Will contributions that already have been made to that organization be taxable to that organization?

2. How many 501(c)(4) organizations which appear to be primarily engaged in political activity have been notified by the IRA within the last 6 months that they may be in violation of the law?

It is urgent that I receive your answers promptly, and no later than September 10, please.

Sincerely,

A handwritten signature in black ink that reads "Carl Levin". The signature is written in a cursive style with a prominent loop at the end.

Carl Levin
Chairman
Permanent Subcommittee on Investigations

cc: Dr. Tom Coburn
Mr. Steven T. Miller



DEPUTY COMMISSIONER

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

September 14, 2012

The Honorable Carl Levin
Chairman
Permanent Subcommittee on Investigations
Senate Committee on Homeland Security
and Government Affairs
United States Senate
Washington, D.C. 20515

Dear Senator Levin:

I am responding to your letter to Commissioner Shulman dated August 31, 2012, requesting additional information about section 501(c)(4) organizations. This response supplements the previous responses dated June 4, 2012, July 13, 2012 and August 24, 2012, and addresses the additional questions raised in your recent letter.

Question 1. If the IRS determines that an organization that has been given 501(c)(4) status has not engaged primarily in social welfare activities, but instead was primarily engaged in activity within the scope of section 527, what are the consequences for the organization? What are the consequences for such an organization having not filed timely Forms 8871 and 8872? Must they file such forms after the fact? What taxes will be due? Will contributions that already have been made to that organization be taxable to that organization?

If an IRS audit or examination concludes that a section 501(c)(4) organization does not engage primarily in social welfare activities, the IRS may revoke the tax-exempt status of that organization. If the tax-exempt status is revoked, the organization is a taxable entity effective, in general, as of the first day of the tax year under examination. The organization is required to file Federal income tax returns, generally a Form 1120, U.S. Corporation Income Tax. The tax treatment of the organization's contributions and other income is determined under normal rules of Subtitle A.

Whether an organization no longer qualifies to be tax-exempt under section 501(c)(4) does not determine whether it is a political organization under section 527. Section 527(e)(1) defines a political organization as a party, committee, or other organization that is organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures for an exempt function (as defined in § 527(e)(2)). If an organization meets this definition, then its tax status is determined under section 527.

Subject to certain exceptions, to be tax-exempt under section 527,¹ a political organization is required to give notice electronically to the Service.² The required notice form is Form 8871, *Political Organization Notice of Section 527 Status*. To be tax-exempt, the political organization must file Form 8871 within 24 hours after the date on which it was established. If the organization has a material change in any of the information reported on Form 8871, it must file an amended Form 8871 within 30 days of the material change to maintain its tax-exempt status. When the organization terminates its existence, it must file a final Form 8871 within 30 days of termination.³

An organization that is required to file Form 8871, but fails to file on a timely basis, will not be treated as a tax-exempt political organization for any period before the date Form 8871 is filed.⁴ The taxable income of the organization for any period in which it failed to file Form 8871 (or, in the case of a material change, the period beginning with the date of the material change and ending on the date it satisfies the notice requirement) is subject to tax and must be reported on the annual income tax return Form 1120-POL.⁵ The tax is computed by multiplying the organization's taxable income by the highest federal corporate tax rate,⁶ currently 35 percent. For purposes of computing its taxable income for any period, the organization includes its exempt function income (including contributions received, membership dues, and political fundraising receipts), minus any deductions directly connected with the production of that income,⁷ but may not deduct its exempt function expenditures for the period.⁸

Generally, tax-exempt political organizations that have, or expect to have, contributions or expenditures exceeding \$25,000 during a calendar year are required to file Form 8872, *Political Organization Report of Contributions and Expenditures*, beginning with the first month or quarter during the calendar year in which they accept contributions or make expenditures.⁹ A tax-exempt political organization subject to the periodic reporting requirement may choose to file Form 8872 on a monthly basis or on a quarterly/semiannual basis, but it must file on the same basis for the entire calendar year. In addition, tax-exempt political organizations that make

¹ Tax-exempt political organizations generally are subject to tax on the excess of their gross income (excluding any exempt function income) over allowable deductions that are directly connected with the production of the gross income (excluding exempt function income). IRC § 527(c).

² IRC § 527(i)(1)(A), (i)(5), (i)(6); Rev. Rul. 2003-49, 2003-1 C. B. 903.

³ IRC § 527(i)(2).

⁴ IRC § 527(i)(1)(B).

⁵ IRC § 527(i)(4). A political organization, whether or not tax-exempt, that has taxable income in excess of the \$100 specific deduction allowed under § 527 is required to file an annual income tax return on Form 1120-POL, *U.S. Income Tax Return for Certain Political Organizations*. IRC § 6012(a)(6); Rev. Rul. 2003-49.

⁶ IRC § 527(b); Rev. Rul. 2003-49.

⁷ IRC § 527(i)(4); Rev. Rul. 2003-49.

⁸ IRC § 162(e) denies a deduction for political campaign expenditures.

⁹ IRC § 527(j); Rev. Rul. 2003-49. All tax-exempt political organizations are subject to the reporting requirements of IRC § 527(j), except for those political organizations described in § 527(j)(5).

contributions or expenditures with respect to an election for federal office (as defined in § 527(j)(6)) may be required to file pre-election reports for that election.¹⁰

A tax-exempt political organization that does not timely file the required Form 8872, or that fails to include the information required on the Form 8872, must pay an amount calculated by multiplying the amount of contributions and expenditures that are not disclosed by the highest federal corporate tax rate,¹¹ currently 35 percent.

Question 2. How many 501(c)(4) organizations which appear to be primarily engaged in political activity have been notified by the IRS within the last 6 months that they may be in violation of the law?

When the IRS examines a section 501(c)(4) organization, the objective of the audit is to determine whether that organization qualifies for tax-exempt status as a social welfare organization. As discussed in our June 4, 2012 response to your March 30, 2012 letter, that determination looks to whether the organization is primarily engaged in activities that promote social welfare, not organized or operated for profit, and the net earnings of which do not inure to the benefit of any private shareholder or individual. The examination looks at the activities engaged in during the complete taxable year at issue. Although the promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office, a section 501(c)(4) social welfare organization can engage in political activities as long as it is primarily engaged in activities that promote social welfare.

If the IRS believes that an organization does not meet the requirements under section 501(c)(4), the IRS notifies the organization of its intention to revoke the organization's exempt status, explaining the law and reasons for the proposed revocation. The organization has 30 days from the date of that letter to protest or appeal the determination before a final revocation letter is issued to the organization.

During the past six months, no notices of proposed or final revocation were issued to section 501(c)(4) organizations. Note that the IRS currently has more than 70 ongoing examinations of section 501(c)(4) organizations (this includes examinations for a variety of issues, some of which include whether the organization is primarily engaged in activities that promote social welfare). It is also important to note that the Service also maintains a determination process to review the operations of an organization to determine whether it should be recognized as tax exempt. In this area, we also review compliance with the legal requirements, including whether an organization is primarily engaged in activities that promote social welfare. There are currently more than 1,600 organizations in the determination process seeking recognition as a section 501(c)(4) organization. The level of political activity is an issue in a number of these determination cases.

¹⁰ IRC § 527(j)(2)(A)(i)(II); Rev. Rul. 2003-49.

¹¹ IRC § 527(j)(1).

I hope this information is helpful. If you have questions, please contact me or have your staff contact Catherine Barre at (202) 622-3720.

Sincerely,

A handwritten signature in black ink, appearing to read "S. T. Miller". The signature is fluid and cursive, with a large initial "S" and "M".

Steven T. Miller
Deputy Commissioner
for Services and Enforcement

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United States Senate

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WASHINGTON, DC 20510-6250

MICHAEL L. ALEXANDER, STAFF DIRECTOR
NICHOLAS A. ROSSI, MINORITY STAFF DIRECTOR

September 27, 2012

VIA U.S. MAIL & EMAIL (Catherine.M.Barre@irs.gov)

The Honorable Douglas H. Shulman
Commissioner
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Dear Commissioner Shulman:

I appreciate the September 14, 2012 response by Steven T. Miller, Deputy Commissioner for Services and Enforcement, to my letter of August 31, 2012.

As a follow-up to that letter, please provide me with the following:

1. Question #15 on the IRS Application for Recognition of Exemption Under Section 501(a) states:

“Has the organization spent or does it plan to spend any money attempting to influence the selection, nomination, election or appointment of any person to any Federal, state, or local public office to an office in a political organization? If “Yes,” explain in detail and list the amounts spent or to be spent in each case.”

- a. For the following organizations please forward copies of the responses to Question #15:

- 1) Crossroads Grassroots Policy Strategies
- 2) Priorities U.S.A.
- 3) Americans for Prosperity
- 4) Patriot Majority USA

- b. Please provide with each answer the explanatory “detail” and the lists of the “amounts spent or to be spent in each case” referred to in Question #15.

2. In the IRS response of August 24, 2012, Mr. Miller stated that an address would be needed in order for the IRS to tell us whether or not an organization has been recognized by the IRS as tax-exempt. I have provided address information on several organizations below, as well as verbatim statements from these organizations’ websites regarding their 501(c)(4) status.

For each organization, please let me know if the IRS has recognized it as tax-exempt.

Organization Name:	Organization Address:	Organization Website Address:	Organization's statement on 501(c)(4) status:
Crossroads Grassroots Policy Strategies	P.O. Box 34413 Washington, DC 20043	http://www.crossroadsgps.org/	"Crossroads GPS is organized as a nonprofit organization under section 501(c)(4) of the Internal Revenue Code."
Priorities U.S.A.	1718 M Street NW #264 Washington, DC 20036-4504	http://www.prioritiesusa.org/	"Priorities USA is a 501(c)(4) organization dedicated to mobilizing Americans to preserve, protect and promote the middle class, and to ensure opportunity and freedom for the next generation."
Americans for Prosperity	2111 Wilson Blvd. Suite 350 Arlington, VA 22202	http://americansforprosperity.org/	"Americans for Prosperity is a 501 (c) (4) entity under the IRS code. Contributions or gifts to Americans for Prosperity are not tax deductible."
Patriot Majority USA	1717 Rhode Island Avenue, NW Washington, DC 20036	http://patriotmajority.org/	"Patriot Majority USA is a 501(c)(4) with the primary purpose of encouraging a discussion of economic issues in the United States."

For your information, I am enclosing a copy my recent *Congressional Record* statement regarding the Internal Revenue Service and its treatment of 501(c)(4) organizations. If you have any questions, please contact me, or have your staff contact Kaye Meier of my staff at kaye_meier@levin.senate.gov or 202/224-9110. Please provide this information by October 9, 2012.

Thank you.

Sincerely,



Carl Levin
Chairman
Permanent Subcommittee on Investigations

Enclosure

cc: Dr. Tom Coburn
Ranking Member
Permanent Subcommittee on Investigations

Mr. Steven T. Miller
Deputy Commissioner for Services and Enforcement
Internal Revenue Service



DEPUTY COMMISSIONER

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

October 17, 2012

The Honorable Carl Levin
Chairman
Permanent Subcommittee on Investigations
Committee on Homeland Security
and Government Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

I am responding to your letter to Commissioner Shulman dated September 27, 2012, requesting additional information about section 501(c)(4) organizations. This response supplements the previous responses dated June 4, 2012, July 13, 2012, August 24, 2012, and September 14, 2012, and addresses the additional questions raised in your recent letter.

Question 1. Question #15 on the IRS Application for Recognition of Exemption Under Section 501(a) states:

“Has the organization spent or does it plan to spend any money attempting to influence the selection, nomination, election or appointment of any person to any Federal, state, or local public office to an office in a political organization? If “Yes,” explain in detail and list the amounts spent or to be spent in each case.”

a. For the following organizations please forward copies of the responses to Question #15:

- 1) Crossroads Grassroots Policy Strategies
- 2) Priorities U.S.A
- 3) Americans for Prosperity
- 4) Patriot Majority USA

b. Please provide with each answer the explanatory “detail” and the lists of the “amounts spent or to be spent in each case” referred to in Question #15.

As discussed in our previous responses dated June 4, 2012, and August 24, 2012, the IRS cannot legally disclose whether the organizations on your list have applied for tax exemption unless and until such application is approved. Section 6104(a) of the Internal Revenue Code permits public disclosure of an application for recognition of tax exempt status only after the organization has been recognized as exempt.

Enclosed are the publicly available portions of the application file for Patriot Majority USA [EIN 45-0710294].

Our records indicate a favorable determination letter was also issued to Americans for Prosperity [EIN 75-3148958] in October 2004. However, due to issues related to an electronic conversion process undertaken a number of years ago, we have not yet been able to locate our copy of the application file.¹

Question 2. In the IRS response of August 24, 2012, Mr. Miller stated that an address would be needed in order for the IRS to tell us whether or not an organization has been recognized by the IRS as tax-exempt. I have provided address information on several organizations below, as well as verbatim statements from these organizations' websites regarding their 501(c)(4) status.

For each organization, please let me know if the IRS has recognized it as tax-exempt.

Organization Name:	Organization Address:	Organization Website Address:	Organization's statement on 501(c)(4) status:
Crossroads Grassroots Policy Strategies	P.O. Box 34413 Washington, DC 20043	http://www.crossroadsgps.org/	"Crossroads GPS is organized as a nonprofit organization under section 501(c)(4) of the Internal Revenue Code."
Priorities U.S.A.	1718 M Street NW #284 Washington, DC 20036-4504	http://www.prioritiesusa.org/	"Priorities USA is a 501(c)(4) organization dedicated to mobilizing Americans to preserve, protect and promote the middle class, and to ensure opportunity and freedom for the next generation."
Americans for Prosperity	2111 Wilson Blvd, Suite 550 Arlington, VA 22202	http://americansforprosperity.org/	"Americans for Prosperity is a 501(c)(4) entity under the IRS code. Contributions or gifts to Americans for Prosperity are not tax deductible."
Patriot Majority USA	1717 Rhode Island Avenue, NW Washington, DC 20036	http://patriotmajority.org/	"Patriot Majority USA is a 501(c)(4) with the primary purpose of encouraging a discussion of economic issues in the United States."

As stated in our previous response to you dated August 24, 2012, our records show that Americans for Prosperity and Patriot Majority USA have been recognized by the IRS as tax exempt under section 501(c)(4). With respect to Crossroads Grassroots Policy Strategies and Priorities U.S.A., we have no record of an approved application for these organizations.

¹ In addition to public availability from the IRS, section 6104(d) of the Internal Revenue Code requires that the organization make its application for tax exemption available for public inspection.

I hope this information is helpful. If you have questions, please contact me or have your staff contact Catherine Barre at (202) 622-3720.

Sincerely,



Steven T. Miller
Deputy Commissioner
for Services and Enforcement

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MICHAEL I. ALEXANDER, STAFF DIRECTOR
NICHOLAS A. FOSS, MINORITY STAFF DIRECTOR

October 23, 2012

VIA U.S. MAIL & EMAIL (Catherine.M.Barre@IRS.gov)

The Honorable Douglas H. Shulman
Commissioner
Internal Revenue Service
U. S. Department of the Treasury
1111 Constitution Avenue
Washington, D.C. 20224

Dear Commissioner Shulman:

I am in receipt of the October 17, 2012, response from Mr. Miller to my letter of September 27, 2012.

In the June 4, 2012, response that I received from the IRS, your agency provided the following guidance:

“The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. Nevertheless, a section 501 (c)(4) social welfare organization can engage in political activities as long as it is primarily engaged in activities that promote social welfare. The regulations do not impose a complete ban on political activity by section 501 (c)(4) organizations. Whether an organization meets the requirements of section 501 (c)(4) depends upon all of the facts and circumstances of the particular applicant, and no one factor is determinative.” [6/4/12 IRS response, pg. 8]

I have indicated previously that I believe this guidance misinterprets the law because the law says that the organization must be operated “exclusively” for the promotion of social welfare. However, accepting the IRS interpretation as accurate for the purposes of this letter, please provide the following information:

1. The October 17, 2012, letter from the IRS indicates that it is unable to locate the application submitted by Americans for Prosperity (EIN 75-3148958) for tax exempt status under Section 501(c)(4). Has the IRS asked Americans for Prosperity for a copy of its application? If so, please provide a copy of the response from Americans for Prosperity.
2. Has the IRS examined whether or not the following 501(c)(4) organizations are engaged primarily in the promotion of social welfare? Please indicate yes or no, and, if yes, whether the examination is still pending.

- a. Crossroads Grassroots Policy Strategies
 - b. Priorities U.S.A.
 - c. Americans for Prosperity
 - d. Patriot Majority USA
3. In my letter of March 30, 2012, I asked the IRS to indicate how many letter rulings have been issued by the IRS since January 1, 2007, to deny or revoke the tax-exempt status of an organization under Section 501(c)(4) due to involvement with political activity. I further requested that, if the IRS had issued 10 or less such letter rulings, the IRS provide copies of all such letters. Mr. Miller responded that, "The application process for tax-exempt status does not involve the revocation of tax exemption; rather, it only concerns the denial of applications." He did not provide copies of the denials of applications he referred to.

Please provide the documentation requested in my March 30, 2012, letter.

4. In August 2012, I asked the IRS to indicate "how many 501(c)(4) organizations which appear to be primarily engaged in political activity have been notified by the IRS within the last 6 months that they may be in violation of the law." Mr. Miller responded that, "During the past six months, no notices of proposed or final revocation were issued to section 501(c)(4) organizations."
- a. How many notices of proposed or final revocation have been issued since January 1, 2007? If the IRS has issued 10 or less such letter rulings, please provide copies of all such letters.
 - b. Since January 1, 2007, how many 501(c)(4) organizations have been examined by the IRS to determine if they are engaged in political activity in amounts which exceed IRS guidelines?

Thank you for your assistance. If you have any questions, please contact me, or have your staff contact Kaye Meier of my staff at kaye_meier@levin.senate.gov or 202/224-9110. Please provide this information by November 9, 2012.

Sincerely,



Carl Levin
Chairman
Permanent Subcommittee on Investigations

cc: The Honorable Tom Coburn, MD
Ranking Minority Member
Permanent Subcommittee on Investigations



DEPUTY COMMISSIONER

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

November 23, 2012

The Honorable Carl Levin
Chairman, Permanent Subcommittee on Investigations
Senate Committee on Homeland Security
and Government Affairs
United States Senate
Washington, DC 20515

— = Redacted by the Permanent
Subcommittee on Investigations

Dear Mr. Chairman:

I am responding to your letter to Commissioner Shulman dated October 23, 2012, requesting additional information about section 501(c)(4) organizations. This response supplements our previous responses dated June 4, 2012, July 13, 2012, August 24, 2012, September 14, 2012, and October 17, 2012, and addresses the additional questions raised in your recent letter.

Question 1. The October 17, 2012, letter from the IRS indicates that it is unable to locate the application submitted by Americans for Prosperity [REDACTED] for tax exempt status under section 501(c)(4). Has the IRS asked Americans for Prosperity for a copy of its application? If so, please provide a copy of the response from Americans for Prosperity.

We have not asked Americans for Prosperity for a copy of its application. As indicated in our responses dated June 4, 2012, and October 17, 2012, section 6104(d) of the Internal Revenue Code (the Code) requires tax exempt organizations to make certain documents, including applications for exemptions, available for public inspection. Any individual may request copies of applications for exemption and determination letters directly from the organizations. Under the Code, if an organization has filed an application for tax-exemption and we have approved the application, the exempt status application materials shall be made available by such organization for inspection upon request of any individual.¹

¹ Section 6104(d) of the Code.

Question 2. Has the IRS examined whether or not the following 501(c)(4) organizations are engaged primarily in the promotion of social welfare? Please indicate yes or no, and, if yes, whether the examination is still pending.

- a. Crossroads Grassroots Policy Strategies**
- b. Priorities U.S.A**
- c. Americans for Prosperity**
- d. Patriot Majority USA**

As previously stated in our response dated June 4, 2012, section 6103 of the Code prohibits the disclosure of information about specific taxpayers, including whether they are under investigation or examination, unless the disclosure is authorized by some provision of the Code.² Thus, we are legally prohibited from disclosing information related to examination activity.

Question 3. In my letter of March 30, 2012, I asked the IRS to indicate how many letter rulings have been issued by the IRS since January 1, 2007, to deny or revoke the tax-exempt status of an organization under section 501(c)(4) due to involvement with political activity. I further requested that, if the IRS had issued 10 or less such letter rulings, the IRS provide copies of all such letters. Mr. Miller responded that, "The application process for tax-exempt status does not involve the revocation of tax exemption; rather, it only concerns the denial of applications." He did not provide copies of the denials of applications he referred to.

Please provide the documentation requested in my March 30, 2012, letter.

As previously stated, section 6103 of the Code prohibits the disclosure of information about specific taxpayers unless some provision of the Code authorizes the disclosure. Section 6104(a) of the Code permits public disclosure of an application for recognition of tax-exempt status and supporting materials only after the organization has been recognized as exempt. Under section 6110 of the Code, if we ultimately deny the application for recognition of tax-exempt status, the denial letter and background information is subject to public inspection, with identifying and other information redacted, to help the public understand our reasoning while also protecting the identity of the organization.

² Section 6103(f) of the Code sets forth the means by which congressional committees may obtain access to return and return information (that is not otherwise made publicly available under sections 6104 and 6110). We are available to discuss these rules in more detail with your staff.

Since January 1, 2007, we have issued ten adverse determinations to section 501(c)(4) applicants. We concluded that the organizations did not primarily operate for the promotion of social welfare. Generally, they were primarily engaged in activities that benefited private individuals and interests, and/or constituted direct and indirect political campaign intervention on behalf of, or in opposition to, candidates for public office. I am enclosing redacted determination letters denying section 501(c)(4) tax exempt status to the ten organizations. Note, however, that the number of adverse determinations does not represent the number of organizations that applied, but were not granted tax-exempt status under section 501(c)(4). Some organizations withdraw their application for exemption when they learn that a denial is forthcoming. Others do not formally withdraw, but do not respond to requests for information necessary to develop their applications. After additional failed attempts to get the information from the applicant, we close those applications as "failure to establish."

Question 4. In August 2012, I asked the IRS to indicate "how many 501(c)(4) organizations which appear to be primarily engaged in political activity have been notified by the IRS within the last 6 months that they may be in violation of the law." Mr. Miller responded that, "During the past six months, no notices of proposed or final revocation were issued to section 501(c)(4) organizations."

- a. How many notices of proposed or final revocation have been issued since January 1, 2007? If the IRS has issued 10 or less such letter rulings, please provide copies of all such letters.**

We have issued 42 revocation notices to section 501(c)(4) organizations since January 1, 2007. These organizations were revoked for failing to meet the requirements under section 501(c)(4). In addition to the 42 revocations, we issued 18 organizations written advisories noting irregularities, which if left unchanged, posed a risk to the organizations of possible loss of their tax-exempt status under section 501(c)(4).

- b. Since January 1, 2007, how many 501(c)(4) organizations have been examined by the IRS to determine if they are engaged in political activity in amounts which exceed IRS guidelines?**

As discussed in prior responses, when we examine a section 501(c)(4) organization, the objective of the audit is to determine whether that organization qualifies for tax-exempt status as a social welfare organization. As discussed in our June 4, 2012, response, we have taken no position on a fixed percentage or any one factor in precedential guidance. To determine whether an organization operates primarily for the promotion of social welfare, the courts and the IRS consider all the facts and circumstances, including, but not limited to, the organization's stated purposes, expenditures, principal source of revenue, number of employees and volunteers, and time and effort.³

³ Treasury Regulation section 1.501(c)(4)-1(a)(2) (No percentage test established). Rev. Rul. 68-45, 1968-

1


C.B. 259 (Principal source of income does not determine an organization's primary activity under section 501(c)(4); all the facts and circumstances are considered). See, generally *Haswell v. United States*, 500

From January 1, 2007, through September 2012, we have examined 643 section 501(c)(4) organizations to determine whether they are primarily engaged in social welfare activities. We analyzed a variety of issues during these examinations, including, where relevant, the level of political activity.

Of the 643 organizations examined, the Principal Issue Codes (PIC codes) in our system indicate political activity was one of the issues explored in the examination of 22 section 501(c)(4) organizations. We use PIC codes to capture the issues on which an IRS agent spent time during an examination or that resulted in a change, and we enter them as part of the closing process of a case. Although currently 96 PIC codes exist, agents may only report the top four PIC codes. The determination of which PIC codes are applicable to a particular case is a judgment the agent makes. Please note that although PIC codes are a tool to identify issues and trends, PIC codes do not cover all issues in a case. Therefore, without a manual review of the case files, we cannot definitively conclude whether we examined an organization to determine the level of political activity.

I hope this information is helpful. If you have questions, please contact me or have your staff contact Catherine Barré, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,



Steven T. Miller
Deputy Commissioner
for Services and Enforcement

Enclosures (10)

F.2d 1133, 1142, 1147 (Cl. Ct. 1974) ("A percentage test ... is not appropriate. Such a test obscures the complexity of balancing the organization's activities in relation to its objectives and circumstances in the context of the totality of the organization."). See, *Contracting Plumbers v. United States*, 488 F.2d 684, 686 (2d Cir. 1973) (multiple factors relevant in applying this standard, including formative history, stated purposes, and actual operations). See generally *Seasongood V. Commissioner*, 227 F.2d 907, 909, 912 (6th Cir. 1955) (expenditures, employees, and organization's time and effort considered).



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Number: 200833021
Release Date: 8/15/2008

Date: May 20, 2008

U.I.L. 501.04-03

SE:T:EO:RA:T:3

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:
1120

Tax Years:
ALL

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)(4).

We made this determination for the following reason(s): You were not primarily engaged in activities that promote social welfare. Your activities primarily constituted direct and indirect participation in political campaigns on behalf of, or in opposition to, candidates for public office.

In a letter dated January 17, 2008, you submitted a copy of the minutes of the meeting of your Board of Directors dated September 17, 2007, which approved your dissolution effective September 30, 2007. A statement of your dissolution was filed with your state on September 14, 2007.

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

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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,

Robert Choi
Director, Exempt Organizations
Rulings & Agreements

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

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

U.I.L. 501.04-03 No Third Party Contacts

July 31, 2000

Contact Person:

ID Number:

Telephone Number:

Employer Identification Number:

Legend:

X =

Year 1 =

State 1 =

State 2 =

W =

Seminar =

Newsletter =

Conference =

A =

Dear :

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(4). Based upon all of the materials you have submitted in connection with your application, we have concluded that your activities primarily constitute direct and indirect participation or intervention in political campaigns on behalf of or in opposition to candidates for public office. Accordingly, we have concluded that you are not primarily engaged in activities that promote social welfare and do not qualify for recognition of exemption under section 501(c)(4).

STATEMENT OF FACTS:

The information you have provided for our consideration of your application for recognition of exemption indicates that you were incorporated on Year 1, as a nonprofit organization under the laws of the State 1. You were formed for purposes that include the following: to educate, inform and mobilize Ws to become active in the public arena in support of causes which reflect W values; and to uphold, propagate, and disseminate by all lawful means W principles and values.

You entered into an affiliation agreement with X, a national organization based in State 2. X's

Page 2

five-fold mission is to--

Under the affiliation agreement, X has granted you a charter pursuant to which you shall represent X in State 1 and shall be known as the said state affiliate of X. The agreement further grants you a non-exclusive, revocable license to use X's name, logo, and any and all trademarks or service marks that X owns during the agreement. In addition, the affiliation agreement consists of the following provisions:

1. You shall incorporate as a nonprofit corporation and apply for recognition of exemption under section 501(c)(4) of the Code; copies of your corporate charter, bylaws and exemption application will be provided to X.
2. You shall adopt bylaws which will be substantially in the form of, or consistent with, the bylaws of X. Any amendments to your bylaws shall be sent to X for review and approval with your agreement not to adopt any amendments not approved by X.
3. You may organize and recognize local X chapters in State 1, provided you enter into an affiliation agreement with each local chapter and each such agreement is approved by X. Once a quarter, you shall provide X with the names and addresses of each local chapter, as well as the names, addresses, and phone numbers of the leader in each local chapter.
4. A portion of X's annual net revenues shall be segregated as a state project fund from which you may request funds for special projects from time to time. These funds may be distributed throughout the course of the year and must be requested in writing.
5. You may send mailings to certain X proprietary mailing lists for a reasonable computer and label/tape charge. X shall assist you in preparing mailings to these lists.
6. X shall provide you with a list of activities on X's database for you to use for fund-raising purposes.
7. X shall conduct for you regular workshops to teach fund-raising and organizing skills for state leadership.
8. X will schedule at least one leadership school per calendar year in your state, to be sponsored by you that includes audio tapes, instructional manual, and all related materials; you are responsible for recruiting at least 75 paid registrants, while the national office shall provide all materials, audio and video tapes, a national or regional instructor, and one mailing from the national office to promote and publicize the school.
9. X will work with you to hold at least one major fund-raising event per calendar year to be

Page 3

attended by A (as schedule permits) and/or other nationally recognized individuals;

10. X will provide you with access with to its flagship publication, W. You will be able to place a four-page insert into all copies of W mailed to all X members in State 1.

11. X shall provide state and local leaders with a regular update of events in the nation's capital. This update will be provided free of charge to state and chapter leaders with fax machines.

12. X shall provide you with voter education material specific to your state. Congressional scorecards will be provided at cost, and federal voter guides will be provided free of charge.

Your activities include the development of county chapters, distribution of voter guides, organizing and conducting training seminars, publishing and distributing monthly newsletters and updates on legislation, and lobbying activities.

You have been involved in the formation and development of county chapters in State 1. In the Local Chapter Chairman's Handbook, a manual published and provided to you by X in providing step-by-step instruction on how to develop a successful chapter, states in Chapter 1 –

The goals of a chapter are to:

The X handbook refers to the neighborhoods as "precincts," and it states "...the ultimate goal of X is to have ten identified activists in every precinct in America. Neighborhoods (precincts) are crucial. In order to effectively organize your county, you must organize neighborhoods. Establishing a coordinator in each neighborhood will very effectively give you political control over your county and ultimately, your state." The X precinct organization plan consists of getting neighborhood helpers to follow three simple steps: identify, inform and mobilize voters.

You distribute voter guides for federal, state, and local elections. The voter guides are distributed to voters prior to Election Day for their use on that day. The voter guides for elections on the federal level were prepared by X. You prepare the voter guides for elections on state and local levels. The format of the voter guides includes the names and pictures of the Democratic and Republican candidates for various elective offices. Beneath each candidate's name and picture is the candidate's position on each of a list of selected issues. The Voter Guides indicate that most candidates were shown with a response of either "Opposes" or "Supports" to the selected issue, while many candidates were shown to have "No Response" or "Undecided" to most of the issues. The selected issues included:

Page 4

The voter guides state in very small print that, "[t]his voter guide is provided for educational purposes only and is not to be construed as an endorsement of any candidate or political party." However, X's training materials called the X _____, under the heading states --

The year _____ marked the emergence of X onto the national political scene....

As the _____ election year went into full swing, X began distributing _____ nonpartisan voter guides in _____ churches nationwide. X's voter education efforts led to the largest turnout of _____ voters in modern history with exit polls showing that 24 percent of all voters were self-identified _____. The results of such _____ voter turnout were remarkable; an estimated _____ candidates ran for school board, city council, state legislature, and _____ percent won. X's commitment to the _____ movement was now set in stone.

X's activity in the _____ election year proved that X was a major player in the political arena. X distributed _____ voter guides during the presidential and other primaries as well as _____ voter guides in _____ churches during the general election.

You also conduct a seminar called W Seminar. The seminar uses training manuals produced and supplied by X. In his foreword to the training manual, A states the following:

You also publish State 1 Newsletter, a monthly newsletter consisting of two pages updating members primarily on chapter meetings and events, status of legislation, and the political scene. The _____ and _____ issues included information regarding the "Conference," an annual conference conducted by X that features speeches by prominent members of the _____ Party.

You also engage in lobbying activities. You distribute materials urging members and others in supporting or defeating certain _____ issue legislation. A training manual published by X, which you use in your training seminars, contains the following information on the topic of the basic lobbying that X and you, as one of its affiliates, implement:

Page 5

LEGAL ANALYSIS:

Section 501(c)(4) of the Code provides for exemption from Federal income taxes under section 501(a) for organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-l(a)(2)(i) of the Income Tax 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. Whether an organization is "primarily" engaged in promoting social welfare is a facts and circumstances test. The regulation states:

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 betterments and social improvements.

Section 1.501(c)(4)-l(a)(2)(i).

Section 1.501(c)(4)-l(a)(2)(ii) of the regulations provides that political campaign activities do not promote social welfare as defined in section 501(c)(4). The regulations under section 501(c)(4) clearly distinguish between acceptable social welfare activities such as lobbying and unacceptable activities such as political campaign intervention. The regulation states:

The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office.

Section 1.501(c)(4)-l(a)(2)(ii).

In order for an organization to engage in political campaign activities, there generally must be a candidate for public office on whose behalf or against whom the activity or intervention occurs. Section 1.501(c)(3)-l(c)(3)(iii) of the regulations states that the "term 'candidate for public office' means an individual who offers himself, or is proposed by others, as a contestant for an elective public office." In Rev. Rul. 76-456, 1976-2 C.B. 151, the organization at issue was formed for the purpose of elevating the standards of ethics in the conduct of campaigns for election to public office at the national, state and local levels, and had disseminated information concerning general campaign practices. The organization proposed a code of fair campaign practices, but did not solicit the signing or endorsement of the code by candidates for political office. We concluded that this did not constitute political intervention since the organization's activities only allowed citizens to increase their knowledge and understanding of election processes and participate more effectively in their selection of government officials, without any candidates even mentioned. At the same time we modified Rev. Rul. 66-258, 1966-2 C.B. 213, which was an identical organization except that it did solicit the signing or endorsement of its code of fair campaign practices by candidates for political office. We concluded that the latter organization was engaged in political intervention and therefore was not exempt under section 501(c)(3) of the Code. (Because these Rev. Ruls. contain a section 501(c)(3) analysis which prohibits all political campaign activities, the activities should be considered in absolute terms. However, for purposes of section 501(c)(4), we are determining whether political intervention is the primary activity of the organization.)

Whether an organization is "primarily engaged" in promoting social welfare is a facts and circumstances determination. Relevant factors include the manner in which the organization's activities

Page 6

are conducted; resources used in conducting such activities, such as buildings and equipment; the time devoted to activities (by volunteers as well as employees); the purposes furthered by various activities; and the amount of funds received from and devoted to particular activities. See, e.g., Rev. Rul. 74-361, 1974-2 C.B. 159 (volunteer fire company that provides recreational facilities for members is primarily engaged in promoting social welfare where providing facilities primarily furthers exempt purposes); Rev. Rul. 68-45, 1968-1 C.B. 259 (organization's principal source of income is not sole factor in determining whether it is "primarily engaged" in promoting social welfare). In Rev. Rul. 81-95, 1981-1 C.B. 332, we concluded that "an organization may carry on lawful political activities and remain exempt under section 501(c)(4) of the Code as long as it is primarily engaged in activities that promote social welfare." The corollary to this is that if an organization's primary activities do not promote social welfare but are direct or indirect political intervention, the organization is not exempt under section 501(c)(4). The key is to determine the character of the organization's primary activities by looking at all of the facts and circumstances.

1. Precinct Organization:

Your activities with regard to recruitment of people to become active in local politics at the precinct level appear to be identical to the recruitment and organization that takes place in a political party. The Leadership School trains people to work in campaigns, and political involvement and get-out-the-vote activities are advocated in order to intervene and influence elections. Your focus is on getting people to become candidates and activists. While organizing down to the precinct or neighborhood level has enabled you to mobilize some limited legislative grassroots campaigns, this organizational basis has primarily been used to mobilize targeted voters to get to the polls on election day. It has also been used to identify and encourage to run for local office. From your inception, you have been part of X's precinct organization intended to facilitate intervention in the political process at every level of government. As stated above, it is also evident that you were interested in legislation and lobbying activities. However, after a careful review of the materials presented, it is apparent that the lobbying activities were secondary to political intervention. You primarily engage in activities intended to intervene in the political process and to influence the elections of those candidates who reflected your views. Your emphasis is focused on activities which were designed to result in the election of to public office at every level of government. Using the facts and circumstances test, we conclude that your precinct organizational basis was implemented primarily to intervene in political campaigns.

2. Voter Guides:

An organization which publishes and distributes candidate questionnaire results in the form of voter guides must demonstrate neutrality in order for the voter guides to be considered educational. A facts and circumstances test is utilized to determine whether activities involving voter guides are educational or whether they are political campaign activities. In Rev. Rul. 78-248, 1978-1 C.B. 154, examples are given as to the factors which should be considered when applying a facts and circumstances test. The factors which are indications that the activities are educational are as follows: 1) the publication reports on a neutral group of elected officials or candidates such as all members of Congress or all candidates for a particular office, 2) the publication reports elected officials' or candidates' views or their voting records on a wide range of subjects, 3) the publication includes no editorial opinion on the elected officials or candidates, or on their views, 4) the publication does not indicate approval of elected officials or candidates in the contents or structure of the publication, and 5) the organization makes the publication generally available to the public.

After looking at your voter guides, several patterns emerge. First, as mentioned above, the

Page 7

candidates regularly have "No Response" or "Undecided" listed after all or part of the issues, whereas very few candidates were listed without a complete list of "Opposes" or "Supports" underneath their name and picture. Second, the issues chosen seem to have a direct correlation to the desired response from X's preferred candidate, or conversely to portray a candidate as against issues. While these factors are not explicit endorsements of candidates, the lack of responses from candidates and the wording and choice of issues to create a particular response along party lines is significant. In addition, the general nature of and approach taken with respect to the issues covered leads to responses which are arguably inaccurate. Additionally, the summary descriptions are so vague that they do not adequately cover any of the issues. Finally, the voter guides do not report on a neutral group of candidates as required by Rev. Rul. 78-248. The voter guides list the names of a neutral group of candidates, but they fully report the positions of only some of the candidates and almost all of the positions of the candidates. This reporting is so heavily weighted toward the Party as to not constitute reporting on a neutral group of candidates.

In our view, the voter guides are heavily weighted in favor of the candidates, especially those incumbents endorsed on the congressional scorecards. We conclude that these voter guides cannot be considered nonpartisan educational materials within the intent of the law. Inaccurate and/or incomplete information does not constitute education. The targeted distribution of the scorecards and voter guides also indicates that these publications are not nonpartisan educational activities. These documents were distributed to previously identified and individuals. The voter guides would have only limited educational value to anyone wishing to know the positions of candidates or to compare the positions of and candidates, since such a large percentage of candidates did not have their positions listed in the voter guides. In addition, the possible distortion of the candidate's position when translating a vote on legislation to a summary description is an additional factor we have considered in determining that the voter guides constitute political intervention. Based on all the available information, we conclude that the voter guides are not nonpartisan and constitute intervention in political campaigns.

3. Lobbying Activities:

Lobbying activities were considered in Rev. Rul. 68-656, 1968-2 C.B. 216, to not only be an acceptable activity for an organization described in section 501(c)(4) of the Code, but to constitute activities that promote social welfare. Rev. Rul. 68-656 provides that seeking favorable legislation is recognized by the section 501(c)(4) regulations as a permissible means of attaining social welfare goals. Additionally, Rev. Rul. 71-530, 1971-2 C.B. 237, concludes that an organization described in section 501(c)(4) may have lobbying as its only activity. A facts and circumstances test is to be used in determining whether an organization's activities primarily constitute political intervention or whether those activities constitute lobbying or educational activities. After reviewing all of the facts and circumstances presented in the administrative file as discussed above, we have concluded that your primary emphasis and primary activities constituted direct and indirect political intervention. While you engage in extensive lobbying activities, they are by no means your primary activity. Your first and primary emphasis is on getting people elected to public office. The administrative record contains a wealth of information regarding your organizational structure and activities relating to candidate recruitment. There is only, secondarily, an emphasis on lobbying and educational activities. Your organizational thrust is to organize at the neighborhood or precinct level in order to get elected to local offices; only secondarily is this precinct level organization utilized to influence legislation.

Accordingly, after looking at all of the facts and circumstances, we have concluded that your lobbying activity was not your primary activity.

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CONCLUSION REGARDING YOUR PRIMARY ACTIVITY:

The emphasis throughout your materials is on electing to office people in order to impact legislation and policy as insiders. The overwhelming majority of the evidence in the administrative record, and thus the facts and circumstances in this case, denotes an organization that is intent upon intervening in political campaigns. The precinct organizational structure allows you to implement your policies as more and more are elected to office. While lobbying is usually mentioned, and we recognize that lobbying activities are being pursued, those activities are not your primary activity. An analysis of all of the facts and circumstances contained in the administrative file leads us to the conclusion that your primary activity constitutes political intervention.

CONCLUSION:

Based upon the materials submitted in connection with your application, we have concluded that your activities primarily constitute direct and indirect participation or intervention in political campaigns on behalf of or in opposition to candidates for public office. Therefore, you are not primarily engaged in activities that promote social welfare and do not qualify for recognition of exemption under section 501(c)(4) of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views to this office, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the Ohio Tax Exempt and Government Entities (TE/GE) office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 877-829-5500 (a toll free number) or sending correspondence to: Internal Revenue Service, TE/GE Customer Service, P.O. Box 2508, Cincinnati, OH 45201.

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service
Attn: T:EO:RA:T:3, Room 6137
1111 Constitution Ave, NW
Washington, D.C. 20224

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

Sincerely,

Robert C. Harper, Jr.

Page 9

Manager, Exempt Organizations
Technical Group 3



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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

U.I.L. 501.04-03 No Third Party Contacts

Release Number: 200836033
Release Date: 9/5/08
Date: June 12, 2008

Contact Person:
Identification Number:
Contact Number:
Employer Identification Number:
Form Required To Be Filed:
1120
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)(4).

We made this determination for the following reasons: You were not primarily engaged in activities that promote social welfare. Your activities primarily constituted direct and indirect participation in political campaigns on behalf of, or in opposition to, candidates for public office.

In a letter dated January 18, 2008, you indicated to have ceased conducting activities with no intention of reactivating because of our adverse ruling and have dissolved. We issued an initial adverse ruling on your exemption application on July 27, 2000.

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. We amended the proposed adverse determination letter that was issued on July 27, 2000, by inserting a legend to delete identifying information for purposes of disclosure compliance under section 6110. 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

-2-

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,

Robert Choi
Director, Exempt Organizations
Rulings & Agreements

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

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224
July 27, 2000

U.I.L. No 501.04-03 Third Party Contacts

Contact Person:

ID Number:

Telephone Number:

Fax:

Employer Identification Number:

Legend:

X =
Date 1 =
Date 2 =
State 1 =
State 2 =
W =
A =
Handbook =

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(4). Based upon all of the materials you have submitted in connection with your application, we have concluded that your activities primarily constitute direct and indirect participation or intervention in political campaigns on behalf of or in opposition to candidates for public office. Accordingly, we have concluded that you are not primarily engaged in activities that promote social welfare and do not qualify for recognition of exemption under section 501(c)(4).

Page 2

STATEMENT OF FACTS:

The information you have provided for our consideration of your application for recognition of exemption indicates that you were incorporated on Date 1, as a nonprofit organization under the provisions of the State 1 Revised Statutes annotated, Chapter . Your articles of incorporation provide that your purposes are as follows:

1. to educate, inform and mobilize W to become active in the political arena in support of causes which reflect W values, and to uphold, propagate, and disseminate by all lawful means W principles and values;
2. to urge the public to contact members of local, state, and federal legislative and regulatory bodies for the purpose of proposing, supporting, or opposing legislation to bring about betterment and the general welfare;
3. to aid the election of W candidates at the state and local level who promote Biblical values; and
4. to engage in any and all lawful activities incidental to the foregoing purposes.

On Date 2, you entered into an affiliation agreement with X, a national organization based in State 2. Pursuant to this agreement, you have become the state affiliate of X in the State of State 1. In part, the affiliation agreement consists of the following provisions:

1. You will clearly indicate on your stationery and other informational materials that you are the state affiliate of X, which will not grant state affiliation status to any other organization in State 1;
2. One-fourth of the state's counties and two-thirds of the Congressional Districts shall have functioning chapters and chairmen by a specified date; you will provide rosters of county and district officers on a quarterly basis to X;
3. You shall incorporate as a nonprofit corporation and apply for recognition of exemption under section 501(c)(4) of the Code; copies of your corporate charter, bylaws and exemption application will be provided to X;
4. You shall provide an audited financial statement to X on an annual basis;
5. Any advertisement or public relations effort using the X name will be sent to X national headquarters for approval prior to its use, including print advertisements, radio or television spots, newsletters, press releases, brochures, or voter guides.

Page 3

6. You may send mailings to certain X proprietary mailing lists for a reasonable computer and label/tape charge;
7. X field staff will assist you in establishing X county chapters or appointing Congressional District coordinators;
8. X will schedule at least one leadership school per calendar year in your state, to be sponsored by you that includes audio tapes, instructional manual, and all related materials; you are responsible for recruiting at least 35 paid registrants, while the national office shall provide all materials, audio and video tapes, a national or regional instructor, and one mailing from the national office to promote and publicize the school;
9. X will work with you to hold at least one major fund-raising event per calendar year to be attended by A (as schedule permits) and/or other nationally recognized individuals;
10. A portion of X annual net revenues shall be segregated as a state project fund from which you may request funds for special projects; these funds shall be distributed on a quarterly basis and may be requested with an application form provided by X;
11. You will send a camera-ready insert of state news to X from time to time for publication in the W ;
12. X will provide production quality television and radio spots for broadcast on local television or radio by you;
13. You assume full liability for your own activities and programs; you indemnify X against liability; no principal and agent relationship is created; and, you and your chapters may not represent to third parties that you are acting on behalf of X unless specifically authorized in writing or as outlined in this agreement;
14. If you violate this agreement, X may immediately terminate it; and,
15. Both you and X may suspend the agreement upon providing 90 days notice in writing.

You solicit memberships, and one of the brochures you distribute for that purpose asks, "Isn't it about time we became informed & politically involved citizens in State 1?" The brochure describes you to the public as follows:

We are a non-partisan issue-oriented organization designed to mobilize

Page 4

pro-family citizens for effective political action.

This grassroots coalition of Protestants, Catholics, and Jews, is working to make government and the media responsive to our reasonable concerns. Our goal is to speak with a united voice on public policy matters that preserve our freedoms and improve our nation and our communities. We work together because we understand resisting the tide of immorality and intolerant secularism is more important than (sic) our theological, racial, or cultural differences.

Our five-fold mission, in conjunction with our state and national organizations, is to:

1. Inform pro-family voters about timely issues and pending legislation;
2. Train leaders for effective social and political action;
3. Speak out in the public arena and in the media;
4. Represent pro-family voters before local councils, school boards, and the state legislature;
5. Protest anti-religious biases and defend the legal rights of W.

We distribute *Congressional Scorecards* to educate Americans on their representatives' votes, and *Voter Guides* to provide voters with candidates' positions on issues. We are also expanding our membership, developing leadership, and organizing by neighborhoods.

We serve pro-family citizens by providing a local grassroots organization to channel *your political* efforts. We will cooperate and work with local churches by helping them establish Political Awareness Committees formed with the approval of, and under the supervision of, their church's leadership. It is through networking with concerned citizens and people of faith that information is distributed enabling our collective voice to be heard. Your participation increases our influence to effect political change. You may choose your level of involvement from being kept informed to helping organize the state.

We are not exclusive, extremist, radical or intolerant. We are mainstream Americans who have a right to representation and a responsibility in self-government.

Your activities include the development of county chapters, organizing and

Page 5

conducting training seminars, distribution of legislative scorecards, publishing and distributing monthly newsletters and updates on legislation, conducting conferences, and lobbying activities.

You have been involved in the formation and development of county chapters and neighborhood communities in the state of State 1. This formation of neighborhood communities is along the X's plan of establishing precinct organizations. The X precinct organization plan consists of getting neighborhood helpers to follow three simple steps: identify, inform, and mobilize voters.

You conduct surveys for identification and mobilization of voters. Your voter identification method follows Abraham Lincoln's four rules for winning elections:

1. Obtain a complete list of voters,
2. Determine how they will vote,
3. Contact the favorable voters, and
4. Get them to the polls on election day

Your voter identification points out that Lincoln's four rules are the foundation of modern grassroots politics. The most effective element in influencing the public policy of a city, county or state is electing quality candidates to office.

You distribute voter guides timed to coincide with the elections. The voter guides are directed at different geographic areas of State 1, and cover specific elections. The format of the voter guides includes the names and pictures of the Democratic and Republican candidates for various elective offices. Beneath each candidate's name and picture is the candidate's position on each of a list of selected issues. Your Voter Guide for the state Governor and Congressional District elections show Republican candidates with a response of either "Opposes" or "Supports" to the selected issue, and the Democratic candidates were shown to have "No Response" to most of the issues. The selected issues on the election for Governor included:

- Establishment of a State Income Tax
- Abortion on Demand
- Parental Notification for Abortion by Minors
- Parental Choice in Education (Vouchers)
- Banning Ownership of Legal Firearms
- Condom Distribution in Public Schools
- Outcome-Based Education
- Special Rights for Homosexuals
- Term Limits
- Compulsory Union Dues for Employment

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The voter guides state in very small print the following:

Paid for and authorized by X, of State 2. X is a pro-family action organization. This voter guide is provided for educational purposes only and is not to be construed as an endorsement of any candidate or political party.

However, X produced training materials called the X Handbook, under the heading "Political Victory," states --

The year . . . marked the emergence of X onto the national political scene....

As the . . . election year went into full swing, X began distributing 40 million nonpartisan voter guides in . . . nationwide. X's voter education efforts led to the largest turnout of . . . voters in modern history with exit polls showing that 24 percent of all voters were self-identified The results of such pro-family voter turnout were remarkable; an estimated 500 pro-family candidates ran for school board, city council, state legislature, and 40 percent won. X's commitment to the . . . movement was now set in stone.

X's activity in the 1996 election year proved that X was a major player in the political arena. X distributed 20 million voter guides during the presidential and other primaries as well as 45 million voter guides in . . . during the general election.

You also distribute congressional scorecards. The scorecards are prepared by X for distribution to voters during elections through its state affiliates. The scorecard is a compilation of voting records of all incumbent members of Congress with respect to issues on which X has taken a position. The scorecard shows how each Senator and Representative voted on each of the selected issues with a rating of either "++" or "--" and a percentage score. The scorecard states that "++" indicates that the legislator voted or announced in favor of X position, and "--" indicates that the legislator voted or announced against X position. A score of 100% means that the legislator supported X position on every vote. A score of 0% means the legislator never supported a X position.

The X Congressional Scorecard . . . Election Year Edition you distributed shows the names of Republican legislators in capital letters as compared to names of all Democratic legislators in lower case letters. In addition, while many and only Republican legislators garnered a score of 100%, many and only Democratic legislators garnered a score of 0%.

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The issues chosen for the State 1 legislators in the X Congressional Scorecard Election Year Edition included the following: Family Tax Relief, Balanced Budget Amendment, Partial Birth Abortion, Promoting Homosexuality, Pornography on the Internet, Line-Item Veto, and Welfare Reform.

You conducted a seminar called X Seminar. Your flyer advertised the seminar with the headlines, "

1." The seminar is described in the material as given by America's sharpest political strategists and is a crash course on:

- Why people of faith should be involved in politics;
- How to organize your neighborhood and ward;
- Influencing public policy at all levels of government;
- The biblical basis for political involvement; and,
- How to effectively lobby elected officials.

The seminar uses training manuals produced and supplied by X. In his foreword to the training manual, A states the following:

Our Seminar is designed to give you a hands-on-working knowledge of the essential nuts and bolts of grassroots political activism. You will learn valuable insights into: becoming a X liaison to your church; setting up a neighborhood organization; identifying pro-family voters; and learning how, "[a]ll politics is local."

You publish State 1 W, a news supplement inserted in the magazine called W. The bi-monthly magazine is published by X and distributed through its affiliates.

You also engage in lobbying activities. You distribute materials urging members and others in supporting or defeating certain conservative-issue legislation. The manual published by X, which you use in your training seminars, contains the following information on the topic of the basic lobbying that X and you, as one of its affiliates, implement:

The game of politics and lobbying operates no differently. In November 1994, we saw X teams all across the country work together to ensure those pro-family conservative values were represented in Congress. During that same election cycle, not one pro-life incumbent lost a seat in Congress, and a new tide of pro-family legislators rolled onto the shores of Capitol Hill because X team members played their parts.

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LEGAL ANALYSIS:

Section 501(c)(4) of the Code provides for exemption from Federal income taxes under section 501(a) for organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-l(a)(2)(i) of the Income Tax 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. Whether an organization is "primarily" engaged in promoting social welfare is a facts and circumstances test. The regulation states:

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 betterments and social improvements.

Section 1.501(c)(4)-l(a)(2)(i).

Section 1.501(c)(4)-l(a)(2)(ii) of the regulations provides that political campaign activities do not promote social welfare as defined in section 501(c)(4). The regulations under section 501(c)(4) clearly distinguish between acceptable social welfare activities such as lobbying and unacceptable activities such as political campaign intervention. The regulation states:

The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office.

Section 1.501(c)(4)-l(a)(2)(ii).

In order for an organization to engage in political campaign activities, there generally must be a candidate for public office on whose behalf or against whom the activity or intervention occurs. Section 1.501(c)(3)-l(c)(3)(iii) of the regulations states that the "term 'candidate for public office' means an individual who offers himself, or is proposed by others, as a contestant for an elective public office." In Rev. Rul. 76-456, 1976-2 C.B. 151, the organization at issue was formed for the purpose of elevating the standards of ethics in the conduct of campaigns for election to public office at the national, state and local levels, and had disseminated information concerning general campaign practices. The organization proposed a code of fair campaign practices, but did not solicit the signing or endorsement of the code by candidates for political office. We concluded that this did not constitute political intervention since the organization's activities only allowed citizens to increase their knowledge and understanding of election processes and participate more effectively in their selection of government

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officials, without any candidates even mentioned. At the same time we modified Rev. Rul. 66-258, 1966-2 C.B. 213, which was an identical organization except that it did solicit the signing or endorsement of its code of fair campaign practices by candidates for political office. We concluded that the latter organization was engaged in political intervention and therefore was not exempt under section 501(c)(3) of the Code. (Because these Rev. Ruls. contain a section 501(c)(3) analysis which prohibits all political campaign activities, the activities should be considered in absolute terms. However, for purposes of section 501(c)(4), we are determining whether political intervention is the primary activity of the organization.)

Whether an organization is "primarily engaged" in promoting social welfare is a facts and circumstances determination. Relevant factors include the manner in which the organization's activities are conducted; resources used in conducting such activities, such as buildings and equipment; the time devoted to activities (by volunteers as well as employees); the purposes furthered by various activities; and the amount of funds received from and devoted to particular activities. See, e.g., Rev. Rul. 74-361, 1974-2 C.B. 159 (volunteer fire company that provides recreational facilities for members is primarily engaged in promoting social welfare where providing facilities primarily furthers exempt purposes); Rev. Rul. 68-45, 1968-1 C.B. 259 (organization's principal source of income is not sole factor in determining whether it is "primarily engaged" in promoting social welfare). In Rev. Rul. 81-95, 1981-1 C.B. 332, we concluded that "an organization may carry on lawful political activities and remain exempt under section 501(c)(4) of the Code as long as it is primarily engaged in activities that promote social welfare." The corollary to this is that if an organization's primary activities do not promote social welfare but are direct or indirect political intervention, the organization is not exempt under section 501(c)(4). The key is to determine the character of the organization's primary activities by looking at all of the facts and circumstances.

1. Precinct Organization:

Your activities with regard to recruitment of people to become active in local politics at the precinct level appear to be identical to the recruitment and organization that takes place in a political party. Your training seminars train people to work in campaigns and political involvement and get-out-the-vote activities are advocated in order to intervene and influence elections. Your focus is on getting people to become candidates and activists. While organizing down to the precinct or neighborhood level has enabled you to mobilize some limited legislative grassroots campaigns, this organizational basis has primarily been used to mobilize targeted conservative voters to get to the polls on election day. It has also been used to identify and encourage religious conservatives to run for local office. From your inception, you have been part of X's precinct organization intended to facilitate intervention in the political process at every level of government. As stated above, it is also evident that you were interested in legislation and lobbying activities. However, after a careful review of the materials

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presented, it is apparent that the lobbying activities were secondary to political intervention. You primarily engage in activities intended to intervene in the political process and to influence the elections of those Republican conservative candidates who reflected your views. Your emphasis is focused on activities that were designed to result in the election of religious conservatives to public office at every level of government. Using the facts and circumstances test, we conclude that your precinct organizational basis was implemented primarily to intervene in political campaigns.

2. Congressional Scorecards:

In defining political campaign activity, Rev. Rul. 67-368, 1967-2 C.B. 194, states that rating candidates as average, good, or excellent using qualifications such as education and experience, even on a nonpartisan basis, is an intervention on behalf of those candidates favorably rated and in opposition to those less favorably rated for purposes of section 501(c)(4) of the Code. See The Association of the Bar of the City of New York v. Commissioner, 858 F.2d 876 (2d Cir. 1988), cert. denied 490 U.S. 1030 (1989). However, in Rev. Rul. 80-282, 1980-2 C.B. 178, we concluded that publishing the voting records of all incumbent members of Congress on selected legislative issues soon after the close of each congressional session, along with an expression of the organization's position on the issues, were not political campaign activities. We set forth several factors which were considered when ruling that the publication and distribution of the voting records were not political intervention. Those factors included: 1) voting records of all incumbents were presented, 2) candidates for reelection were not identified, 3) no comment was made on an individual's overall qualifications for public office, 4) no statements expressly or impliedly endorsed or rejected any incumbent as a candidate for public office, 5) no comparison of incumbents with other candidates, 6) the organization pointed out the inherent limitations of judging the qualifications of an incumbent on the basis of the selected votes by stating the need to consider other unrecorded matters, and 7) no attempt was made to time the date of publication to coincide with an election. Another factor considered relevant was that the organization did not distribute the voting records widely. Again, a facts and circumstances test was utilized to determine whether the publication was political intervention.

Distinguishing factors between your scorecards and the documents at issue in Rev. Rul. 80-282 include the following: 1) your scorecards were distributed to a large number of religious conservatives, while the documents at issue in Rev. Rul. 80-282 were only distributed to a few people, 2) the names of Republicans were shown in all capital letters with the highest percentage scores in the scorecard, which gives prominence and arguably an endorsement to those legislators, while there was no such distinction in the documents at issue in the revenue ruling, 3) the legislator's "score" was indicated based upon agreement/disagreement with your issues, 4) the scorecards were published and distributed to coincide with the national and state elections. We

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also believe that the limited distribution in Rev. Rul. 80-282 was an important factor in the conclusion that an intervention did not occur. Your scorecards were very widely distributed among religious conservatives. Your targeted yet wide distribution of the congressional scorecards differs substantially with the factual situation in Rev. Rul. 80-282. Rev. Rul. 80-282 sets forth a facts and circumstances test. Therefore, after carefully considering all the facts and circumstances we conclude that the scorecards constitute political intervention.

3. Voter Guides:

An organization that publishes and distributes candidate questionnaire results in the form of voter guides must demonstrate neutrality in order for the voter guides to be considered educational. A facts and circumstances test is utilized to determine whether activities involving voter guides are educational or whether they are political campaign activities. In Rev. Rul. 78-248, 1978-1 C.B. 154, examples are given as to the factors that should be considered when applying a facts and circumstances test. The factors which are indications that the activities are educational are as follows: 1) the publication reports on a neutral group of elected officials or candidates such as all members of Congress or all candidates for a particular office, 2) the publication reports elected officials' or candidates' views or their voting records on a wide range of subjects, 3) the publication includes no editorial opinion on the elected officials or candidates, or on their views, 4) the publication does not indicate approval of elected officials or candidates in the contents or structure of the publication, and 5) the organization makes the publication generally available to the public.

After looking at your voter guides, several patterns emerge. First, as mentioned above, the Democratic candidates regularly have "No Response" listed after all or part of the issues, whereas very few Republican candidates were listed without a complete list of "Opposes" or "Supports" underneath their name and picture. Second, the issues chosen for each District seem to have a direct correlation to the desired response from your preferred Republican candidate, or conversely to portray a Democratic candidate as against your issues. While these factors are not explicit endorsements of candidates, the lack of responses from Democratic candidates and the wording and choice of issues to create a particular response along party lines is significant. In addition, the general nature of and approach taken with respect to the issues covered leads to responses that are arguably inaccurate. Additionally, the summary descriptions are so vague that they do not adequately cover any of the issues. Finally, the voter guides do not report on a neutral group of candidates as required by Rev. Rul. 78-248. The voter guides list the names of a neutral group of candidates, but they fully report the positions of only some of the Democratic candidates and almost all of the positions of the Republican candidates. This reporting is so heavily weighted toward the Republican Party as to not constitute reporting on a neutral group of candidates.

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In our view, the voter guides are heavily weighted in favor of the Republican candidates, especially those Republican incumbents endorsed on the congressional scorecards. We conclude that these voter guides cannot be considered nonpartisan educational materials within the intent of the law. Inaccurate and/or incomplete information does not constitute education. The targeted distribution of the scorecards and voter guides also indicates that these publications are not nonpartisan educational activities. These documents were distributed to previously identified conservative churches and conservative individuals. The voter guides would have only limited educational value to anyone wishing to know the positions of Democratic candidates or to compare the positions of Democratic and Republican candidates, since such a large percentage of Democratic candidates did not have their positions listed in the voter guides. Also, the possible distortion of the candidate's position when translating a vote on legislation to a summary description is an additional factor we have considered in determining that the voter guides constitute political intervention. Based on all the available information, we conclude that the voter guides are not nonpartisan and constitute intervention in political campaigns.

4. Lobbying Activities:

Lobbying activities were considered in Rev. Rul. 68-656, 1968-2 C.B. 216, to not only be an acceptable activity for an organization described in section 501(c)(4) of the Code, but to constitute activities that promote social welfare. Rev. Rul. 68-656 provides that seeking favorable legislation is recognized by the section 501(c)(4) regulations as a permissible means of attaining social welfare goals. Additionally, Rev. Rul. 71-530, 1971-2 C.B. 237, concludes that an organization described in section 501(c)(4) may have lobbying as its only activity. A facts and circumstances test is to be used in determining whether an organization's activities primarily constitute political intervention or whether those activities constitute lobbying or educational activities. After reviewing all of the facts and circumstances presented in the administrative file as discussed above, we have concluded that your primary emphasis and primary activities constituted direct and indirect political intervention. While you engage in extensive lobbying activities, they are by no means your primary activity. Your first and primary emphasis is on getting people elected to public office. The administrative record contains a wealth of information regarding your organizational structure and activities relating to candidate recruitment. There is only, secondarily, an emphasis on lobbying and educational activities. Your organizational thrust is to organize at the neighborhood or precinct level in order to get religious conservatives elected to local offices; only secondarily is this precinct level organization utilized to influence legislation.

Accordingly, after looking at all of the facts and circumstances, we have concluded that your lobbying activity was not your primary activity.

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CONCLUSION REGARDING YOUR PRIMARY ACTIVITY:

The emphasis throughout your materials is on electing to office "family friendly" people in order to impact legislation and policy as insiders. The overwhelming majority of the evidence in the administrative record, and thus the facts and circumstances in this case, denotes an organization that is intent upon intervening in political campaigns. The precinct organizational structure allows you to implement your policies as more and more religious conservatives are elected to office. While lobbying is usually mentioned, and we recognize that lobbying activities are being pursued, those activities are not your primary activity. An analysis of all of the facts and circumstances contained in the administrative file leads us to the conclusion that your primary activity constitutes political intervention.

CONCLUSION:

Based upon the materials submitted in connection with your application, we have concluded that your activities primarily constitute direct and indirect participation or intervention in political campaigns on behalf of or in opposition to candidates for public office. Therefore, you are not primarily engaged in activities that promote social welfare and do not qualify for recognition of exemption under section 501(c)(4) of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views to this office, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the Tax Exempt and Government Entities (TE/GE) office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling (a toll free number) or sending correspondence to: Internal Revenue Service, TE/GE Customer Service.

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When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service
Attn: T:EO:RA:T:3, Room 6137
1111 Constitution Ave, NW
Washington, D.C. 20224

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

Sincerely,

Robert C. Harper, Jr.
Manager, Exempt Organizations
Technical Group 3



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Number: **200843033**
Release Date: 10/24/2008

Date: July 31, 2008

U.I.L. 501.04-03

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:
1120

Tax Years:
ALL

S:T:EO:RA:T:2

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)(4).

We made this determination for the following reasons: You were not primarily engaged in activities that promote social welfare. Your activities primarily constituted direct and indirect participation in political campaigns on behalf of, or in opposition to, candidates for public office.

On , 2008, xxxxxxxxxxxxxxxxxxxx, your authorized representative, informed us that you decided not to pursue exemption under section 501(c)(4) and that we close the case.

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. We amended the proposed adverse determination letter that was issued on July 27, 2000, by inserting a legend to delete identifying information for purposes of disclosure compliance under section 6110. 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.

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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,

Robert Choi
Director, Exempt Organizations
Rulings & Agreements

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

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

U.I.L. 501.04-03 No Third Party Contacts

July 25, 2000

Contact Person:

ID Number:

Telephone Number:

Fax:

Employer Identification Number:

Legend:

W =

X =

Y =

A =

B =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Date 5 =

Year 1 =

State 1 =

State 2 =

State 3 =

Seminar =

Newsletter 1 =

Newsletter 2 =

Page 2

Dear :

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(4). Based upon all of the materials you have submitted in connection with your application, we have concluded that your activities primarily constitute direct and indirect participation or intervention in political campaigns on behalf of or in opposition to candidates for public office. Accordingly, we have concluded that you are not primarily engaged in activities that promote social welfare and do not qualify for recognition of exemption under section 501(c)(4).

STATEMENT OF FACTS:

The information submitted indicates that you were incorporated on Date 1. Your Articles of Incorporation state that your principal purpose is to encourage active citizenship among people professing the W faith. Your other purposes are as follows: to support and uphold values and moral principles that accord with the Holy Bible; to defend religious freedom; to enunciate an interpretation of the United States Constitution which is in accordance with the original intention of the framers of the United States Constitution; and, to promulgate and teach concern for the sanctity of life, traditional family values, an economic system which fosters individual self-reliance, opposition to tyranny, and faith in God.

On Date 2, you entered into an affiliation agreement with X, a national organization based in State 1. X was created in Year 1 and its five-fold mission is to:

- Represent the pro-family point of view before local councils, state legislatures, and Congress.
- Speak out in the public arena and in the media.
- Train leaders for effective social and political action.
- Inform pro-family voters about timely issues and legislation.
- Protest anti-W bigotry and defend the rights of people of faith.

Pursuant to the affiliation agreement, you have become the state affiliate of X in the State 2. In part, the affiliation agreement consists of the following provisions:

1. You shall clearly indicate on your stationery and other informational materials that you are the state affiliate of X, which will not grant state affiliation status to any other organization in State 2;
2. One-fourth of the state's counties and two-thirds of the congressional districts shall have functioning chapters and chairmen by a specified date; you will provide rosters of county and district officers on a quarterly basis to X;
3. You shall incorporate as a nonprofit corporation and apply for recognition of exemption under section 501(c)(4) of the Code; copies of your corporate charter, bylaws and exemption application will be provided to X;
4. You shall provide an audited financial statement to X on an annual basis;
5. Any advertisement or public relations effort using X's name will be sent to X national headquarters for approval prior to its use, including print advertisements, radio or television spots, newsletters, press releases, brochures, or voter guides.
6. You may send mailings to certain X proprietary mailing lists for a reasonable computer and label/tape charge.
7. X field staff shall assist you in establishing X county chapters or appointing Congressional District coordinators.
8. X shall schedule at least one leadership school per calendar year in your state, to be sponsored by you that includes audio tapes, instructional manual, and all related materials; you are responsible for recruiting at least 35 paid registrants, while the national office shall provide all materials, audio and video tapes, a national or regional instructor, and one mailing from the national office to promote and publicize the school;
9. X shall work with you to hold at least one major fund-raising event per calendar year to be attended by A (as schedule permits) and/or other nationally recognized individuals;
10. A portion of X annual net revenues shall be segregated as a state project fund from which you may request funds for special projects; these funds shall be distributed on a quarterly basis and may be requested with an application form provided by X;
11. You will send a camera-ready insert of state news to X from time to time for

Page 4

publication in the ;

12. X shall provide production quality television and radio spots for broadcast on local television or radio by you; and

13. You shall assume full liability for your own activities and programs; you shall indemnify X against liability; no principal and agent relationship is created; and, you and your chapters may not represent to third parties that you are acting on behalf of X unless specifically authorized in writing or as outlined in this agreement.

Your activities include developing county chapters, organizing and conducting training seminars, distributing legislative scorecards, publishing and distributing monthly newsletters and updates on legislation, conducting conferences, and lobbying activities.

You have been involved in the formation and development of county chapters in the State 2 toward achieving the goal of X as a "precinct" organization. The manual called "The Plan," which is distributed by X in assisting the establishment of chapters, states, "How well you implement this plan will determine how quickly we establish X as a major force in American politics." The manual indicates X's short term goal is to establish a working X chapter. The long term goals are as follow:

- A. Have 10 trained activists in every precinct.
- B. Have a church coordinator in each conservative church.
- C. Canvass each registered voter to determine their concerns and values.
- D. Develop an information network to educate on issues and candidates.
- E. Train W to be effective leaders in the social and political area.

X's precinct organization plan urges members to follow three simple steps: to identify, inform and mobilize voters. You conduct surveys for identification and mobilization of voters. Your voter identification brochure, which is prepared by, and which you receive from X, follows Abraham Lincoln's four rules for winning elections:

1. Obtain a complete list of voters
2. Determine how they will vote
3. Contact the favorable voters
4. Get them to the polls on election day

You distribute voter guides that are directed at different geographic areas within State 2, and cover the Presidential, Congressional and state races. The format of the voter guides includes the names and pictures of the Democratic and Republican

Page 5

candidates for various elective offices. The distribution of the voter guides is timed to coincide with specific elections. Beneath each candidate's name and picture is the candidate's position on a list of selected issues. All Republican candidates were shown with a response of either "Opposes" or "Supports" to the selected issues. On the other hand, some Democratic candidates were shown to have "DNR," which stands for "Did Not Respond," or "Undecided" to many of the issues. The selected issues on the "96 X Voter Guide Presidential Election" included:

- Balanced Budget Amendment
- 15% Federal Income Tax Cut
- Banning Partial Birth Abortion
- Taxpayer Funding of Abortion
- Voluntary Prayer in Public Schools
- Public and Private School Choice
- Goal 2000/Outcome-Based Education
- Homosexuals in the Military
- Term Limits for Congress
- FDA Regulation of Tobacco

You distribute the voter guides to members and constituents. The voter guides state in small print that "[t]he information provided herein is for the purpose of voter education and is not intended as an endorsement of any candidate." However, your training material, Seminar, at page 6, states the following:

In Date 3, X distributed 500,000 voter guides in cooperation with minority groups and the Catholic Archdiocese in the State 3 City School Board races. As a result, an estimated 63 percent of pro-family candidates won and conservatives gained ground in even the most liberal districts. Due to the concerted efforts of X state and local chapters, conservatives are enjoying victories of this nature all across America.

Moreover, your publication Newsletter 1, Date 4 issue, clarified the primary objectives and importance of your voter guides in the following statement:

As the primary voter education project of X, the Voter Guides have made a significant impact on State 2 politics. In the past four years alone, Y has distributed over 4 million Voter Guides -- and we have seen the difference the Voter Guides can make in electing conservative representatives across the state.

You also distribute legislative scorecards, a compilation of voting records of all

Page 6

incumbent members of the State 2 legislature with respect to issues on which you and X have taken a position. The scorecard shows how each member of the State 2 Senate and the State 2 House of Representatives voted or announced on each of the selected issues with a rating of either "+" or "-" and a percentage score. The scorecard states that "+" indicates that the legislator voted or announced in favor of the X position, and "-" indicates that the legislator voted or announced against the X position. A legislator who is rated "+" on all issues is scored 100 percent to indicate that the legislator supported the X position on key issues on every vote cast during his or her current term in office.

Your 1997 State 2 Voter's Legislative Scorecard shows many 100 percent scores given to Republican legislators, and no 100 percent scores given to Democratic legislators. In the State 2 Senate scorecard, Republican senators' scores ranged from a high of 100% to a low of 78%, while Democratic senators' scores ranged from a high of 89% to a low of 33%. In the State 2 House of Representatives, Republican representatives' scores ranged from a high of 100% to a low of 55%, while Democratic representatives' scores ranged from a high of 82% to a low of 18%.

The issues chosen for the State 2 House of Representatives were substantially similar to those of the State 2 Senate and included the following:

- Partial-Birth Abortion Ban
- Defense of Marriage Act
- American Heritage History Amendment
- Woman's Right To Know Act
- Full Service School Based Clinics/Contraceptives in School
- Faith-Based Programs in Prison
- Scholarships for Adopted Foster Children
- Vehicular Homicide for Death of Unborn Child
- Funding to Communist Vietnam

You conduct leadership training or seminars called Seminars. The seminar uses training manuals produced and supplied by X. In his foreword in the training manual, A states --

Our Seminar is designed to give you a hands-on-working knowledge of the essential nuts and bolts of grassroots political activism. You will learn valuable insights into: becoming a X liaison to your church; setting up a neighborhood organization; identifying pro-family voters; and learning how "All politics is local."

You also engage in lobbying activities. You distribute materials urging members

Page 7

and others in supporting or defeating certain legislation. The "Seminar Manual," a manual published by X which you use in your training seminars, contains the following information on the topic of the basic lobbying that X and you, as one of its affiliates, implement:

The game of politics and lobbying operates no differently. In November 1994, we saw X teams all across the country work together to ensure those pro-family conservative values were represented in Congress. During that same election cycle, not one pro-life incumbent lost a seat in Congress, and a new tide of pro-family legislators rolled onto the shores of Capitol Hill because X team members played their parts.

You publish Newsletter 1, a four-page news supplement inserted in _____, a bi-monthly magazine published by X and distributed through its affiliates. You also publish Newsletter 2, a monthly newsletter updating members on various legislative bills and the political scene.

In Newsletter 1, Date 5 issue, your executive director wrote an article titled "Religion and Politics Do mix...indeed they MUST mix!" and stated the following:

The old-age advice that religion and politics don't mix is the very reason American is in the "mess" it's in today! From the day the Supreme Court thumbed its nose at Almighty God by throwing out Bible reading and prayer in school, America has reaped a harvest of crime, teen suicide, illegitimacy, divorce, and a scourge of other symptoms of societal breakdown.

Yet, in spite of continual increase of these social indicators, the liberals still contend that that the worst thing to happen to State 2 is for B, a man of faith, to become Speaker of the State 2 House of Representatives. Unfortunately, history reminds us the greatest reformist movements including the abolitionist movement to end slavery, the suffrage movement to give women the right to vote, and the civil rights movement to give people of color equal opportunity can all be traced back to the churches and synagogues of America. Religion and people of faith are not what's wrong with America, they are what's right with America.

Therefore, we must continue our work to elect men and women of character and faith to our government, and add two very important endeavors: prayer and fasting for the spiritual reawakening in America, and active compassion for the less fortunate.

LEGAL ANALYSIS:

Section 501(c)(4) of the Code provides for exemption from Federal income taxes under section 501(a) for organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-l(a)(2)(i) of the Income Tax 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. Whether an organization is "primarily" engaged in promoting social welfare is a facts and circumstances test. The regulation states:

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 betterments and social improvements.

Section 1.501(c)(4)-l(a)(2)(i).

Section 1.501(c)(4)-l(a)(2)(ii) of the regulations provides that political campaign activities do not promote social welfare as defined in section 501(c)(4). The regulations under section 501(c)(4) clearly distinguish between acceptable social welfare activities such as lobbying and unacceptable activities such as political campaign intervention. The regulation states:

The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office.

Section 1.501(c)(4)-l(a)(2)(ii).

In order for an organization to engage in political campaign activities, there generally must be a candidate for public office on whose behalf or against whom the activity or intervention occurs. Section 1.501(c)(3)-l(c)(3)(iii) of the regulations states that the "term 'candidate for public office' means an individual who offers himself, or is proposed by others, as a contestant for an elective public office." In Rev. Rul. 76-456, 1976-2 C.B. 151, the organization at issue was formed for the purpose of elevating the standards of ethics in the conduct of campaigns for election to public office at the national, state and local levels, and had disseminated information concerning general campaign practices. The organization proposed a code of fair campaign practices, but did not solicit the signing or endorsement of the code by candidates for political office.

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We concluded that this did not constitute political intervention since the organization's activities only allowed citizens to increase their knowledge and understanding of election processes and participate more effectively in their selection of government officials, without any candidates even mentioned. At the same time we modified Rev. Rul. 66-258, 1966-2 C.B. 213, which was an identical organization except that it did solicit the signing or endorsement of its code of fair campaign practices by candidates for political office. We concluded that the latter organization was engaged in political intervention and therefore was not exempt under section 501(c)(3) of the Code. (Because these Rev. Ruls. contain a section 501(c)(3) analysis which prohibits all political campaign activities, the activities should be considered in absolute terms. However, for purposes of section 501(c)(4), we are determining whether political intervention is the primary activity of the organization.)

Whether an organization is "primarily engaged" in promoting social welfare is a facts and circumstances determination. Relevant factors include the manner in which the organization's activities are conducted; resources used in conducting such activities, such as buildings and equipment; the time devoted to activities (by volunteers as well as employees); the purposes furthered by various activities; and the amount of funds received from and devoted to particular activities. See, e.g., Rev. Rul. 74-361, 1974-2 C.B. 159 (volunteer fire company that provides recreational facilities for members is primarily engaged in promoting social welfare where providing facilities primarily furthers exempt purposes); Rev. Rul. 68-45, 1968-1 C.B. 259 (organization's principal source of income is not sole factor in determining whether it is "primarily engaged" in promoting social welfare). In Rev. Rul. 81-95, 1981-1 C.B. 332, we concluded that "an organization may carry on lawful political activities and remain exempt under section 501(c)(4) of the Code as long as it is primarily engaged in activities that promote social welfare." The corollary to this is that if an organization's primary activities do not promote social welfare but are direct or indirect political intervention, the organization is not exempt under section 501(c)(4). The key is to determine the character of the organization's primary activities by looking at all of the facts and circumstances.

1. Precinct Organization:

Your activities with regard to recruitment of people to become active in local politics at the precinct level appear to be identical to the recruitment and organization that takes place in a political party. Your leadership seminars train people to work in campaigns, and political involvement and get-out-the-vote activities are advocated in order to intervene and influence elections. Your focus is on getting people to become candidates and activists. While organizing down to the precinct or neighborhood level has enabled you to mobilize some limited legislative grassroots campaigns, this organizational basis has primarily been used to mobilize targeted conservative voters to

Page 10

get to the polls on election day. It has also been used to identify and encourage religious conservatives to run for local office. From your inception, you have been part of X's precinct organization intended to facilitate intervention in the political process at every level of government. As stated above, it is also evident that you were interested in legislation and lobbying activities. However, after a careful review of the materials presented, it is apparent that the lobbying activities were secondary to political intervention. You primarily engage in activities intended to intervene in the political process and to influence the elections of those Republican conservative candidates who reflected your views. Your emphasis is focused on activities which were designed to result in the election of religious conservatives to public office at every level of government. Using the facts and circumstances test, we conclude that your precinct organizational basis was implemented primarily to intervene in political campaigns.

2. Legislative Scorecards:

In defining political campaign activity, Rev. Rul. 67-368, 1967-2 C.B. 194, states that rating candidates as average, good, or excellent using qualifications such as education and experience, even on a nonpartisan basis, is an intervention on behalf of those candidates favorably rated and in opposition to those less favorably rated for purposes of section 501(c)(4) of the Code. See The Association of the Bar of the City of New York v. Commissioner, 858 F.2d 876 (2d Cir. 1988), cert. denied 490 U.S. 1030 (1989). However, in Rev. Rul. 80-282, 1980-2 C.B. 178, we concluded that publishing the voting records of all incumbent members of Congress on selected legislative issues soon after the close of each congressional session, along with an expression of the organization's position on the issues, were not political campaign activities. We set forth several factors which were considered when ruling that the publication and distribution of the voting records were not political intervention. Those factors included: 1) voting records of all incumbents were presented, 2) candidates for reelection were not identified, 3) no comment was made on an individual's overall qualifications for public office, 4) no statements expressly or impliedly endorsed or rejected any incumbent as a candidate for public office, 5) no comparison of incumbents with other candidates, 6) the organization pointed out the inherent limitations of judging the qualifications of an incumbent on the basis of the selected votes by stating the need to consider other unrecorded matters, and 7) no attempt was made to time the date of publication to coincide with an election. Another factor considered relevant was that the organization did not distribute the voting records widely. Again, a facts and circumstances test was utilized to determine whether the publication was political intervention.

Distinguishing factors between your scorecards and the documents at issue in Rev. Rul. 80-282 include the following: 1) your scorecards were distributed to a large

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number of religious conservatives, while the documents at issue in Rev. Rul. 80-282 were only distributed to a few people, 2) the legislator's "score" was indicated based upon agreement/disagreement with your issues, and 3) the scorecards were published and distributed to coincide with the national and state elections. We also believe that the limited distribution in Rev. Rul. 80-282 was an important factor in the conclusion that an intervention did not occur. Your scorecards were very widely distributed among religious conservatives. Your targeted yet wide distribution of the congressional scorecards differs substantially with the factual situation in Rev. Rul. 80-282. Rev. Rul. 80-282 sets forth a facts and circumstances test. Therefore, after carefully considering all the facts and circumstances we conclude that the scorecards constitute political intervention.

3. Voter Guides:

An organization which publishes and distributes candidate questionnaire results in the form of voter guides must demonstrate neutrality in order for the voter guides to be considered educational. A facts and circumstances test is utilized to determine whether activities involving voter guides are educational or whether they are political campaign activities. In Rev. Rul. 78-248, 1978-1 C.B. 154, examples are given as to the factors which should be considered when applying a facts and circumstances test. The factors which are indications that the activities are educational are as follows: 1) the publication reports on a neutral group of elected officials or candidates such as all members of Congress or all candidates for a particular office, 2) the publication reports elected officials' or candidates' views or their voting records on a wide range of subjects, 3) the publication includes no editorial opinion on the elected officials or candidates, or on their views, 4) the publication does not indicate approval of elected officials or candidates in the contents or structure of the publication, and 5) the organization makes the publication generally available to the public.

After looking at your voter guides, several patterns emerge. First, as mentioned above, the Democratic candidates regularly have "No Response" listed after many of the issues, whereas very few Republican candidates were listed without a complete list of "Opposes" or "Supports" underneath their name and picture. Second, the issues chosen seem to have a direct correlation to the desired response from X's preferred Republican candidate, or conversely to portray a Democratic candidate as against X's positions. While these factors are not explicit endorsements of candidates, the lack of responses from Democratic candidates and the wording and choice of issues to create a particular response along party lines is significant. Also, the general nature of and approach taken with respect to the issues covered leads to responses which are arguably inaccurate. Additionally, the summary descriptions are so vague that they do not adequately cover any of the issues. Finally, the voter guides do not report on a

Page 12

neutral group of candidates as required by Rev. Rul. 78-248. The voter guides list the names of a neutral group of candidates, but they fully report the positions of only some of the Democratic candidates and almost all of the positions of the Republican candidates. This reporting is so heavily weighted toward the Republican Party as to not constitute reporting on a neutral group of candidates.

In our view, the voter guides are heavily weighted in favor of the Republican candidates, especially those Republican incumbents endorsed on the congressional scorecards. We conclude that these voter guides cannot be considered nonpartisan educational materials within the intent of the law. Inaccurate and/or incomplete information does not constitute education. The targeted distribution of the scorecards and voter guides also indicates that these publications are not nonpartisan educational activities. These documents were distributed to previously identified conservative churches and conservative individuals. The voter guides would have only limited educational value to anyone wishing to know the positions of Democratic candidates or to compare the positions of Democratic and Republican candidates, since such a large percentage of Democratic candidates did not have their positions listed in the voter guides. Also, the possible distortion of the candidate's position when translating a vote on legislation to a summary description is an additional factor we have considered in determining that the voter guides constitute political intervention. Based on all the available information, we conclude that the voter guides are not nonpartisan and constitute intervention in political campaigns.

4. Lobbying Activities:

Lobbying activities were considered in Rev. Rul. 68-656, 1968-2 C.B. 216, to not only be an acceptable activity for an organization described in section 501(c)(4) of the Code, but to constitute activities that promote social welfare. Rev. Rul. 68-656 provides that seeking favorable legislation is recognized by the section 501(c)(4) regulations as a permissible means of attaining social welfare goals. Additionally, Rev. Rul. 71-530, 1971-2 C.B. 237, concludes that an organization described in section 501(c)(4) may have lobbying as its only activity. A facts and circumstances test is to be used in determining whether an organization's activities primarily constitute political intervention or whether those activities constitute lobbying or educational activities. After reviewing all of the facts and circumstances presented in the administrative file as discussed above, we have concluded that your primary emphasis and primary activities constituted direct and indirect political intervention. While you engage in extensive lobbying activities, they are by no means your primary activity. Your first and primary emphasis is on getting people elected to public office. The administrative record contains a wealth of information regarding your organizational structure and activities relating to candidate recruitment. There is only, secondarily, an emphasis on lobbying

Page 13

and educational activities. Your organizational thrust is to organize at the neighborhood or precinct level in order to get religious conservatives elected to local offices; only secondarily is this precinct level organization utilized to influence legislation.

Accordingly, after looking at all of the facts and circumstances, we have concluded that your lobbying activity was not your primary activity.

CONCLUSION REGARDING YOUR PRIMARY ACTIVITY:

The emphasis throughout your materials is on electing to office "family friendly" people in order to impact legislation and policy as insiders. The overwhelming majority of the evidence in the administrative record, and thus the facts and circumstances in this case, denotes an organization that is intent upon intervening in political campaigns.

The precinct organizational structure allows you to implement your policies as more and more religious conservatives are elected to office. While lobbying is usually mentioned, and we recognize that lobbying activities are being pursued, those activities are not your primary activity. An analysis of all of the facts and circumstances contained in the administrative file leads us to the conclusion that your primary activity constitutes political intervention.

CONCLUSION:

Based upon the materials submitted in connection with your application, we have concluded that your activities primarily constitute direct and indirect participation or intervention in political campaigns on behalf of or in opposition to candidates for public office. Therefore, you are not primarily engaged in activities that promote social welfare and do not qualify for recognition of exemption under section 501(c)(4) of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views to this office, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the Ohio Tax Exempt and Government Entities (TE/GE) office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 877-829-5500 (a toll free number) or sending

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correspondence to: Internal Revenue Service, TE/GE Customer Service, P.O. Box 2508, Cincinnati, OH 45201.

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service
Attn: T:EO:RA:T:3, Room 6137
1111 Constitution Ave, NW
Washington, D.C. 20224

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

Sincerely,

Robert C. Harper, Jr.
Manager, Exempt Organizations
Technical Group 3



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Number: 200903080
Release Date: 1/16/2009

Date: 10/22/08

U.I.L. 501.04-03

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:
1120

Tax Years:
ALL

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)(4).

We made this determination for the following reasons: You were not primarily engaged in activities that promote social welfare. Your activities primarily constituted direct and indirect participation in political campaigns on behalf of, or in opposition to, candidates for public office.

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. We amended the proposed adverse determination letter that was issued on July 25, 2000, by inserting a legend to delete identifying information for purposes of disclosure compliance under section 6110. 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

-2-

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,

Robert Choi
Director, Exempt Organizations
Rulings & Agreements

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

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

U.I.L. 501.04-03

July 25, 2000

Contact Person:

ID Number:

Telephone Number:

Fax:

Employer Identification Number:

Legend:

W =

X =

A =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Year 1 =

Year 2 =

State 1 =

State 2 =

State 3 =

Magazine =

Seminar =

Newsletter =

Conference =

Page 2

Dear :

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(4). Based upon all of the materials you have submitted in connection with your application, we have concluded that your activities primarily constitute direct and indirect participation or intervention in political campaigns on behalf of or in opposition to candidates for public office. Accordingly, we have concluded that you are not primarily engaged in activities that promote social welfare and do not qualify for recognition of exemption under section 501(c)(4).

STATEMENT OF FACTS:

The information you have provided for our consideration of your application for recognition of exemption indicates that you were incorporated on Date 1, under the General Laws of the State 1. Your Articles of Incorporation state the following:

The principal purpose of the Corporation is to encourage active citizenship among people professing the W faith. Other purposes are to support and uphold values and moral principles that accord with the Holy Bible; to defend religious freedom; to enunciate an interpretation of the United States Constitution which is in accordance with the original intention of the framers of the United States Constitution; and to promulgate and teach concern for the sanctity of life, traditional family values, an economic system which fosters individual self reliance, opposition to tyranny, and faith in God.

You are a state affiliate of X, a national organization based in State 2. The submitted copy of your affiliation agreement with X in Date 4 includes the following provisions:

1. You shall have the right to represent X in the State 1 and shall be known as its affiliate.
2. You shall acknowledge the objectives and purposes of X as set forth in the Charter and in the Bylaws of X and agree to take such action as appropriate to implement such objectives and purposes and to enhance the reputation and goodwill of X.
3. You are granted a non-exclusive, revocable license to use X's name, logo, and any and all trademarks or service marks that X now or hereafter owns during the

term of the agreement.

4. You shall provide X for its approval, prior to publication, broadcast or distribution, a copy of all advertisements, press releases, radio or television spots, newsletters, fundraising materials, brochures, voter guides, and other printed materials for public dissemination on which X's name, logo, trademarks, or service marks are used or appear.

5. You shall incorporate, and maintain corporate status, as a nonprofit corporation and apply for recognition of exemption under section 501(c)(4) of the Code.

6. You shall adopt bylaws subject to the applicable laws of the State 1 and shall be substantially in the form of the bylaws of X. You shall have the right to adopt additional bylaw provisions as are required by statute or deem appropriate, provided, however, that such additional bylaw provisions shall not be inconsistent with the Charter, the X bylaws, or this agreement.

7. Any proposed amendments of your governing document shall be submitted to X for review and approval.

8. You may organize and recognize local X chapters in the State 1, provided you enter into an affiliation agreement with each local chapter and each such agreement is approved by X. Once a quarter, you shall provide X with the names and addresses of each local chapter, as well as the names, addresses and phone numbers of the leader in each local chapter.

9. You may send mailings to certain X proprietary mailing lists for a reasonable computer and label/tape charge.

10. X shall provide you with a list of activists on X's database for the state to use for fund-raising purposes.

11. X shall conduct for you regular workshops to teach fund-raising and organizing skills for state leadership.

12. X shall schedule at least one leadership school per calendar year in your state, to be sponsored by you. You shall be responsible for recruiting at least seventy five (75) paid registrants for the seminar. X shall provide all educational materials at cost, a national or regional instructor, and one mailing from the national office to promote and publicize the school;

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13. X will work with you to hold at least one major fund-raising event per calendar year to be attended by A (as schedule permits) and/or other nationally recognized individuals.

14. X will provide you with access to its flagship publication, Magazine. You shall be able to place a four-page insert into all copies of the Magazine mailed to the members of the X in your state. The cost of printing and mailing the insert will be paid for by X. In addition, limited bulk mailings of the Magazine will be sent to drop points you designated.

15. X shall provide state and local leaders with a regular update of events in the nation's capital.

16. X shall provide you with voter education materials specific to your state. Congressional scorecards will be provided at cost, and federal voter guides will be provided free of charge.

17. You and X are separate corporate entities and as such shall not incur any liability, obligation, or expense on behalf of each other.

As the state affiliate of X in State 1, your objectives are similar to X. A brochure produced by X describes these objectives and their implementation as follows:

X was formed in Year 1 to speak out against anti-W bigotry and to make our government more responsive to the concerns of W and pro-family Americans. In pursuit of this goal, X...

- provides America's 40 million W voters with the information and knowledge that they need to make sure W voices are heard in government;
- represents Ws before the U.S. Congress, state legislatures and local governing bodies;
- registers Ws to vote and makes sure they cast ballots on Election Day; and
- protests unfair and biased treatment of Ws by the news media, the entertainment industry and officials in government.

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You indicate that your main activities consist of lobbying the state legislature on education, tax, and social issues, conducting workshops, and distributing newsletters, voter guides and scorecards.

You conduct a seminar called X Seminar. Your flyer advertising the seminar headlines "THINK LIKE JESUS. LEAD LIKE MOSES. FIGHT LIKE DAVID. RUN LIKE LINCOLN." The seminar is indicated in the material as given by America's sharpest political strategies and is a crash course on:

- Why people of faith should be involved in politics.
- How to organize your neighborhood and precinct.
- Influencing public policy at all levels of government,
- How to effectively lobby elected officials.

The seminar uses training manuals produced and supplied by X. In his foreword to the training manual, A states the following:

Our Seminar is designed to give you a hands-on-working knowledge of the essential nuts and bolts of grassroots political activism. You will learn valuable insights into: becoming a X liaison to your church; setting up a neighborhood organization; identifying pro-family voters; and learning how, "[a]ll politics is local."

You have been involved in the formation and development of county chapters and putting coordinators in neighborhood communities. X's brochures refers to the neighborhood community as a "precinct" and it states that X is organizing "precincts" as no other organization of any kind has done. The X precinct organization plan consists of getting neighborhood helpers to follow three simple steps:

- identify voters
- inform voters
- mobilize voters

You conduct surveys for identification and mobilization of voters. Your voter identification brochure, which was prepared by X, follows Abraham Lincoln's four rules for winning elections:

1. Obtain a complete list of voters,
2. Determine how they will vote,
3. Contact the favorable voters, and
4. Get them to the polls on election day

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Your voter identification brochure points out that Lincoln's four rules are the foundation of modern grassroots politics. The most effective element in influencing the public policy of a city, county or state is electing quality candidates to office. Voter identification is the key.

You also distribute voter guides on candidates from the Republican, Democratic and Independent parties for presidential, state and local elections. You also distribute voter guides for primary elections but only for the Republican Party. The voter guides for federal elections are produced and supplied by X. You produce voter guides for state and local elections similar to the X-produced materials. You distribute voter guides just prior to elections.

The format of the voter guides includes the names and sometimes pictures of the candidates for various elective offices. In the voter guide for the Year 2 election, all Republican candidates were shown with a response of either "Opposes" or "Supports" to the selected issue, and 1the Democratic candidates were shown to have "No Response" to most of the issues. The selected issues included:

- 10% Income Tax Cut
- Parents' Right To Home School or Use Non-accredited Private School
- Public Or Private School Vouchers
- Require Parent's Consent To Presenting Sex Education Curriculum
- Exempt Religious Day Care From MD Child Care Administration Oversight
- Defining Homosexuals As A Minority Guaranteed Legal Rights To Abortion
- Taxpayer Funding Of Abortion Through Health Insurance Mandates Or Medicaid
- Crime Victims Compensated From Criminal Assets
- Restrictions On Gun Owners

You distribute the voter guides to members and constituents. The voter guides state in small print that "[t]he information provided herein is for the purpose of voter education and is not intended as an endorsement of any candidate." However, your training material, Seminar, states the following:

In Date 2, X distributed 500,000 voter guides in cooperation with minority groups and the Catholic Archdiocese in the State 3 City School Board races. As a result, an estimated 63 percent of pro-family candidates won

Page 7

and conservatives gained ground in even the most liberal districts. Due to the concerted efforts of X state and local chapters, conservatives are enjoying victories of this nature all across America.

You also distribute congressional and legislative scorecards. The congressional scorecards prepared by X for distribution to voters through its state affiliates. The scorecard is a compilation of voting records of all incumbent members of the United States Congress with respect to issues on which X has taken a position. The names of legislators from the Republican Party are all capitalized but not the names of the legislators from the Democratic Party.

The X Congressional Scorecard, Year 2 Election Year Edition, shows how each United States senator and representative voted or announced on each of the selected issues with a rating of either "+ +" or "- " and a percentage score. The scorecard states that "+ +" indicates that the legislator voted or announced in favor of the X position, and "- " indicates that the legislator voted or announced against the X position. A score of 100 percent means that the legislator supported the X position on key issues on every vote cast during his or her current term in office.

The Year 2 congressional scorecard shows 12 issues that members of the U.S. House of Representatives voted on, and 14 issues that members of the U.S. Senate voted on. More than half of the issues voted on by members of the U.S. House of Representatives were identical to the issues voted on by members of the U.S. Senate. The issues chosen for the U. S. House of Representatives in Year 2 included the following:

- Banning Immigration With HIV/AIDS Virus
- Parental Notification For Abortion
- Lifting Bans on Gays in the Military
- Taxes To Promote Abortion
- Fetal Issue Research
- Clinton Pork-Barrel Spending
- Clinton Tax-and-Spend Budget Plan
- Increasing Debt Limit
- Giving Parents A Say in Education
- Government-Sanctioned Homosexual Marriages
- Taxpayer-Funded Abortion
- Taxpayer-Funded Pornography/Government Waste

You also publish Newsletter, a newsletter consisting of two pages updating members primarily on the status of legislation and the political scene. It also includes

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information regarding the "Conference," an annual conference conducted by X that is billed as a legislative rally. The conference includes meetings with members of Congress and features speeches by prominent members of the Republican Party.

Additionally, you publish a four-page news supplement inserted in the Magazine. This bi-monthly magazine is published by X and distributed through its affiliates.

You also engage in lobbying activities. You distribute materials urging members and others in supporting or defeating certain conservative-issue legislation. The *Seminar Manual*, the training manual published by X, which you use in your seminars, contains the following information on the topic of the basic lobbying that X and you, as one of its affiliates, implement:

The game of politics and lobbying operates no differently. In Date 3, we saw X teams all across the country work together to ensure those pro-family conservative values were represented in Congress. During that same election cycle, not one pro-life incumbent lost a seat in Congress, and a new tide of pro-family legislators rolled onto the shores of Capitol Hill because X team members played their parts.

LEGAL ANALYSIS:

Section 501(c)(4) of the Code provides for exemption from Federal income taxes under section 501(a) for organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-l(a)(2)(i) of the Income Tax 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. Whether an organization is "primarily" engaged in promoting social welfare is a facts and circumstances test. The regulation states:

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Section 1.501(c)(4)-l(a)(2)(ii) of the regulations provides that political campaign activities do not promote social welfare as defined in section 501(c)(4). The regulations

Page 9

under section 501(c)(4) clearly distinguish between acceptable social welfare activities such as lobbying and unacceptable activities such as political campaign intervention. The regulation states:

The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office.

Section 1.501(c)(4)-l(a)(2)(ii).

In order for an organization to engage in political campaign activities, there generally must be a candidate for public office on whose behalf or against whom the activity or intervention occurs. Section 1.501(c)(3)-l(c)(3)(iii) of the regulations states that the "term 'candidate for public office' means an individual who offers himself, or is proposed by others, as a contestant for an elective public office." In Rev. Rul. 76-456, 1976-2 C.B. 151, the organization at issue was formed for the purpose of elevating the standards of ethics in the conduct of campaigns for election to public office at the national, state and local levels, and had disseminated information concerning general campaign practices. The organization proposed a code of fair campaign practices, but did not solicit the signing or endorsement of the code by candidates for political office. We concluded that this did not constitute political intervention since the organization's activities only allowed citizens to increase their knowledge and understanding of election processes and participate more effectively in their selection of government officials, without any candidates even mentioned. At the same time we modified Rev. Rul. 66-258, 1966-2 C.B. 213, which was an identical organization except that it did solicit the signing or endorsement of its code of fair campaign practices by candidates for political office. We concluded that the latter organization was engaged in political intervention and therefore was not exempt under section 501(c)(3) of the Code. (Because these Rev. Ruls. contain a section 501(c)(3) analysis which prohibits all political campaign activities, the activities should be considered in absolute terms. However, for purposes of section 501(c)(4), we are determining whether political intervention is the primary activity of the organization.)

Whether an organization is "primarily engaged" in promoting social welfare is a facts and circumstances determination. Relevant factors include the manner in which the organization's activities are conducted; resources used in conducting such activities, such as buildings and equipment; the time devoted to activities (by volunteers as well as employees); the purposes furthered by various activities; and the amount of funds received from and devoted to particular activities. See, e.g., Rev. Rul. 74-361, 1974-2 C.B. 159 (volunteer fire company that provides recreational facilities for members is primarily engaged in promoting social welfare where providing facilities primarily furthers exempt purposes); Rev. Rul. 68-45, 1968-1 C.B. 259 (organization's principal

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source of income is not sole factor in determining whether it is "primarily engaged" in promoting social welfare). In Rev. Rul. 81-95, 1981-1 C.B. 332, we concluded that "an organization may carry on lawful political activities and remain exempt under section 501(c)(4) of the Code as long as it is primarily engaged in activities that promote social welfare." The corollary to this is that if an organization's primary activities do not promote social welfare but are direct or indirect political intervention, the organization is not exempt under section 501(c)(4). The key is to determine the character of the organization's primary activities by looking at all of the facts and circumstances.

1. Precinct Organization:

Your activities with regard to recruitment of people to become active in local politics at the precinct level appear to be identical to the recruitment and organization that takes place in a political party. Your leadership seminars train people to work in campaigns, and political involvement and get-out-the-vote activities are advocated in order to intervene and influence elections. Your focus is on getting people to become candidates and activists. While organizing down to the precinct or neighborhood level has enabled you to mobilize some limited legislative grassroots campaigns, this organizational basis has primarily been used to mobilize targeted conservative voters to get to the polls on election day. It has also been used to identify and encourage religious conservatives to run for local office. From your inception, you have been part of X's precinct organization intended to facilitate intervention in the political process at every level of government. As stated above, it is also evident that you were interested in legislation and lobbying activities. However, after a careful review of the materials presented, it is apparent that the lobbying activities were secondary to political intervention. You primarily engage in activities intended to intervene in the political process and to influence the elections of those Republican conservative candidates who reflected your views. Your emphasis is focused on activities which were designed to result in the election of religious conservatives to public office at every level of government. Using the facts and circumstances test, we conclude that your precinct organizational basis was implemented primarily to intervene in political campaigns.

2. Legislative Scorecards:

In defining political campaign activity, Rev. Rul. 67-368, 1967-2 C.B. 194, states that rating candidates as average, good, or excellent using qualifications such as education and experience, even on a nonpartisan basis, is an intervention on behalf of those candidates favorably rated and in opposition to those less favorably rated for purposes of section 501(c)(4) of the Code. See The Association of the Bar of the City of New York v. Commissioner, 858 F.2d 876 (2d Cir. 1988), cert. denied 490 U.S. 1030 (1989). However, in Rev. Rul. 80-282, 1980-2 C.B. 178, we concluded that publishing

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the voting records of all incumbent members of Congress on selected legislative issues soon after the close of each congressional session, along with an expression of the organization's position on the issues, were not political campaign activities. We set forth several factors which were considered when ruling that the publication and distribution of the voting records were not political intervention. Those factors included: 1) voting records of all incumbents were presented, 2) candidates for reelection were not identified, 3) no comment was made on an individual's overall qualifications for public office, 4) no statements expressly or impliedly endorsed or rejected any incumbent as a candidate for public office, 5) no comparison of incumbents with other candidates, 6) the organization pointed out the inherent limitations of judging the qualifications of an incumbent on the basis of the selected votes by stating the need to consider other unrecorded matters, and 7) no attempt was made to time the date of publication to coincide with an election. Another factor considered relevant was that the organization did not distribute the voting records widely. Again, a facts and circumstances test was utilized to determine whether the publication was political intervention.

Distinguishing factors between your scorecards and the documents at issue in Rev. Rul. 80-282 include the following: 1) your scorecards were distributed to a large number of religious conservatives, while the documents at issue in Rev. Rul. 80-282 were only distributed to a few people, 2) the legislator's "score" was indicated based upon agreement/disagreement with your issues, and 3) the scorecards were published and distributed to coincide with the national and state elections. We also believe that the limited distribution in Rev. Rul. 80-282 was an important factor in the conclusion that an intervention did not occur. Your scorecards were very widely distributed among religious conservatives. Your targeted yet wide distribution of the congressional scorecards differs substantially with the factual situation in Rev. Rul. 80-282. Rev. Rul. 80-282 sets forth a facts and circumstances test. Therefore, after carefully considering all the facts and circumstances we conclude that the scorecards constitute political intervention.

3. Voter Guides:

An organization which publishes and distributes candidate questionnaire results in the form of voter guides must demonstrate neutrality in order for the voter guides to be considered educational. A facts and circumstances test is utilized to determine whether activities involving voter guides are educational or whether they are political campaign activities. In Rev. Rul. 78-248, 1978-1 C.B. 154, examples are given as to the factors which should be considered when applying a facts and circumstances test. The factors which are indications that the activities are educational are as follows: 1) the publication reports on a neutral group of elected officials or candidates such as all

Page 12

members of Congress or all candidates for a particular office, 2) the publication reports elected officials' or candidates' views or their voting records on a wide range of subjects, 3) the publication includes no editorial opinion on the elected officials or candidates, or on their views, 4) the publication does not indicate approval of elected officials or candidates in the contents or structure of the publication, and 5) the organization makes the publication generally available to the public.

After looking at your voter guides, several patterns emerge. First, as mentioned above, the Democratic candidates regularly have "No Response" listed after many of the issues, whereas very few Republican candidates were listed without a complete list of "Opposes" or "Supports" underneath their name and picture. Only the names of Republican candidates are shown in capital letters. Second, the issues chosen seem to have a direct correlation to the desired response from X's preferred Republican candidate, or conversely to portray a Democratic candidate as against X's positions. While these factors are not explicit endorsements of candidates, the lack of responses from Democratic candidates and the wording and choice of issues to create a particular response along party lines is significant. Also, the general nature of and approach taken with respect to the issues covered leads to responses which are arguably inaccurate. Additionally, the summary descriptions are so vague that they do not adequately cover any of the issues. Finally, the voter guides do not report on a neutral group of candidates as required by Rev. Rul. 78-248. The voter guides list the names of a neutral group of candidates, but they fully report the positions of only some of the Democratic candidates and almost all of the positions of the Republican candidates. This reporting is so heavily weighted toward the Republican Party as to not constitute reporting on a neutral group of candidates.

In our view, the voter guides are heavily weighted in favor of the Republican candidates, especially those Republican incumbents endorsed on the congressional scorecards. We conclude that these voter guides cannot be considered nonpartisan educational materials within the intent of the law. Inaccurate and/or incomplete information does not constitute education. The targeted distribution of the scorecards and voter guides also indicates that these publications are not nonpartisan educational activities. These documents were distributed to previously identified conservative churches and conservative individuals. The voter guides would have only limited educational value to anyone wishing to know the positions of Democratic candidates or to compare the positions of Democratic and Republican candidates, since such a large percentage of Democratic candidates did not have their positions listed in the voter guides. Also, the possible distortion of the candidate's position when translating a vote on legislation to a summary description is an additional factor we have considered in determining that the voter guides constitute political intervention. Based on all the available information, we conclude that the voter guides are not nonpartisan and

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constitute intervention in political campaigns.

4. Lobbying Activities:

Lobbying activities were considered in Rev. Rul. 68-656, 1968-2 C.B. 216, to not only be an acceptable activity for an organization described in section 501(c)(4) of the Code, but to constitute activities that promote social welfare. Rev. Rul. 68-656 provides that seeking favorable legislation is recognized by the section 501(c)(4) regulations as a permissible means of attaining social welfare goals. Additionally, Rev. Rul. 71-530, 1971-2 C.B. 237, concludes that an organization described in section 501(c)(4) may have lobbying as its only activity. A facts and circumstances test is to be used in determining whether an organization's activities primarily constitute political intervention or whether those activities constitute lobbying or educational activities. After reviewing all of the facts and circumstances presented in the administrative file as discussed above, we have concluded that your primary emphasis and primary activities constituted direct and indirect political intervention. While you engage in extensive lobbying activities, they are by no means your primary activity. Your first and primary emphasis is on getting people elected to public office. The administrative record contains a wealth of information regarding your organizational structure and activities relating to candidate recruitment. There is only, secondarily, an emphasis on lobbying and educational activities. Your organizational thrust is to organize at the neighborhood or precinct level in order to get religious conservatives elected to local offices; only secondarily is this precinct level organization utilized to influence legislation.

Accordingly, after looking at all of the facts and circumstances, we have concluded that your lobbying activity was not your primary activity.

CONCLUSION REGARDING YOUR PRIMARY ACTIVITY:

The emphasis throughout your materials is on electing to office "family friendly" people in order to impact legislation and policy as insiders. The overwhelming majority of the evidence in the administrative record, and thus the facts and circumstances in this case, denotes an organization that is intent upon intervening in political campaigns. The precinct organizational structure allows you to implement your policies as more and more religious conservatives are elected to office. While lobbying is usually mentioned, and we recognize that lobbying activities are being pursued, those activities are not your primary activity. An analysis of all of the facts and circumstances contained in the administrative file leads us to the conclusion that your primary activity constitutes political intervention.

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CONCLUSION:

Based upon the materials submitted in connection with your application, we have concluded that your activities primarily constitute direct and indirect participation or intervention in political campaigns on behalf of or in opposition to candidates for public office. Therefore, you are not primarily engaged in activities that promote social welfare and do not qualify for recognition of exemption under section 501(c)(4) of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views to this office, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the Ohio Tax Exempt and Government Entities (TE/GE) office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 877-829-5500 (a toll free number) or sending correspondence to: Internal Revenue Service, TE/GE Customer Service, P.O. Box 2508, Cincinnati, OH 45201.

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service
Attn: T:EO:RA:T:3, Room 6137
1111 Constitution Ave, NW
Washington, D.C. 20224

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

Sincerely,

Robert C. Harper, Jr.
Manager, Exempt Organizations
Technical Group 3



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Number: 201128032
Release Date: 7/15/2011

Date: April 4, 2011

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

UIL: 501.04-00

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)(4).

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

You are not operated primarily to promote social welfare because your activities are conducted primarily for the benefit of a political party and a private group of individuals, rather than the community as a whole.

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

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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



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Date: January 13, 2011

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

UIL Code:
501.04-00

Legend:

State =

Party =

Dear :

We have 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 have concluded that you do not qualify for exemption under section 501(c)(4) of the Code. The basis for our conclusion is set forth below.

FACTS

You were formed on August 16, 2006 as a nonprofit corporation under the laws of State. Your Articles of Incorporation and Bylaws state that your purpose is to

Your Bylaws provide that your properties and assets are dedicated to social welfare purposes, upon dissolution or otherwise, and that no part of your net income or assets may inure to the benefit of any director, officer, member, or private individual.

You conduct a training program for who are members of Party, including sessions covering

Your potential trainees must apply, remit a application fee, and be interviewed to be admitted to your program. To enroll, trainees must pay tuition of You state that you may provide partial or full financial aid following admission to the program.

Your website contains various materials related to your training program. Your homepage states,

Your webpage states that you select students for your training program based on evidence of

This webpage also states that applicants must be Party members and

Your 2011 Program Application contains a section which asks the potential trainee, and, If an applicant did not is then asked to explain why.

Your 2011 Program Application also contains a which requires the applicant to affirm the following:

Your webpage notes the success of which includes

LAW

Section 501(a) of the Internal Revenue Code ("Code") exempts from federal income tax organizations described in section 501(c)(4).

Section 501(c)(4)(A) of the Code describes civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare. Section 501(c)(4)(B) indicates that subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

Section 1.501(c)(4)-1(a)(1) of the Income Tax Regulations ("regulations") states that an organization may be exempt as an organization described in section 501(c)(4) of the Code if it is not organized or operated for profit and is 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, such as bringing about civic betterments and social improvements.

Rev. Rul. 73-306, 1973-2 C.B. 179, provides that an organization formed for the purpose of promoting the common interest of tenants who reside in a particular apartment complex does not qualify for exemption under section 501(c)(4) of the Code. Any person regularly living in the complex was eligible for membership. The organization represented its member-tenants in negotiations with the management of the complex in order to secure better maintenance and services, as well as reasonable rentals. The ruling holds that the organization was not described in section 501(c)(4) because it operated essentially to benefit its members and, thus, was not primarily engaged in activities that promote the common good and general welfare of the community. In contrast, Rev. Rul. 80-206, 1980-2 C.B. 185, holds that an organization formed to promote the legal rights of all tenants in a community, instead of limiting its benefits to member-tenants, does qualify for exemption under section 501(c)(4) of the Code.

Rev. Rul. 73-349, 1973-2 C.B. 179, holds that an organization formed to purchase groceries for its members at the lowest possible prices on a cooperative basis is not exempt under section 501(c)(4) of the Code. Rather, the organization was a cooperative enterprise operated primarily for the private economic benefit or convenience of its members, and provided only incidental benefit to the community.

Rev. Rul. 75-286, 1975-2 C.B. 210, describes an organization that was formed by the residents of a city block to preserve and beautify that block, to improve all public facilities within the block, and to prevent physical deterioration of the block. Its activities consisted of paying the city government to plant trees on public property within the block, organizing residents to pick up litter and refuse in the public streets and on public sidewalks within the block, and encouraging residents to take an active part in beautifying the block by placing shrubbery in public areas. Much of the public area improved by the organization was part of the public roadway lying between the sidewalk and the street in front of private property owned by members of the organization. Membership in the organization was restricted to residents of the block and those owning property or operating businesses there.

Because the activities enhanced the value of the members' property rights, the organization served the private interests of its members and did not qualify for exemption under section 501(c)(3). The restricted nature of its membership and limited area in which improvements were made were further indicators of private benefit. However, by beautifying and preserving public property in cooperation with the local government, the organization was considered to primarily promote the general welfare of the community even though its activities also benefited its members. Therefore, the organization did qualify under section 501(c)(4).

In Erie Endowment v. United States, 316 F.2d 151 (3d Cir. 1963), the court held that to qualify for exemption within the meaning of section 501(c)(4) of the Code, "the organization must be a community movement designed to accomplish community ends." Id. at 156.

In Commissioner v. Lake Forest, Inc., 305 F.2d 814 (4th Cir. 1962), a corporation was organized by World War II veterans for the purpose of purchasing a government housing project and converting it to cooperative, nonprofit housing for its members. Individuals became members in the corporation by purchasing an apartment unit and, as such, the number of members was limited to the number of units available. The court held that the organization was not described

in section 501(c)(4) of the Code because it was "a public-spirited but privately-devoted endeavor" that provided only incidental benefit to the community. Id. at 818. The organization did not promote social welfare because it furnished housing only to a certain group of individuals, rather than on a community basis, and did not offer a service or program for the direct betterment or improvement of the community as a whole.

In New York State Association of Real Estate Boards Group Insurance Fund v. Commissioner, 54 T.C. 1325 (1970), an association organized by a small group interested in obtaining group insurance did not qualify for exemption because it offered its benefits to only a limited class of its members and their employees. The court noted "[t]here is not in such an organization the requisite civic concern to constitute social welfare" required for qualification under section 501(c)(4). Where the primary benefit from an organization is limited to that organization's members, and not provided to the community as a whole, the organization is not operated primarily for the social welfare.

In Contracting Plumbers Cooperative Restoration Corp. v. United States, 488 F.2d 684 (2d Cir. 1973), cert. denied, 419 U.S. 827 (1974), plumbers working in New York City were responsible for the cuts they made in the city streets. Prior to the organization's existence, the city had repaired the cuts and billed the plumbers individually in what proved to be a highly inefficient system. The organization was formed in order to restore the city streets. It only repaired cuts made by its members. The joint effort of the plumbers reduced their liability and their expenses, and more efficiently repaired the city streets. While the court found that the program provided substantial benefits to the public, it concluded that the organization primarily served the private economic interests of its members and, thus, could not be considered exempt under section 501(c)(4) of the Code.

In American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), the organization's primary activity was to operate a school ("the Academy") training individuals for careers as political campaign professionals. The organization represented on its application for exemption that the Academy was an outgrowth of programs operated by the National Republican Congressional Committee ("NRCC") that were designed to train candidates and to train and subsequently place campaign professionals in Republican campaigns. In addition, the NRCC contributed physical assets to the Academy, two of the Academy's six full-time faculty members had been previously involved in the NRCC's training program, one of the Academy's three initial directors was the Executive Director of the NRCC at the time, and another initial director was a member of the Republican National Committee at the time. The Academy's activities were exclusively funded by the National Republican Congressional Trust. The Academy's curriculum included discussions concerning "How some Republicans have won Black votes," "NRCC/RNC/NRSC/State Party naughtiness," and "Use of GOP allies," without a counterbalance of comparable studies of other political parties.

While applicants to the Academy were not required to formally declare their political affiliation to attend the organization's school, the admission panel could deduce such affiliation from the campaign experiences and political references in the applications. The court found that this knowledge of an applicant's political affiliations allowed the admission panel to limit enrollment to applicants who were likely to subsequently work in Republican organizations and campaigns. Indeed, the court found that no graduate was known to affiliate with any political party other than the Republican Party. A substantial number of the members of the Academy's admission panel were affiliated with the Republican Party.

The Service determined that the organization operated for a substantial, non-exempt private purpose. The Tax Court agreed, holding the organization did not operate exclusively for exempt, educational purposes under section 501(c)(3) of the Code because it conducted its activities to benefit the private interests of Republican entities and candidates. Although these entities and candidates were not organization "insiders," the court stated that the conferral of nonincidental benefits on disinterested persons may cause an organization to serve a private interest. While the school had a legitimate educational program, it conducted these activities with the partisan objective of benefiting Republican candidates and entities. As such, a more than incidental private benefit was conferred on Republican entities and candidates who employed the Academy's students, one that precluded exemption under section 501(c)(3).

ANALYSIS

Based on the information you submitted with your application and in subsequent correspondence, you are not operated exclusively for the promotion of social welfare within the meaning of section 501(c)(4) of the Code because your activities primarily serve private interests. Therefore, you do not qualify for exemption from federal income tax as an organization described in section 501(c)(4).

Your activities do not primarily promote social welfare because you primarily benefit private individuals and interests.

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. Section 1.501(c)(4)-1(a)(2)(i) of the regulations. An organization recognized under section 501(c)(4) is operated primarily for the purpose of bringing about civic betterments and social improvements. Id.

To qualify for exemption under section 501(c)(4), an organization must primarily benefit the community as a whole, rather than select individuals or groups. See Contracting Plumbers Coop. Restoration Corp., supra; New York State Ass'n of Real Estate Boards Group Ins. Fund, supra; Lake Forest, Inc., supra; Rev. Rul. 75-286, supra. A section 501(c)(4) organization must be "a community movement designed to accomplish community ends." Erie Endowment, supra. As such, a tenants' organization that benefits all the tenants in the community qualifies for exemption, while one that directs its activities toward benefiting only its member-tenants does not. Compare Rev. Rul. 80-206, supra, with Rev. Rul. 73-306, supra; see also Rev. Rul. 73-349, supra. Therefore, conferring a sufficient amount of private benefit on select individuals will preclude exemption under section 501(c)(4) for an organization that would otherwise qualify. Even if an organization substantially benefits the community, it will fail to qualify for exemption if it primarily benefits private interests. See Contracting Plumbers, supra.

Educational activities undertaken to provide a partisan benefit are considered to serve private interests, rather than the common good. In American Campaign Academy, supra, the court denied exemption under section 501(c)(3) to a school organized to train individuals for careers as political campaign professionals because its educational activities were operated with the partisan purpose of benefiting Republican Party entities and candidates. The private benefit conferred on these persons was more than incidental, and thus demonstrated a substantial non-exempt purpose that precluded exemption. While you are requesting recognition as an

organization described in section 501(c)(4) and not section 501(c)(3) (as was American Campaign Academy), the standard for determining what constitutes private benefit described in American Campaign Academy applies to both sections. As such, for purposes of both section 501(c)(3) and section 501(c)(4), an organization which conducts its educational activities to benefit a political party and its candidates serves private interests. And, as discussed above, an organization that primarily serves private interests fails to qualify for exemption under section 501(c)(4).

Thus, notwithstanding any benefit your educational activities may provide to the community, you fail to qualify for exemption because your training program primarily benefits the interests of the Party and its candidates. According to your Articles and Bylaws, your primary activity is to train and recruit who are members of the Party to run for political office. Like the school in American Campaign Academy, your purpose in conducting this activity is to provide education solely to individuals affiliated with a certain political party who want to enter politics. Indeed, you measure your success in terms of the number of your graduates who have run for, or won, elective office representing the Party.

Because your primary activity is an educational program that is limited to who are members of the Party and that is conducted with the partisan objective of increasing the number of the Party's elected officials, you primarily serve private interests. Therefore, the operation of your program does not promote social welfare within the meaning of section 501(c)(4) of the Code.

CONCLUSION

In summary, you are not operated primarily to promote social welfare because your activities are conducted primarily for the benefit of a political party and a private group of individuals, rather than the community as a whole. Accordingly, you do not qualify for exemption as an organization described in section 501(c)(4) of the Code and you must file federal income tax returns.

Accordingly, you do not qualify for exemption as an organization described in section 501(c)(4) of the Code and you must file federal income tax returns.

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 the information affects our determination.

Your protest statement should be accompanied by the following declaration:

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

You also have a right to request a conference to discuss your protest. This request should be made when you file your protest statement. An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you. If you want representation during the conference procedures, 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. That letter will provide information about filing tax returns and other matters.

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

Internal Revenue Service

1111 Constitution Ave, N.W.
Washington, DC 20224

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 Lerner
Director, Exempt Organizations
Rulings & Agreements



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Number: 201128034
Release Date: 7/15/2011

Date: April 18, 2011

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

UIL: 501.04-00

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)(4).

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

You are not operated primarily to promote social welfare because your activities are conducted primarily for the benefit of a political party and a private group of individuals, rather than the community as a whole.

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

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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



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Date: January 14, 2011

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

UIL Code:
501.04-00

Legend:
State =
Party =

Dear :

We have 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 have concluded that you do not qualify for exemption under section 501(c)(4) of the Code. The basis for our conclusion is set forth below.

FACTS

You were formed on December 21, 2007 as a nonprofit corporation under the laws of State. Your Articles of Organization and Bylaws state that your purpose is

and 4. To operate exclusively to promote the social welfare within the meaning of Section 501(c)(4) of the Internal Revenue Code

Your Articles of Organization and Bylaws provide that upon dissolution, your assets shall be dedicated to social welfare purposes, and that no part of your net income or assets may inure to the benefit of any director, officer, member, or private individual.

You conduct a training program of _____ for _____ who are members of Party. The program includes sessions covering

Your recruitment of students began in _____ and training began in _____

You charge _____ in tuition for your training program. You provide scholarships for tuition expenses and make payment plans available. You select up to _____ participants each year.

Your website contains a number of materials related to your training program. Your homepage states that you are describe your curriculum as follows: You

Your website states that you select students for your training program based on evidence of

Your 2010 Program Application shows that one of your training dates coincides with the [Party]'s State Convention and contains a

If an applicant did not and, is then asked to explain why.

Your 2010 Program Application also contains a which requires the applicant to affirm the following:

On your page you state you are,

On the same page, you state,

In answering the question "What makes [you] unique?" you state that you are

You also state that you are

In materials you provide to potential donors, you note your program's success by stating that the

LAW

Section 501(a) of the Internal Revenue Code ("Code") exempts from federal income tax organizations described in section 501(c)(4).

Section 501(c)(4)(A) of the Code describes civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare. Section 501(c)(4)(B) indicates that subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

Section 1.501(c)(4)-1(a)(1) of the Income Tax Regulations ("regulations") states that to be described in section 501(c)(4) of the Code, an organization must not be organized or operated for profit and must be operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2) 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. Additionally, it states that an organization described within this section is operated primarily for the purpose of bringing about civic betterments and social improvements.

Rev. Rul. 73-306, 1973-2 C.B. 179, provides that an organization formed for the purpose of promoting the common interest of tenants who reside in a particular apartment complex does not qualify for exemption under section 501(c)(4) of the Code. Any person regularly living in the complex was eligible for membership. The organization represented its member-tenants in negotiations with the management of the complex in order to secure better maintenance and services, as well as reasonable rentals. The ruling holds that the organization was not described in section 501(c)(4) because it operated essentially to benefit its members and, thus, was not primarily engaged in activities that promote the common good and general welfare of the community. In contrast, Rev. Rul. 80-206, 1980-2 C.B. 185, holds that an organization formed to promote the legal rights of all tenants in a community, instead of limiting its benefits to member-tenants, does qualify for exemption under section 501(c)(4) of the Code.

Rev. Rul. 73-349, 1973-2 C.B. 179, holds that an organization formed to purchase groceries for its members at the lowest possible prices on a cooperative basis is not exempt under section 501(c)(4) of the Code. Rather, the organization was a cooperative enterprise operated primarily for the private economic benefit or convenience of its members, and provided only incidental benefit to the community.

Rev. Rul. 75-286, 1975-2 C.B. 210, describes an organization that was formed by the residents of a city block to preserve and beautify that block, to improve all public facilities within the block, and to prevent physical deterioration of the block. Its activities consisted of paying the city government to plant trees on public property within the block, organizing residents to pick up litter and refuse in the public streets and on public sidewalks within the block, and encouraging residents to take an active part in beautifying the block by placing shrubbery in public areas. Much of the public area improved by the organization was part of the public roadway lying between the sidewalk and the street in front of private property owned by members of the organization. Membership in the organization was restricted to residents of the block and those owning property or operating businesses there.

Because the activities enhanced the value of the members' property rights, the organization served the private interests of its members and did not qualify for exemption under section 501(c)(3). The restricted nature of its membership and limited area in which improvements were made were further indicators of private benefit. However, by beautifying and preserving public property in cooperation with the local government, the organization was considered to primarily promote the general welfare of the community even though its activities also benefited its members. Therefore, the organization did qualify under section 501(c)(4).

In Erie Endowment v. United States, 316 F.2d 151 (3d Cir. 1963), the court held that to qualify for exemption within the meaning of section 501(c)(4) of the Code, "the organization must be a community movement designed to accomplish community ends." Id. at 156.

In Commissioner v. Lake Forest, Inc., 305 F.2d 814 (4th Cir. 1962), a corporation was organized by World War II veterans for the purpose of purchasing a government housing project and converting it to cooperative, nonprofit housing for its members. Individuals became members in the corporation by purchasing an apartment unit and, as such, the number of members was limited to the number of units available. The court held that the organization was not described in section 501(c)(4) of the Code because it was "a public-spirited but privately-devoted endeavor" that provided only incidental benefit to the community. Id. at 818. The organization did not promote social welfare because it furnished housing only to a certain group of individuals, rather than on a community basis, and did not offer a service or program for the direct betterment or improvement of the community as a whole.

In New York State Association of Real Estate Boards Group Insurance Fund v. Commissioner, 54 T.C. 1325 (1970), an association organized by a small group interested in obtaining group insurance did not qualify for exemption because it offered its benefits to only a limited class of its members and their employees. The court noted "[t]here is not in such an organization the requisite civic concern to constitute social welfare" required for qualification under section 501(c)(4). Where the primary benefit from an organization is limited to that organization's members, and not provided to the community as a whole, the organization is not operated primarily for the social welfare.

In Contracting Plumbers Cooperative Restoration Corp. v. United States, 488 F.2d 684 (2d Cir. 1973), cert. denied, 419 U.S. 827 (1974), plumbers working in New York City were responsible for the cuts they made in the city streets. Prior to the organization's existence, the city had repaired the cuts and billed the plumbers individually in what proved to be a highly inefficient system. The organization was formed in order to restore the city streets. It only repaired cuts made by its members. The joint effort of the plumbers reduced their liability and their expenses, and more efficiently repaired the city streets. While the court found that the program provided substantial benefits to the public, it concluded that the organization primarily served the private economic interests of its members and, thus, could not be considered exempt under section 501(c)(4) of the Code.

In American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), the organization's primary activity was to operate a school ("the Academy") training individuals for careers as political campaign professionals. The organization represented on its application for exemption that the Academy was an outgrowth of programs operated by the National Republican Congressional Committee ("NRCC") that were designed to train candidates and to train and subsequently place campaign professionals in Republican campaigns. In addition, the NRCC contributed physical assets to the Academy, two of the Academy's six full-time faculty members had been previously involved in the NRCC's training program, one of the Academy's three initial directors was the Executive Director of the NRCC at the time, and another initial director was a member of the Republican National Committee at the time. The Academy's activities were exclusively funded by the National Republican Congressional Trust. The Academy's curriculum included discussions concerning "How some Republicans have won Black votes," "NRCC/RNC/NRSC/State Party naughtiness," and "Use of GOP allies," without a counterbalance of comparable studies of other political parties.

While applicants to the Academy were not required to formally declare their political affiliation to attend the organization's school, the admission panel could deduce such affiliation from the campaign experiences and political references in the applications. The court found that this knowledge of an applicant's political affiliations allowed the admission panel to limit enrollment to applicants who were likely to subsequently work in Republican organizations and campaigns. Indeed, the court found that no graduate was known to affiliate with any political party other than the Republican Party. A substantial number of the members of the Academy's admission panel were affiliated with the Republican Party.

The Service determined that the organization operated for a substantial, non-exempt private purpose. The Tax Court agreed, holding the organization did not operate exclusively for exempt, educational purposes under section 501(c)(3) of the Code because it conducted its activities to benefit the private interests of Republican entities and candidates. Although these entities and candidates were not organization "insiders," the court stated that the conferral of nonincidental benefits on disinterested persons may cause an organization to serve a private interest. While the school had a legitimate educational program, it conducted these activities with the partisan objective of benefiting Republican candidates and entities. As such, a more than incidental private benefit was conferred on Republican entities and candidates who employed the Academy's students, one that precluded exemption under section 501(c)(3).

ANALYSIS

Based on the information you submitted with your application and in subsequent correspondence, you are not operated exclusively for the promotion of social welfare within the meaning of section 501(c)(4) of the Code because your activities primarily serve private interests. Therefore, you do not qualify for exemption from federal income tax as an organization described in section 501(c)(4).

Your activities do not primarily promote social welfare because you primarily benefit private individuals and interests.

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. Section 1.501(c)(4)-1(a)(2)(i) of the regulations. An organization recognized under section 501(c)(4) is operated primarily for the purpose of bringing about civic betterments and social improvements. Id.

To qualify for exemption under section 501(c)(4), an organization must primarily benefit the community as a whole, rather than select individuals or groups. See Contracting Plumbers Coop. Restoration Corp., supra; New York State Ass'n of Real estate Boards Group Ins. Fund, supra; Lake Forest, Inc., supra; Rev. Rul. 75-286, supra. A section 501(c)(4) organization must be "a community movement designed to accomplish community ends." Erie Endowment, supra. As such, a tenants' organization that benefits all the tenants in the community qualifies for exemption, while one that directs its activities toward benefiting only its member-tenants does not. Compare Rev. Rul. 80-206, supra, with Rev. Rul. 73-306, supra; see also Rev. Rul. 73-349, supra. Therefore, conferring a sufficient amount of private benefit on select individuals will preclude exemption under section 501(c)(4) for an organization that would otherwise qualify. Even if an organization substantially benefits the community, it will fail to qualify for exemption if

it primarily benefits private interests. See Contracting Plumbers, supra.

Educational activities undertaken to provide a partisan benefit are considered to serve private interests, rather than the common good. In American Campaign Academy, supra, the court denied exemption under section 501(c)(3) to a school organized to train individuals for careers as political campaign professionals because its educational activities were operated with the partisan purpose of benefiting Republican Party entities and candidates. The private benefit conferred on these persons was more than incidental, and thus demonstrated a substantial non-exempt purpose that precluded exemption. While you are requesting recognition as an organization described in section 501(c)(4) and not section 501(c)(3) (as was American Campaign Academy), the standard for determining what constitutes private benefit described in American Campaign Academy applies to both sections. As such, for purposes of both section 501(c)(3) and section 501(c)(4), an organization which conducts its educational activities to benefit a political party and its candidates serves private interests. And, as discussed above, an organization that primarily serves private interests fails to qualify for exemption under section 501(c)(4).

Thus, notwithstanding any benefit your educational activities may provide to the community, you fail to qualify for exemption because your training program primarily benefits the interests of the Party and its candidates. According to your Articles, Bylaws, and website, your primary activity is to train and recruit who are members of Party to run for political office. Moreover, your program application asks prospective students to disclose specific details of their political participation as a member of Party, and clearly discloses that you limit your membership to registered members of the Party. Like the school in American Campaign Academy, your purpose in conducting this activity is to provide education solely to individuals affiliated with a certain political party who want to enter politics. Indeed, you measure your success in terms of the number of your graduates who have won elective office representing the Party.

Because your primary activity is an educational program that is limited to who are members of Party and is conducted with the partisan objective of increasing the number of Party's elected officials, you primarily serve private interests. Therefore, the operation of your program does not promote social welfare within the meaning of section 501(c)(4) of the Code.

CONCLUSION

In summary, you are not operated primarily to promote social welfare because your activities are conducted primarily for the benefit of a political party and a private group of individuals, rather than the community as a whole. Accordingly, you do not qualify for exemption as an organization described in section 501(c)(4) of the Code and you must file federal income tax returns.

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 the information affects our determination.

Your protest statement should be accompanied by the following declaration:

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

You also have a right to request a conference to discuss your protest. This request should be made when you file your protest statement. An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you. If you want representation during the conference procedures, 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. That letter will provide information about filing tax returns and other matters.

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

Internal Revenue Service

1111 Constitution Ave, N.W.
Washington, DC 20224

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,

Holly Paz
Acting Director, Exempt Organizations
Rulings & Agreements



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Number: 201128035
Release Date: 7/15/2011

Date: April 18, 2011

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

UIL: 501.04-00

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)(4).

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

You are not operated primarily to promote social welfare because your activities are conducted primarily for the benefit of a political party and a private group of individuals, rather than the community as a whole.

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

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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



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Date: 1/13/11

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

Dear :

We have 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 have concluded that you do not qualify for exemption under section 501(c)(4) of the Code. The basis for our conclusion is set forth below.

FACTS

You were formed on August 7, 2006 as a nonprofit corporation under the laws of *****. Your Articles of Incorporation state that you are organized for the following purpose

In addition, your Bylaws state that your purpose is:

Your Bylaws provide that your properties and assets are dedicated to social welfare purposes, upon dissolution or otherwise, and that no part of your net income or assets may inure to the benefit of any director, officer, member, or private individual.

You conduct a training program of _____ for ***** The program includes sessions _____

This activity began in _____ and you train up to _____ each year.

You charge a _____ application fee for prospective students and _____ in tuition for your training program. You provide scholarships for tuition expenses to students who request them.

You state that you select students based on evidence of _____

Your program application for 2009 contains a portion which asks, and, Additionally, this portion asks, and, " If an applicant did not is then asked to explain why.

Your program application for 2009 also contains a which requires the applicant to affirm the following:

You have provided your which you state Your first is "***** You state in conjunction with this point that you Your second is that you have no litmus tests for your students Your include that you do not endorse candidates or legislation. You state that you "provide intensive training," which

Your training curriculum contains materials on in which the of the student's cabinet, or networking contacts, include "***** party insiders."

In materials you provide to your donors, you state that you are

In these materials, you note your success from 2007-2008 in recruiting, training, and

LAW

Section 501(a) of the Internal Revenue Code ("Code") exempts from federal income tax organizations described in section 501(c)(4).

Section 501(c)(4)(A) of the Code describes civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare. Section 501(c)(4)(B) indicates that subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

Section 1.501(c)(4)-1(a)(1) of the Income Tax Regulations ("regulations") states that an organization may be exempt as an organization described in section 501(c)(4) of the Code if it is not organized or operated for profit and is 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, such as bringing about civic betterments and social improvements.

Rev. Rul. 73-306, 1973-2 C.B. 179, provides that an organization formed for the purpose of promoting the common interest of tenants who reside in a particular apartment complex does not qualify for exemption under section 501(c)(4) of the Code. Any person regularly living in the complex was eligible for membership. The organization represented its member-tenants in negotiations with the management of the complex in order to secure better maintenance and services, as well as reasonable rentals. The ruling holds that the organization was not described in section 501(c)(4) because it operated essentially to benefit its members and, thus, was not primarily engaged in activities that promote the common good and general welfare of the community. In contrast, Rev. Rul. 80-206, 1980-2 C.B. 185, holds that an organization formed to promote the legal rights of all tenants in a community, instead of limiting its benefits to member-tenants, does qualify for exemption under section 501(c)(4) of the Code.

Rev. Rul. 73-349, 1973-2 C.B. 179, holds that an organization formed to purchase groceries for its members at the lowest possible prices on a cooperative basis is not exempt under section 501(c)(4) of the Code. Rather, the organization was a cooperative enterprise operated primarily for the private economic benefit or convenience of its members, and provided only incidental benefit to the community.

Rev. Rul. 75-286, 1975-2 C.B. 210, describes an organization that was formed by the residents of a city block to preserve and beautify that block, to improve all public facilities within the block, and to prevent physical deterioration of the block. Its activities consisted of paying the city government to plant trees on public property within the block, organizing residents to pick up litter and refuse in the public streets and on public sidewalks within the block, and encouraging residents to take an active part in beautifying the block by placing shrubbery in public areas. Much of the public area improved by the organization was part of the public roadway lying between the sidewalk and the street in front of private property owned by members of the organization. Membership in the organization was restricted to residents of the block and those owning property or operating businesses there.

Because the activities enhanced the value of the members' property rights, the organization served the private interests of its members and did not qualify for exemption under section 501(c)(3). The restricted nature of its membership and limited area in which improvements were made were further indicators of private benefit. However, by beautifying and preserving public property in cooperation with the local government, the organization was considered to primarily promote the general welfare of the community even though its activities also benefited its members. Therefore, the organization did qualify under section 501(c)(4).

In Erie Endowment v. United States, 316 F.2d 151 (3d Cir. 1963), the court held that to qualify for exemption within the meaning of section 501(c)(4) of the Code, "the organization must be a community movement designed to accomplish community ends." Id. at 156.

In Commissioner v. Lake Forest, Inc., 305 F.2d 814 (4th Cir. 1962), a corporation was organized by World War II veterans for the purpose of purchasing a government housing project and converting it to cooperative, nonprofit housing for its members. Individuals became members in

the corporation by purchasing an apartment unit and, as such, the number of members was limited to the number of units available. The court held that the organization was not described in section 501(c)(4) of the Code because it was "a public-spirited but privately-devoted endeavor" that provided only incidental benefit to the community. *Id.* at 818. The organization did not promote social welfare because it furnished housing only to a certain group of individuals, rather than on a community basis, and did not offer a service or program for the direct betterment or improvement of the community as a whole.

In New York State Association of Real Estate Boards Group Insurance Fund v. Commissioner, 54 T.C. 1325 (1970), an association organized by a small group interested in obtaining group insurance did not qualify for exemption because it offered its benefits to only a limited class of its members and their employees. The court noted "[t]here is not in such an organization the requisite civic concern to constitute social welfare" required for qualification under section 501(c)(4). Where the primary benefit from an organization is limited to that organization's members, and not provided to the community as a whole, the organization is not operated primarily for the social welfare.

In Contracting Plumbers Cooperative Restoration Corp. v. United States, 488 F.2d 684 (2d Cir. 1973), cert. denied, 419 U.S. 827 (1974), plumbers working in New York City were responsible for the cuts they made in the city streets. Prior to the organization's existence, the city had repaired the cuts and billed the plumbers individually in what proved to be a highly inefficient system. The organization was formed in order to restore the city streets. It only repaired cuts made by its members. The joint effort of the plumbers reduced their liability and their expenses, and more efficiently repaired the city streets. While the court found that the program provided substantial benefits to the public, it concluded that the organization primarily served the private economic interests of its members and, thus, could not be considered exempt under section 501(c)(4) of the Code.

In American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), the organization's primary activity was to operate a school ("the Academy") training individuals for careers as political campaign professionals. The organization represented on its application for exemption that the Academy was an outgrowth of programs operated by the National Republican Congressional Committee ("NRCC") that were designed to train candidates and to train and subsequently place campaign professionals in Republican campaigns. In addition, the NRCC contributed physical assets to the Academy, two of the Academy's six full-time faculty members had been previously involved in the NRCC's training program, one of the Academy's three initial directors was the Executive Director of the NRCC at the time, and another initial director was a member of the Republican National Committee at the time. The Academy's activities were exclusively funded by the National Republican Congressional Trust. The Academy's curriculum included discussions concerning "How some Republicans have won Black votes," "NRCC/RNC/NRSC/State Party naughtiness," and "Use of GOP allies," without a counterbalance of comparable studies of other political parties.

While applicants to the Academy were not required to formally declare their political affiliation to attend the organization's school, the admission panel could deduce such affiliation from the campaign experiences and political references in the applications. The court found that this knowledge of an applicant's political affiliations allowed the admission panel to limit enrollment to applicants who were likely to subsequently work in Republican organizations and campaigns. Indeed, the court found that no graduate was known to affiliate with any political party other than

the Republican Party. A substantial number of the members of the Academy's admission panel were affiliated with the Republican Party.

The Service determined that the organization operated for a substantial, non-exempt private purpose. The Tax Court agreed, holding the organization did not operate exclusively for exempt, educational purposes under section 501(c)(3) of the Code because it conducted its activities to benefit the private interests of Republican entities and candidates. Although these entities and candidates were not organization "insiders," the court stated that the conferral of nonincidental benefits on disinterested persons may cause an organization to serve a private interest. While the school had a legitimate educational program, it conducted these activities with the partisan objective of benefiting Republican candidates and entities. As such, a more than incidental private benefit was conferred on Republican entities and candidates who employed the Academy's students, one that precluded exemption under section 501(c)(3).

ANALYSIS

Based on the information you submitted with your application and in subsequent correspondence, you are not operated exclusively for the promotion of social welfare within the meaning of section 501(c)(4) of the Code because your activities primarily serve private interests. Therefore, you do not qualify for exemption from federal income tax as an organization described in section 501(c)(4).

Your activities do not primarily promote social welfare because you primarily benefit private individuals and interests.

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. Section 1.501(c)(4)-1(a)(2)(i) of the regulations. An organization recognized under section 501(c)(4) is operated primarily for the purpose of bringing about civic betterments and social improvements. Id.

To qualify for exemption under section 501(c)(4), an organization must primarily benefit the community as a whole, rather than select individuals or groups. See Contracting Plumbers Coop. Restoration Corp., supra; New York State Ass'n of Real estate Boards Group Ins. Fund, supra; Lake Forest, Inc., supra; Rev. Rul. 75-286, supra. A section 501(c)(4) organization must be "a community movement designed to accomplish community ends." Erie Endowment, supra. As such, a tenants' organization that benefits all the tenants in the community qualifies for exemption, while one that directs its activities toward benefiting only its member-tenants does not. Compare Rev. Rul. 80-206, supra, with Rev. Rul. 73-306, supra; see also Rev. Rul. 73-349, supra. Therefore, conferring a sufficient amount of private benefit on select individuals will preclude exemption under section 501(c)(4) for an organization that would otherwise qualify. Even if an organization substantially benefits the community, it will fail to qualify for exemption if it primarily benefits private interests. See Contracting Plumbers, supra.

Educational activities undertaken to provide a partisan benefit are considered to serve private interests, rather than the common good. In American Campaign Academy, supra, the court denied exemption under section 501(c)(3) to a school organized to train individuals for careers as political campaign professionals because its educational activities were operated with the partisan purpose of benefiting Republican Party entities and candidates. The private benefit

conferred on these persons was more than incidental, and thus demonstrated a substantial nonexempt purpose that precluded exemption. While you are an organization described in section 501(c)(4) and not section 501(c)(3) (as was American Campaign Academy), the standard for determining what constitutes private benefit described in American Campaign Academy applies to both sections. As such, for purposes of both section 501(c)(3) and section 501(c)(4), an organization which conducts its educational activities to benefit a political party and its candidates serves private interests. And, as discussed above, an organization that primarily serves private interests fails to qualify for exemption under section 501(c)(4).

Thus, notwithstanding any benefit your educational activities may provide to the community, you fail to qualify for exemption because your training program primarily benefits the interests of the ***** and its candidates. According to your Articles and Bylaws, your primary activity is to train and recruit ***** to run for political office. Moreover, your program application asks prospective students to disclose specific details of their political participation as a ***** , and clearly discloses that you limit your membership to registered members of the *****

Like the school in American Campaign Academy, your purpose in conducting this activity is to provide education solely to individuals affiliated with a certain political party who want to enter politics. Indeed, you measure your success in terms of the number of your graduates who have won elective office representing the ***** or are actively engaged as campaign managers and advocates for ***** campaigns.

Because your primary activity is an educational program that is limited to ***** and conducted with the partisan objective of increasing the number of ***** elected officials you primarily serve private interests. Therefore, the operation of your program does not promote social welfare within the meaning of section 501(c)(4) of the Code.

CONCLUSION

In summary, you are not operated primarily to promote social welfare because your activities are conducted primarily for the benefit of a political party and a private group of individuals, rather than the community as a whole. Accordingly, you do not qualify for exemption as an organization described in section 501(c)(4) of the Code and you must file federal income tax returns.

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 the information affects our determination.

Your protest statement should be accompanied by the following declaration:

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

You also have a right to request a conference to discuss your protest. This request should be made when you file your protest statement. An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you. If you

want representation during the conference procedures, 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. That letter will provide information about filing tax returns and other matters.

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Internal Revenue Service

1111 Constitution Ave, N.W.
Washington, DC 20224

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,

Holly Paz
Acting Director, Exempt Organizations
Rulings & Agreements



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Number: **201142027**
Release Date: 10/21/2011

Date: June 30, 2011

UIL: **501.04-03**

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 as an organization described in Internal Revenue Code section 501(c)(4). Recently, we sent you a letter in response to your application that proposed an adverse determination. The letter explained the facts, law and rationale, and gave you 30 days to file a protest. Since we did not receive a protest within the requisite 30 days, the proposed adverse determination is now final.

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

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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



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Date: June 30, 2011

Contact Person:

UIL: 501.04-03

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

Legend:

State =

Party =

Dear :

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

FACTS

You were formed on December 8, 2008 as a nonprofit corporation under the laws of State. Your Articles of Incorporation state that you are "organized and shall be operated exclusively to inspire and train Party to run for public office."

Your Articles of Incorporation provide that upon dissolution or final liquidation, after the payment or provision for payment of all of the liabilities of the corporation, your remaining assets shall be distributed to such organization or organizations as the board of directors shall determine.

You conduct a training program of _____ for _____ who are members of Party. The program includes sessions covering _____

. You conducted your first training program in _____ .

You charge \$ _____ in tuition for your training program. You may award partial financial aid to program participants. You select _____ participants each year.

Your website contains a number of materials related to your training program. Your homepage states that "

You describe your curriculum as follows:

”

Your website states that you select students for your training program based on evidence of

discriminate on the basis of “

. You declare that you do not

Your 2010 Program Application contains a “
potential trainee, “

?” If an applicant did not

” section which asks the
?” and, “
is then asked to explain why.

Your 2010 Program Application also contains a “
requires the applicant to affirm the following: “

,” which

Your “ ” page says you are the:

On your “About Us” page you state:

Your website describes you as part of a

. You note your program's success by stating that the
belong has trained over

to which you

LAW

Section 501(a) of the Code exempts from federal income tax organizations described in section 501(c)(4).

Section 501(c)(4)(A) of the Code describes civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare. Section 501(c)(4)(B) indicates that subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

Section 1.501(c)(4)-1(a)(1) of the Income Tax Regulations ("regulations") states that to be described in section 501(c)(4) of the Code, an organization must not be organized or operated for profit and must be operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2) 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. Additionally, it states that an organization described within this section is operated primarily for the purpose of bringing about civic betterments and social improvements.

Rev. Rul. 73-306, 1973-2 C.B. 179, provides that an organization formed for the purpose of promoting the common interest of tenants who reside in a particular apartment complex does not qualify for exemption under section 501(c)(4) of the Code. Any person regularly living in the complex was eligible for membership. The organization represented its member-tenants in negotiations with the management of the complex in order to secure better maintenance and services, as well as reasonable rentals. The ruling holds that the organization was not described in section 501(c)(4) because it operated essentially to benefit its members and, thus, was not primarily engaged in activities that promote the common good and general welfare of the community. In contrast, Rev. Rul. 80-206, 1980-2 C.B. 185, holds that an organization formed to promote the legal rights of all tenants in a community, instead of limiting its benefits to member-tenants, does qualify for exemption under section 501(c)(4) of the Code.

Rev. Rul. 73-349, 1973-2 C.B. 179, holds that an organization formed to purchase groceries for its members at the lowest possible prices on a cooperative basis is not exempt under section 501(c)(4) of the Code. Rather, the organization was a cooperative enterprise operated primarily for the private economic benefit or convenience of its members, and provided only incidental benefit to the community.

Rev. Rul. 75-286, 1975-2 C.B. 210, describes an organization that was formed by the residents of a city block to preserve and beautify that block, to improve all public facilities within the block, and to prevent physical deterioration of the block. Its activities consisted of paying the city

government to plant trees on public property within the block, organizing residents to pick up litter and refuse in the public streets and on public sidewalks within the block, and encouraging residents to take an active part in beautifying the block by placing shrubbery in public areas. Much of the public area improved by the organization was part of the public roadway lying between the sidewalk and the street in front of private property owned by members of the organization. Membership in the organization was restricted to residents of the block and those owning property or operating businesses there.

Because the activities enhanced the value of the members' property rights, the organization served the private interests of its members and did not qualify for exemption under section 501(c)(3). The restricted nature of its membership and limited area in which improvements were made were further indicators of private benefit. However, by beautifying and preserving public property in cooperation with the local government, the organization was considered to primarily promote the general welfare of the community even though its activities also benefited its members. Therefore, the organization did qualify under section 501(c)(4).

In Erie Endowment v. United States, 316 F.2d 151 (3d Cir. 1963), the court held that to qualify for exemption within the meaning of section 501(c)(4) of the Code, "the organization must be a community movement designed to accomplish community ends." Id. at 156.

In Commissioner v. Lake Forest, Inc., 305 F.2d 814 (4th Cir. 1962), a corporation was organized by World War II veterans for the purpose of purchasing a government housing project and converting it to cooperative, nonprofit housing for its members. Individuals became members in the corporation by purchasing an apartment unit and, as such, the number of members was limited to the number of units available. The court held that the organization was not described in section 501(c)(4) of the Code because it was "a public-spirited but privately-devoted endeavor" that provided only incidental benefit to the community. Id. at 818. The organization did not promote social welfare because it furnished housing only to a certain group of individuals, rather than on a community basis, and did not offer a service or program for the direct betterment or improvement of the community as a whole.

In New York State Association of Real Estate Boards Group Insurance Fund v. Commissioner, 54 T.C. 1325 (1970), an association organized by a small group interested in obtaining group insurance did not qualify for exemption because it offered its benefits to only a limited class of its members and their employees. The court noted "[t]here is not in such an organization the requisite civic concern to constitute social welfare" required for qualification under section 501(c)(4). Where the primary benefit from an organization is limited to that organization's members, and not provided to the community as a whole, the organization is not operated primarily for the social welfare.

In Contracting Plumbers Cooperative Restoration Corp. v. United States, 488 F.2d 684 (2d Cir. 1973), cert. denied, 419 U.S. 827 (1974), plumbers working in New York City were responsible for the cuts they made in the city streets. Prior to the organization's existence, the city had repaired the cuts and billed the plumbers individually in what proved to be a highly inefficient system. The organization was formed in order to restore the city streets. It only repaired cuts made by its members. The joint effort of the plumbers reduced their liability and their expenses, and more efficiently repaired the city streets. While the court found that the program provided substantial benefits to the public, it concluded that the organization primarily served the private economic interests of its members and, thus, could not be considered exempt under section

501(c)(4) of the Code.

In American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), the organization's primary activity was to operate a school ("the Academy") training individuals for careers as political campaign professionals. The organization represented on its application for exemption that the Academy was an outgrowth of programs operated by the National Republican Congressional Committee ("NRCC") that were designed to train candidates and to train and subsequently place campaign professionals in Republican campaigns. In addition, the NRCC contributed physical assets to the Academy, two of the Academy's six full-time faculty members had been previously involved in the NRCC's training program, one of the Academy's three initial directors was the Executive Director of the NRCC at the time, and another initial director was a member of the Republican National Committee at the time. The Academy's activities were exclusively funded by the National Republican Congressional Trust. The Academy's curriculum included discussions concerning "How some Republicans have won Black votes," "NRCC/RNC/NRSC/State Party naughtiness," and "Use of GOP allies," without a counterbalance of comparable studies of other political parties.

While applicants to the Academy were not required to formally declare their political affiliation to attend the organization's school, the admission panel could deduce such affiliation from the campaign experiences and political references in the applications. The court found that this knowledge of an applicant's political affiliations allowed the admission panel to limit enrollment to applicants who were likely to subsequently work in Republican organizations and campaigns. Indeed, the court found that no graduate was known to affiliate with any political party other than the Republican Party. A substantial number of the members of the Academy's admission panel were affiliated with the Republican Party.

The Service determined that the organization operated for a substantial, non-exempt private purpose. The Tax Court agreed, holding the organization did not operate exclusively for exempt, educational purposes under section 501(c)(3) of the Code because it conducted its activities to benefit the private interests of Republican entities and candidates. Although these entities and candidates were not organization "insiders," the court stated that the conferral of nonincidental benefits on disinterested persons may cause an organization to serve a private interest. While the school had a legitimate educational program, it conducted these activities with the partisan objective of benefiting Republican candidates and entities. As such, a more than incidental private benefit was conferred on Republican entities and candidates who employed the Academy's students, one that precluded exemption under section 501(c)(3).

ANALYSIS

Based on the information you submitted with your application and review of your website, we find that you are not operated exclusively for the promotion of social welfare within the meaning of section 501(c)(4) of the Code because your activities primarily serve private interests. Therefore, you do not qualify for exemption from federal income tax as an organization described in section 501(c)(4).

Your activities do not primarily promote social welfare because you primarily benefit private individuals and interests.

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. Section 1.501(c)(4)-1(a)(2)(i) of the regulations. An organization recognized under section 501(c)(4) is operated primarily for the purpose of bringing about civic betterments and social improvements. Id.

To qualify for exemption under section 501(c)(4), an organization must primarily benefit the community as a whole, rather than select individuals or groups. See Contracting Plumbers Coop. Restoration Corp., supra; New York State Ass'n of Real estate Boards Group Ins. Fund, supra; Lake Forest, Inc., supra; Rev. Rul. 75-286, supra. A section 501(c)(4) organization must be "a community movement designed to accomplish community ends." Erie Endowment, supra. As such, a tenants' organization that benefits all the tenants in the community qualifies for exemption, while one that directs its activities toward benefiting only its member-tenants does not. Compare Rev. Rul. 80-206, supra, with Rev. Rul. 73-306, supra; see also Rev. Rul. 73-349, supra. Therefore, conferring a sufficient amount of private benefit on select individuals will preclude exemption under section 501(c)(4) for an organization that would otherwise qualify. Even if an organization substantially benefits the community, it will fail to qualify for exemption if it primarily benefits private interests. See Contracting Plumbers, supra.

Educational activities undertaken to provide a partisan benefit are considered to serve private interests, rather than the common good. In American Campaign Academy, supra, the court denied exemption under section 501(c)(3) to a school organized to train individuals for careers as political campaign professionals because its educational activities were operated with the partisan purpose of benefiting Republican Party entities and candidates. The private benefit conferred on these persons was more than incidental, and thus demonstrated a substantial non-exempt purpose that precluded exemption. While you are requesting recognition as an organization described in section 501(c)(4) and not section 501(c)(3) (as was American Campaign Academy), the standard for determining what constitutes private benefit described in American Campaign Academy applies to both sections. Sections 501(c)(3) and 501(c)(4)(B) of the Code. For purposes of both section 501(c)(3) and section 501(c)(4), an organization which conducts its educational activities to benefit a political party and its candidates serves private interests. And, as discussed above, an organization that primarily serves private interests fails to qualify for exemption under section 501(c)(4).

Thus, notwithstanding any benefit your educational activities may provide to individual students and the community, you fail to qualify for exemption because your training program primarily benefits the interests of the Party and its candidates. According to your Articles, Bylaws, and website, your primary activity is to

. Although you declare that you do not discriminate on the basis of "age, race, color, national or ethnic origin, marital status, religious affiliation, sexual orientation or physical abilities" you openly select students on the basis of partisan political affiliation. Your program application asks prospective students to disclose specific details of their political participation as a member of Party, and clearly discloses that you limit your membership to registered members of the Party. Your application asks candidates to affirm that they will use their increased skills to advance Party and the interests of Party. Like the school in American Campaign Academy, you provide education solely to individuals affiliated with a certain political party who want to enter politics. Your stated purpose is to advance opportunities for Party and the interests of the Party in general. Indeed, you measure your success, and that of your affiliates in other states, by the number of your

graduates who have won elective office representing the Party.

Because your primary activity is an educational program that is limited to _____ who are members of Party and is conducted with the partisan objective of increasing the number of Party's elected officials, you primarily serve private interests. Therefore, the operation of your program does not promote social welfare within the meaning of section 501(c)(4) of the Code.

CONCLUSION

In summary, you are not operated primarily to promote social welfare because your activities are conducted primarily for the benefit of a political party and a private group of individuals, rather than the community as a whole. Accordingly, you do not qualify for exemption as an organization described in section 501(c)(4) of the Code and you must file federal income tax returns.

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 the information affects our determination.

Your protest statement should be accompanied by the following declaration:

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

You also have a right to request a conference to discuss your protest. This request should be made when you file your protest statement. An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you. If you want representation during the conference procedures, 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. That letter will provide information about filing tax returns and other matters.

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

Internal Revenue Service
TE/GE (SE:T:EO:RA)

1111 Constitution Ave, N.W.
Washington, DC 20224

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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



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Number: 201214035
Release Date: 4/6/2012
Date: January 11, 2012

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

UIL: 501.04-00; 501.04-03

Dear :

This is our final determination that you do not qualify for exemption from Federal income tax as an organization described in Internal Revenue Code section 501(c)(4). Recently, we sent you a letter in response to your application that proposed an adverse determination. The letter explained the facts, law and rationale, and gave you 30 days to file a protest. Since we did not receive a protest within the requisite 30 days, the proposed adverse determination is now final.

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.

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, you should 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

Letter 4040 (CG) (11-2005)
Catalog Number 47635Z

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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

Letter 4040 (CG) (11-2005)
Catalog Number 47635Z



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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: November 10, 2011

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

LEGEND:

- B = Board Member
- M = Political Candidate
- N = Political Party in P
- O = State where Organization is Incorporated
- P = Nation where M is a Candidate
- Q = Date Form 1024 received by IRS
- R = Date of Organization's Incorporation
- S = Election Date
- T = Autobiography of M
- U = Book about M
- V = Book on M's Policies
- W = Book Promoting P's Patriotism
- X = Applicant's Website
- Y = Location of Applicant's Related Group
- Z = Location of Applicant's Related Group

UIL:

501.04-00

501.04-03

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 section 501(c)(4). The basis for our conclusion is set forth below.

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

Issues

- Do you qualify for exemption under section 501(c)(4) of the Code?

No, for the reasons set forth below.

Facts

The Form 1024, Application for Recognition for Exemption Under Section 501(a) of the Internal Revenue Code was received on date Q. With the Form 1024, you are applying for tax exempt status under IRC Section 501(c)(4). You were incorporated under the laws of the state of O on date R.

Your Certificate of Incorporation states that your purpose is, "To create, form, and establish an organization to disseminate information regarding national elections to [citizens of P] residing in the United States; to promote, foster, and advance their voting rights in P by providing access to information concerning political topics of interest to [citizens of P] residing in the United States; to research economic and social policies which may affect the [citizens of P] population in the United States; to survey and study the [citizens of P] population in the United States regarding their opinions on issues relevant to the [citizens of P] community; to provide information on all matters of political concern to the [citizens of P] population; to provide information regarding the availability of P governmental and social services in the U.S.; to provide an avenue of information between [citizens of P] residing in the United States and their homeland."

Your board of directors is comprised of three unrelated individuals, who do not receive compensation.

Your website, X, states that you were formed to support M, former Chairman of the N, which is a political party in P. The percentage of time that will be directed toward providing any kind of support to M is 80%. You will support M's policies and make the public aware of M's policies and ideas. You indicated through your website that you will do your best to support and patriotically advise M in the upcoming presidential election. You believe that increasing the interest and voting rates of the citizens of P in the U.S. will lead to the development of P's (green card holders, citizens, and following generations) rights, interests, and pride for their mother land. For this purpose, you believe that M is the most reliable and suitable politician, and you will devote your efforts to form a pro-M public opinion and help elect M in the coming presidential election.

You will support M's policies and make the public aware of M's policies and ideas by having a website which updates all M related information, such as personal information, policies and plans, media articles, etc. in real time. You will introduce and distribute M related books. These related books include T, an autobiography of M, U, V and W, which present favorable views of M's policies. You purchase these books from various companies and publishers. T and U are given away for free to promote a better understanding of M. V highlights M through the great achievements, patriotism, and philosophy of M's father. W is given away for free to promote patriotism among the citizens of P living in the United States. You will solicit concerns about the conditions in P from student citizens of P through seminars. You will then deliver their desires and opinions to M. You also plan to provide rides to the voting center for voters on S, and will remain

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

neutral without supporting a specific candidate or political party while providing transportation. You stated that your goal is to turn out a high rate of voters by having advertisements in periodicals and through book purchases, which will help develop the interests of P's citizens in the U.S.

Your revenue will come from individual and group donations and gross dues and assessments of members. Your budgets indicate that your annual revenues range from less than \$9,000 in 2010 to approximately \$30,000 expected in 2012. Your expenditures included the \$850 user fee paid for the processing of your Form 1024 application. Most of your expenses will be for publicity through advertising in periodicals and for book purchases.

Law

Section 501(c)(4) of the Code provides for the exemption from federal income tax of 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 Income Tax Regulations 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.

Section 1.501(c)(4)-1(a)(2)(ii) of the regulations provides that the promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office.

In Rev. Rul. 67-293, 1967-2 C.B. 185, an organization already exempt under section 501(c)(4) of the Code, and substantially engaged in promoting legislation to protect or otherwise benefit animals, is not exempt from federal income tax under section 501(c)(3) of the Code, even though the legislation it advocates may be beneficial to the community, and even though most of the attempts to influence legislation may be indirect. The organization has not, however, participated or intervened in any political campaigns on behalf of or in opposition to any candidate for public office, and therefore, it remains exempt under section 501(c)(4) of the Code.

In Rev. Rul. 67-368, 1967-2 C.B. 194, the Service held that an organization, formed for the purpose of promoting an enlightened electorate, whose primary activity was rating candidates for public office, was not exempt under IRC 501(c)(4) because such activity is not "the promotion of social welfare." The ruling stated that comparative rating of candidates, even though on a non-partisan basis, is participation or intervention on behalf of candidates favorably rated and in opposition to those less favorably rated.

In Rev. Rul. 81-95, 1981-1 C.B. 332, the Service considered the effect of engaging in political campaign activities on an IRC 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 concluded that since 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 IRC 501(c)(4). However, the organization was subject to the tax imposed by IRC 527 on

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

expenditures for political activities as defined in IRC 527(e)(2), pursuant to IRC 527(f)(1).

Rev. Rul. 2004-6, 2004-4 I.R.B. 328, presents several scenarios involving 501(c)(4) organizations in which the [(c)(4)] organization engages in activities related to encouraging and supporting a particular public policy outcome or decision by associating the desired policy outcome with a specific elected official or candidate for public office. The individual scenarios are then differentiated in terms of whether the activities qualify for tax exemption. The Revenue Ruling held that expenditures by a 501(c)(4) organization were subject to tax under section 527(b)(1) of the Code when the actions of the organization do not identify and are not timed to coincide with a specific event or decision outside the control of the organization that it hopes to influence. Rather, expenditures and actions of the organization support or encourage the election of the specific public official or candidate in order to accomplish its public policy goal.

In American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), a school that trained individuals as campaign managers was denied exemption under IRC 501(c)(3) because it operated for the substantial nonexempt purpose of benefiting the private interests of Republican Party entities and candidates. Although the school had a legitimate educational program, the Tax Court held that it conducted its educational activities with the partisan objective of benefiting Republican interests. The court noted that the school's partisan purpose distinguished its activities from the educational organization in Rev. Rul. 76-456, supra.

Application of Law

You fail to meet the requirements of Section 501(c)(4) of the Code because you are not operated exclusively for the promotion of social welfare. The percentage of your time that will be devoted toward supporting M's political interests is 80%. Your activities are primarily political in nature in that you influence citizens of P to vote for M by distributing the books U, V, and W, supporting M's policies and making the public aware of M's policies and ideas by maintaining a website, which updates all M related information, such as personal information, M's policies and plans, media articles, etc. in real time.

You are not an organization described under 1.501(c)(4)-1(a)(2)(i) – (ii) of the regulations because you are not operating exclusively for the promotion of social welfare because you are not primarily engaged in promoting the common good and general welfare of the people of the community. Instead, you are engaged primarily in influencing or attempting to influence the selection, election, or appointment of M in P's upcoming presidential election. As noted above, 80% of your activities will be devoted to providing support to the political candidate, M. A document taken from your website and submitted with your response states that you are "organized throughout the United States to inspire our [P-Americans] (excluding US citizens) to exercise their rights to vote during P's elections, and especially to vote for the right leaders who will further develop our home country." The document further states, "Because the image of the association and chapter is closely related to and seriously influences that of candidate M, this association will endeavor to enhance and protect the image of the association." You also stated that you want to influence all citizens of P eligible to vote in P (those with green cards and/or visiting visas) that are in the U.S., and [P-American] leaders who are interested in the expansion of rights and interests for the next generation, but not voters located in P.

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

You are unlike the organization in Rev. Rul. 67-293 because you do participate and intervene in political campaigns on behalf of a candidate for public office, and therefore, are not exempt under section 501(c)(4) of the Code.

You are similar to the organization described in Rev. Rul. 67-368 because you are participating or intervening on behalf of M. A statement on your website, that has been shared with you in our correspondence, states that you were, "formed and [are] officially active in supporting M, former Chairman of N." Your website also states that, "the association will be in close ties with M, play an important role in connecting with the P-American Society, and support M in the upcoming presidential election." Your website further quotes your board member, B, who said, "This association is a nationwide association, expanding from pre-existing groups in O, Y, and Z who support M, and will do its best to support and patriotically advise M for M's victory in the upcoming presidential election." Finally, to reiterate, you also indicated in your most recent response that 80% of your time will be devoted to supporting M as a political candidate.

You are unlike the organization in Rev. Rul. 81-95 because your activities are primarily engaged in campaigning for M. Your website updates all M related information, such as personal information, M's policies and plans, media articles, etc. in real time. You will introduce M related books such as M's autobiography, T, as well as U, V and W, which present favorable views of M and M's policies. You also boost concerns about the conditions of P among P's citizens through seminars, and then report their desires and opinions to M.

Your activities in support of the policies and election of M are similar to activities of the organizations described in Rev. Rul. 2004-6 that are subject to tax because these activities and expenditures support or encourage the election of a specific public official or candidate in order to accomplish public policy goals.

You are similar to the organization described in American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), in that you conducted your activities with the partisan objective of benefiting M's interests. You stated that the purpose of advertising in periodicals and the book purchases is to attract citizens of P's attention to the politics in P and to create a high turnout of voters, thus supporting homeland prosperity and advanced politics through M, and to further the development of rights and interests of citizens of P in the U.S. for the next generation. You will promote M's political campaign by providing information of M's economic and political views and by providing information to the public of M's background and character. As stated earlier, your website updates all M related information including personal information, policies and plans, media articles, etc. in real time. Although this court case is about an organization being denied under 501(c)(3) because it operated for the substantial nonexempt purpose of benefiting the private interests of Republican party entities and candidates, the same concept would apply for a section 501(c)(4) organization because promoting a political candidate also does not serve social welfare purposes as described under section 501(c)(4) of the Code.

Applicant's Position

You state that your primary activity is involved in promoting M's political campaign. You believe that

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Catalog Number 47628K

increasing the interest and voting rates of citizens of P in the U.S. will lead to the development of the rights, interests, and pride for the mother land among these individuals (green card holders, citizens, and following generations). For this purpose, M is the most reliable and suitable politician. You will devote your efforts to form a pro-M public opinion and help elect M in the coming presidential election. You want to influence all citizens of P who are in the U.S. (those with green cards and/or visiting visas) to vote, and to influence [P-American] leaders who are interested in the expansion of rights and interests for the next generation, not just the voters in P. You plan to provide rides to the voting center for voters on S, the election date, while remaining neutral and without supporting a specific candidate or political party while providing transportation. Your goal is to create a high turnout of voters, which will support homeland prosperity and advanced politics through M, and further the development of rights and interests of citizens of P in the U.S. for the next generation.

Service Response to Applicant's Position

Your stated primary activity, promoting an individual's political campaign is not a qualifying tax-exempt purpose under IRC section 501(c)(4). Political educational organizations must conduct their activities in a non-partisan manner. Your activities are not conducted in a non-partisan manner because they serve primarily to support M's political presidential campaign. Therefore, you do not have a social welfare purpose consistent with section 501(c)(4) of the Code.

Conclusion

You do not qualify for exemption under section 501(c)(4), or any other section of the Code, because you primarily support M in the contest for the presidential election in P by influencing voters in the United States who are eligible to vote.

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."

Letter 4034 (CG) (11-2005)
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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

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



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Number: **201224034**
Release Date: 6/15/2012

Date: March 21, 2012

UIL: 501.04-00
501.30-00
501.33-00

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 as an organization described in Internal Revenue Code § 501(c)(4). Recently, we sent you a letter in response to your application that proposed an adverse determination. The letter explained the facts, law and rationale, and gave you 30 days to file a protest. Since we did not receive a protest within the requisite 30 days, the proposed adverse determination is now final.

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 § 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

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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: February 15, 2012

501.04-00
501.30-00
501.33-00

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

Legend:

<u>State</u>	=	*****
<u>Founder</u>	=	*****
<u>Schools</u>	=	*****
<u>Office</u>	=	*****
<u>County</u>	=	*****
<u>Program 1</u>	=	*****
<u>Program 2</u>	=	*****
<u>Program 3</u>	=	*****
<u>Program 4</u>	=	*****
<u>Program 5</u>	=	*****
<u>Program 6</u>	=	*****
<u>Program 7</u>	=	*****

Dear :

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

Facts:

You were incorporated under the laws of State. You transitioned from a series of for-profit successors with the following purposes:

- Promoting political change through articles, columns, books, and other media Founder was planning to create.
- Producing and selling prepared foods to consumers.
- Promoting solutions to the state's challenging problems through grassroots advocacy and publicity.

Your latest Articles of Incorporation provide that you are organized to promote solutions to

State's challenging problems through grassroots advocacy and publicity. Your Articles also state that you will have a board of directors with one member and that member will be Founder. Founder is also your president. Upon dissolution, your remaining assets shall be distributed for one or more exempt purposes within the meaning of § 501(c)(3) or § 501(c)(4) of the Code.

Your Bylaws provide that you shall have one director and that person alone shall be known as the Board of Directors. Your Bylaws further provide that directors shall not be compensated for their duties as directors. Salaries of your officers shall be fixed by resolution of your board of directors. Founder is also your treasurer and secretary. You stated that as you grow, you will add an appropriate oversight mechanism but in your current state, you find this unnecessary. Your Bylaws contain a Conflict of Interest and Compensation Approval Policies. However, as Founder is your only director and officer, these Policies are immaterial.

You state that you are a citizen's advocacy group focused on solving some of the critical problems facing the citizens of State. At the time of application, you were engaged in the following activities:

- Program 1: this program allowed citizens to learn about and commit to specific action to save the marine environment through a website program. This program attempts to motivate citizens to substantially reduce the amount they pollute. Individuals who visit the website are presented with a list of actions they can take to reduce the amount they pollute, and then are asked to commit to taking specific actions. The website calculates how many pounds of pollution would not reach the marine environment as the result of each step taken. You worked with other organizations to develop the predictor model on the website.
- Program 2: this program attempted to help protect citizens from inappropriate law enforcement raids. You worked with public officials to pass legislation requiring jurisdictions using law enforcement tactical teams to report periodically on the number of tactical deployments and outcomes. State's governor signed the legislation into law.
- Program 3: this program allowed you to work with the leadership of Schools to design and implement a system where organizations can partner with schools to provide improved education opportunities to students. Founder worked with the Office to develop a program where individuals, businesses, and churches could partner with a specific school to provide additional educational opportunities to students or resources to the school.

At the time of application, you anticipated that your activities would change to the following:

- Program 1
- Program 4: this program would allow you to work with representatives of State's governor's office to implement one or more pilot programs showing how state agencies can restructure their systems to cut costs while providing better customer service.

- Program 5: this program would allow you to work with local business organizations to create programs to help entrepreneurial companies start and expand in State, creating high-quality jobs.

You state that for most of the time from submission of your application you were on hiatus while Founder, ran for elective office. After losing the election, Founder's attention turned back to your operations. You are currently focusing on the following:

- Program 1: you are working with residents in a few of the most critical communities to determine the cost structure and other criteria necessary to build community support to invest in sewer systems.
- Program 6: Founder was just elected chair of County's state-mandated organization whose mission is to represent the interests of parents and citizens to County's board of education. Founder's chairmanship started by fielding a comprehensive survey to determine residents' biggest concerns. You will participate in this research and report the results so the organization can use the results to choose a number of issues to research further and help solve.
- Program 7: you have almost completed a research project which will report how ambulance response rates in County compare with the national standard. You plan to report the results of this research mid-2011 and set up a task force of several high-level fire department personnel as well as representatives from two major hospitals in County. The task force will determine how to get ambulances back on the street more quickly.

Your website contains a description of all of your programs. Your website also contains a blog written and maintained by Founder. The blog started around the time of your incorporation and most recent amended Articles of Incorporation. Most blog posts center around current or pending legislation, as well as the agendas of elected political officials. Of the 17 blog posts, five of these criticize Founder's former opponent in a race for elected office. These critical blog posts occurred both before and after the election.

The blog page on your website contains links to Founder's campaign website.

You have been primarily funded through donations from Founder. You hope to recruit additional sources of support in the future. In the year that you were incorporated, income was generated from Founder's donations and Program 2. Expenses for that year primarily included those for disbursements to Program 2, software, personal property taxes, and your website. For the following tax year, you only incurred expenses for bank fees, depreciation, and merchant account fees.

At the time of application, you indicated you may spend money attempting to influence the selection, nomination, election, or appointment of individuals to public office or office in a political organization. Upon further development, you indicated you have not spent any money

doing so, nor do you ever intend to do so. Your webpage that seeks donations from individuals states that because donations are "used for lobbying and promoting political change, it is not tax-deductible under U.S. law."

You stated that because Founder is a political figure who ran for elective office in 2004 and 2010, you wish to seek exemption as a § 501(c)(4) organization to avoid the appearance of any impropriety.

Law:

Section 501(a) exempts from federal income tax organizations described in § 501(c)(4).

Section 501(c)(4)(A) describes civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare. Section 501(c)(4)(B) indicates that subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

Section 1.501(c)(4)-1(a)(1) of the Income Tax Regulations ("regulations") states that an organization may be exempt as an organization described in § 501(c)(4) if it is not organized or operated for profit and is operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) 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, such as bringing about civic betterments and social improvements.

Section 1.501(c)(4)-1(a)(2)(ii) provides that the promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. Nor is an organization operated primarily for the promotion of social welfare if its primary activity is operating a social club for the benefit, pleasure, or recreation of its members, or is carrying on a business with the general public in a manner similar to organizations which are operated for profit.

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279 (1945), the Supreme Court held that the presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes. The Court found that a trade association had an "underlying commercial motive" that distinguished its educational program from that carried out by a university, and therefore, the association did not qualify for exemption.

In Commissioner v. Lake Forest, Inc., 305 F.2d 814 (4th Cir. 1962), a corporation was organized for the purpose of purchasing a government housing project and converting it to cooperative, nonprofit housing for its members. Individuals became members in the corporation by purchasing an apartment unit. The court held that the organization was not described in

§ 501(c)(4) because it was "a public-spirited but privately-devoted endeavor" with only incidental benefit to the community. Id. at 814. Although anyone was eligible to join the organization, the court determined that it provided benefits only to its members and not the community as a whole.

In Erie Endowment v. United States, 316 F.2d 151, 156 (3d Cir. 1963), the court held that to qualify for exemption within the meaning of § 501(c)(4), "the organization must be a community movement designed to accomplish community ends."

In Contracting Plumbers Cooperative Restoration Corp. v. United States, 488 F.2d 684 (2d Cir. 1973), the court ruled that an organization benefitting only its members did not meet the requirements of § 501(c)(4) because the benefits flowed directly to members of the organization. The court followed "the rule that the presence of a single substantial non-exempt purpose precludes exempt status regardless of the number or importance of the exempt purposes." Id. at 686. The organization's primary activity benefited its members rather than the public, and therefore it was not "'primarily' devoted to the common good as required by even the most liberal reading of 501(c)(4)." Id. at 687.

Rev. Rul. 74-361, 1974-2 C.B. 159, held that an organization that was organized as a nonprofit volunteer fire company to provide fire protection and ambulance services for a community could be held as exempt from Federal income tax as a social welfare organization described in § 501(c)(4) because its activities promote the common good and general welfare of the community.

Rev. Rul. 68-45, 1968-1 C.B. 259, held that a war veterans' post which was primarily engaged in social welfare activities could qualify for exemption from Federal income tax under § 501(c)(4) even though a substantial portion of its revenue came from bingo games open to the general public.

Rev. Rul. 81-95, 1981-1 C.B. 332, held that an organization primarily engaged in the promotion of social welfare within the meaning of § 501(c)(4) may participate in lawful political campaign activities involving the nomination or election of public officials without adversely affecting its exempt status.

Analysis:

Based on our analysis of the information you submitted with your application and in subsequent correspondence, we have determined that you are not operated primarily for the promotion of social welfare within the meaning of § 501(c)(4), and therefore do not qualify as an organization described in § 501(c)(4).

To be described in § 501(c)(4), an organization must be operated exclusively for the promotion of social welfare. An organization will be operated exclusively for the promotion of social welfare, and therefore exempt, if it is primarily engaged in promoting the common good and

general welfare of the community. See § 1.501(c)(4)-1(a)(2)(i). Exempt purposes include bringing about civic betterments and social improvements. See § 1.501(c)(4)-1(a)(2)(i).

Whether an organization is "primarily engaged" in promoting social welfare is a facts and circumstances determination. Relevant factors include the manner in which the organization's activities are conducted; resources used in conducting such activities, such as buildings and equipment; the time devoted to activities (by volunteers as well as employees); the purposes furthered by various activities; and the amount of funds received from and devoted to particular activities. See e.g., Rev. Rul. 74-361, *supra* (volunteer fire company that provides recreational facilities for members is primarily engaged in promoting social welfare where providing facilities primarily furthers exempt purposes); Rev. Rul. 68-45, *supra* (organization's principal source of income is not sole factor in determining whether it is "primarily engaged" in promoting social welfare).

Based on Contracting Plumbers Cooperative Restoration Corp., an organization will not meet the requirements of § 501(c)(4) if it is operated primarily to benefit a private group rather than the community as a whole, even if it provides some benefit to the community. 488 F.2d at 687. Your activities serve to primarily benefit Founder. You solely serve to promote Founder and Founder's agenda and platforms. As provided in your Articles and Bylaws, Founder is the only member and officer on your Board of Directors. There is no community input or oversight, or independent members of the community on your Board of Directors. This is demonstrated from the fact that while Founder sought elected office your operations seized until the election was over. Furthermore, the selection, operation, and oversight of your programs and activities are made at the sole discretion of Founder, and are solely funded by Founder.

Founder also plans to use you to conduct activities in connection with Founder's election as the chair of County's state-mandated organization. The holding of Erie Endowment, requires that a § 501(c)(4) organization be a community movement designed to accomplish community ends. 316 F.2d at 156. Your programs, however, are designed strictly to promote Founder and that individual's pursuits.

Additionally, you have not established that your primary activity is not to engage in direct or indirect political intervention. The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. § 1.501(c)(4)-1(a)(2)(ii). In Rev. Rul. 81-95, *supra*, we concluded that "an organization may carry on lawful political activities and remain exempt under section 501(c)(4) . . . as long as it is primarily engaged in activities that promote social welfare." The corollary to this is that if an organization's primary activities do not promote social welfare but are direct or indirect political intervention, the organization is not exempt under § 501(c)(4). The key is to determine the character of the organization's primary activities by looking at all of the facts and circumstances. Founder used you to prepare studies that coincide with Founder's political interests, to lobby for things that Founder believes in, and to follow political opponents through the blog on your website. Your website contains a blog written and maintained by Founder that criticizes Founder's former opponent in a race for elected office. The blog also contains information on the political agendas of elected political officials. There are no procedures in place to bar using the website as platform development

Conclusion:

You have not established that you meet the requirements of § 501(c)(4) because you are not operated exclusively for the promotion of social welfare. Your primary activities do not serve the general welfare of the people or the community as required by § 1.501(c)(4)-1(a)(2).

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 the information affects our determination.

Your protest statement should be accompanied by the following declaration:

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

You also have a right to request a conference to discuss your protest. This request should be made when you file your protest statement. An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you. If you want representation during the conference procedures, 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. That letter will provide information about filing tax returns and other matters.

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

Internal Revenue Service
TE/GE (*****)

1111 Constitution Ave, N.W.
Washington, DC 20224

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.

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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

JOSEPH I. LIBERMAN, CONNECTICUT, CHAIRMAN

CARE LEVIN, MICHIGAN
DANIEL K. AKAKA, HAWAII
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JERRY MORAN, KANSAS

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6260

MICHAEL L. ALEXANDER, STAFF DIRECTOR
NICHOLAS A. ROSSI, MINORITY STAFF DIRECTOR

January 4, 2013

VIA U.S. MAIL & EMAIL (Catherine.M.Barre@irs.gov)

The Honorable Steven T. Miller
Acting Commissioner and Deputy Commissioner for Services and Enforcement
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Dear Acting Commissioner Miller:

I appreciate your November 23, 2012 response to my letter of October 23, 2012. Please provide the following information by January 25, 2012.

- 1) In the IRS response of September 14, 2012, you write that "during the past six months, no notices of proposed or final revocation were issued to section 501(c)(4) organizations." In the November 23, 2012 IRS response, you write that "we have issued 42 revocation notices to section 501(c)(4) organizations since January of 2007." Also in the November 23, 2012 response you write "Since January 1, 2007, we have issued ten adverse determinations to section 501(c)(4) applicants." Please respond to the following:
 - a. Please explain the difference between a "revocation notice" and an "adverse determination."
 - b. Please explain whether or not a total of 52 organizations have now been deemed by the IRS as having not met their obligations as a § 501(c)(4) social welfare organization, and if so, please describe the consequences for those organizations in terms of whether or not they were subject to tax or penalties under § 527(i) and (j) for failure to make proper disclosure, whether they were then required by the IRS to pay other taxes, including back taxes, and whether or not they did so.
 - i. If you have not already done so, please provide the notices or letters that the IRS sent to the groups which the IRS determined did not meet their obligations as § 501(c)(4) charitable organizations.
- 2) In the IRS response of November 23, 2012, you write that from January 1, 2007 to September 2012, the IRS has examined 643 § 501(c)(4) organizations to determine whether or not they were primarily engaged in social welfare activities but that the IRS "cannot definitively conclude whether we examined an organization to determine the

level of political activity” without conducting a manual review of these cases. Please respond to the following:

- a. Please conduct this manual review and provide the number of these 643 examinations which involved political activity;
 - b. Please provide the number and names of the organizations that were determined to not be valid § 501(c)(4) organizations from this review.
 - c. Please provide an explanation as to how the IRS determined whether or not the § 501(c)(4) organization was primarily engaged in political activity including any guidance, memorandum, or criteria used by the IRS to determine whether or not a § 501(c)(4) organization was primarily engaged in political activity during these examinations.
- 3) In the IRS response of November 23, 2012, you write “Section 6104(a) of the Code permits public disclosure of an application for recognition of tax exempt status and supporting materials only after the organization has been recognized as exempt.” On December 14, 2012, Propublica released the 1024 application for tax exempt status filed by Crossroads Grassroots Policy Strategies with the IRS.¹ Please respond to the following:
- a. Did the IRS release the 1024 application filed by Crossroads Grassroots Policy Strategies to Propublica or any other entity?
 - b. If the IRS released the 1024 application filed by Crossroads Grassroots Policy Strategies, why did it do so since the IRS has yet to approve Crossroads’ application?
 - c. Please also provide an update as to the status of the application for tax exempt status filed by Crossroads Grassroots Policy Strategies.
- 4) With regard to your June 4, 2012 response:
- a. When describing the § 501(c)(4) application process, you write that “... in situations where there are a number of cases involving similar issues (such as credit counseling organizations, down payment assistance organizations, organizations that were automatically revoked and are seeking retroactive reinstatement, and most recently, advocacy organizations), the IRS will assign cases to designated employees to promote consistency.” Please explain the term “advocacy organization” and provide any guidelines, memorandum, or procedures used by the IRS to evaluate § 501(c)(4) advocacy organizations including whether or not the IRS considers an “advocacy organization” to be an organization that is engaged in political activity.
 - b. Please provide the “draft educational guide sheet on the issue of political activity for section 501(c)(4) applications that was shared for comment with some employees in EO Determinations” that you reference on page 13 of the letter.

¹ See *Karl Rove's Dark Money Group Promised IRS It Would Spend Limited Money on Elections*, Propublica, (12/14/2012), <http://www.propublica.org/article/what-karl-roves-dark-money-nonprofit-told-the-irs>.

- 5) Please explain the difference between Rev. Ruling 2007-41, 2007-1 C.B. 1421, which is generally used by the IRS to determine whether issue advocacy crosses the line into campaign intervention² and Rev. Ruling 2004-6, 2004-1 C.B. 328, which generally addresses whether an expenditure for an issue advocacy expenditure is subject to the § 527(f) tax.³ Please also explain which of these is used by the IRS to determine whether a § 501(c)(4) organization is primarily engaged in political activity.
- 6) It has been reported in the press that some § 501(c)(4) organizations report to the IRS that they do not engage in political activity but then report either they do engage in political activity to the Federal Election Commission (FEC) or report widely varying amounts of political activity to the FEC and the IRS.⁴ Please respond to the following:
 - a. Does the IRS track a § 501(c)(4) organization's filings with the FEC?
 - b. What actions does the IRS take when there are differences in what a § 501(c)(4) organization reports to the IRS versus what it reports to the FEC?
 - c. How does the IRS coordinate with the FEC with regard to § 501(c)(4) organizations?

Thank you for your assistance. If you have any questions, please contact me, or have your staff contact Laura Stuber of my staff at 202/224-9579 or Laura_Stuber@hsgac.senate.gov.

Sincerely,



Carl Levin
Chairman
Permanent Subcommittee on Investigations

² *Political Ads: Issue Advocacy or Campaign Activity Under the Tax Code*, Congressional Research Service, August 29, 2012.

³ *Id.*

⁴ See *How Non Profits Spend Millions on Elections and Call it Public Welfare*, Propublica, August 18, 2012, <http://www.propublica.org/article/how-nonprofits-spend-millions-on-elections-and-call-it-public-welfare>.



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

DEPUTY COMMISSIONER

March 15, 2013

The Honorable Carl Levin
Chairman
Permanent Subcommittee on Investigations
Committee on Homeland Security
and Government Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

I am responding to your letter dated January 4, 2013, requesting additional information about § 501(c)(4) organizations. This response supplements the previous responses dated June 4, 2012, July 13, 2012, August 24, 2012, September 14, 2012, October 17, 2012, and November 23, 2012, and addresses the additional questions raised in your recent letter.

Question 1. In the IRS response of September 14, 2012, you write that “during the past six months, no notices of proposed or final revocation were issued to section 501(c)(4) organizations.” In the November 23, 2012 IRS response, you write that “we have issued 42 revocation notices to section 501(c)(4) organizations since January of 2007.” Also in the November 23, 2012, response you write “since January 1, 2007, we have issued ten adverse determinations to section 501(c)(4) applicants.” Please respond to the following:

- a. Please explain the difference between a “revocation notice” and an “adverse determination.”**

An adverse determination is a written ruling denying tax-exempt status to an organization that has applied for tax exemption, but has failed to meet the applicable requirements. A revocation notice is a written notice that tax exempt status is being revoked, as the result of an examination.¹

¹ Revocation notices also may be issued to organizations that are automatically revoked for failing to file a Form 990 series return for three consecutive years. The revocation notices noted in Question 1 above resulted from examinations.

- b. Please explain whether or not a total of 52 organizations have now been deemed by the IRS as having not met their obligations as a § 501(c)(4) social welfare organization, and if so, please describe the consequences for those organizations in terms of whether or not they were subject to tax or penalties under § 527(i) and (j) for failure to make proper disclosure, whether they were then required by the IRS to pay other taxes, including back taxes, and whether or not they did so.**

See Question 1bi below for information regarding the number of organizations that have not met the requirements for 501(c)(4) social welfare status.

As discussed in the June 4, 2012 and September 14, 2012 responses, failure to qualify under § 501(c)(4) is not determinative of whether an organization qualifies as tax-exempt under § 527. Sections 501(c)(4) and 527 both provide avenues for tax exemption under the Code, but for different types and levels of activity. To be tax-exempt under § 527, an organization must be operated primarily for the purpose of accepting contributions or making expenditures for an exempt function (i.e., influencing or attempting to influence the selection, nomination, election, or appointment of any federal, state, or local public office or office in a political organization). To be tax-exempt under § 501(c)(4) an organization must be primarily engaged in social welfare activity, but may conduct some amount of non-social welfare activity. If a § 501(c)(4) organization is determined not to be primarily engaged in social welfare by virtue of conducting high levels of non-social welfare activity, which could include political campaign intervention activity, that does not automatically mean the organization qualifies to be a § 527 political organization. To be tax-exempt under § 527, an organization must meet the requirements for that section, including taking action to be so treated by filing Form 8871, unless it meets one of the statutory exceptions. If it fails to timely file Form 8871, the organization will not be treated as a tax-exempt political organization for any period before the date the Form is filed, and its income will be subject to tax.

- i. If you have not already done so, please provide the notices or letters that the IRS sent to the groups which the IRS determined did not meet their obligations as § 501(c)(4) charitable organizations.**

Under the disclosure restrictions of §§ 6103 and 6110, we can only provide adverse determination letters and revocation notices in which taxpayer identifying and certain other information have been redacted.

Once we redact identifying information from an adverse determination letter or a revocation notice, copies of the original and redacted versions are sent to the organization, along with Notice 437, *Notice of Intention to Disclose*. Notice 437 provides the organization with an opportunity to request additional deletions or a delay in public disclosure. If the organization does not take any further action within a specified period, generally 60 days

after the mailing date of the notice, the redacted documents can then be made public. If, however, the organization disagrees with the redactions or requests a delay in publication, the process can take longer.

With regard to your request, we provided the ten redacted adverse determination letters with the November 23, 2012 response to your October 23, 2012 letter. The 42 instances of revocation notices identified in our earlier response resulted from queries to our automated systems, which have some limitations. In searching for the revocation notices, we noted some discrepancies between system-generated information and the actual revocation notices. To ensure that we provide responsive information to your request, we are manually reviewing case files for some of these matters. We will provide an update as we complete our review. We have enclosed nine revocation notices that have completed the redaction and taxpayer review process. Others are at various stages in that process and we will provide them as the process is completed.

Question 2. In the IRS response of November 23, 2012, you write that from January 1, 2007 to September 2012, the IRS has examined 643 § 501(c)(4) organizations to determine whether or not they were primarily engaged in social welfare activities but that the IRS “cannot definitively conclude whether we examined an organization to determine the level of political activity” without conducting a manual review of these cases. Please respond to the following:

- a. Please conduct this manual review and provide the number of these 643 examinations which involved political activity;**
- b. Please provide the number and names of the organizations that were determined to not be valid § 501(c)(4) organizations from this review.**

As stated in the November 23, 2012, response, our system reflects that 22 of the 643 examined § 501(c)(4) organizations had political campaign activity as one of the issues explored during examination. We derived this information from the selected Principal Issue Codes (PIC codes), which identify issues during an examination. Although there are some limitations to PIC codes, we do not believe a manual review of the files would significantly change the number of examinations in which political campaign activity was an issue considered. We would like to discuss with your staff any remaining concerns with this methodology.

Please note that the law would not allow us to provide the names of the organizations. As previously noted, § 6103 of the Internal Revenue Code prohibits the disclosure of information about specific taxpayers, including whether they are under investigation or examination, unless the disclosure is authorized by some provision of the Internal Revenue Code.²

² IRC § 6103(f) of the Code sets forth the means by which congressional committees may obtain access to return and return information (that is not otherwise made publicly available under

- c. Please provide an explanation as to how the IRS determined whether or not the § 501(c)(4) organization was primarily engaged in political activity including any guidance, memorandum, criteria used by the IRS to determine whether or not a § 501(c)(4) organization was primarily engaged in political activity during these examinations.**

To maintain tax exemption as described in § 501(c)(4), the organization must meet the statutory requirements in the Internal Revenue Code and accompanying regulations. Whether an organization maintains the statutory and regulatory requirements of § 501(c)(4) depends upon all of the facts and circumstances, and no one factor is determinative. Thus, in making a determination, we must take into account all facts and circumstances in evaluating whether legal requirements are satisfied. A variety of legal and procedural guidance is relevant in making such determination.

Legal guidance used to determine whether a § 501(c)(4) organization primarily engages in exempt activities include the following:

- IRC § 501(c)(4)
- Treas. Reg. § 1.501(a)-1³
- Treas. Reg. § 1.501(c)(4)-1; i.e., Treas. Reg. § 1.501(c)(4)-1(a)(2)(i)-(ii)⁴
- Rev. Rul. 2007-41, 2007-1 C.B. 1421

§§ 6104 and 6110). We are available to discuss these rules in more detail with your staff.

³ Treas. Reg. § 1.501(a)-1(a)(3). In general; proof of exemption. An organization claiming exemption under § 501(a) and described in any paragraph of § 501(c) (other than § 501(c)(1)) shall file the form of application prescribed by the IRS and shall include thereon such information as required by such form and the instructions issued with respect thereto. For rules relating to the obtaining of a determination of exempt status by an employees' trust described in § 401(a), see the regulations under § 401. Treas. Reg. § 1.501(a)-1(b)(2). In addition to the information specifically called for by this section, the IRS may require any additional information deemed necessary for a proper determination of whether a particular organization is exempt under § 501(a), and when deemed advisable in the interest of an efficient administration of the internal revenue laws, the IRS may in the cases of particular types of organizations prescribe the form in which the proof of exemption shall be furnished.

⁴ 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 betterments and social improvements. A social welfare organization will qualify for exemption as a charitable organization if it falls within the definition of charitable set forth in paragraph (d)(2) of Reg. § 1.501(c)(3)-1 and is not an action organization as set forth in paragraph (c)(3) of Reg. § 1.501(c)(3)-1. The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. Nor is an organization operated primarily for the promotion of social welfare if its primary activity is operating a social club for the benefit, pleasure, or recreation of its members, or is carrying on a business with the general public in a manner similar to organizations which are operated for profit.

- Rev. Rul. 2004-6, 2004-1 C.B. 328
- Rev. Rul. 81-95, 1981-1 C.B. 332⁵
- Rev. Rul. 67-368, 1967-2 C.B. 194⁶
- Rev. Rul. 60-193, 1960-1 C.B. 195⁷

A revenue agent working a case uses sound reasoning based on tax law training and his or her experience in examining an organization. Because of the facts and circumstances nature and the need for professional judgment on the part of the revenue agent doing the review, procedural guidance is necessary to minimize variances in how cases are developed. As such, the IRS utilizes procedural guidance to promote quality and consistency in similar cases, such as the following:

- Rev. Proc. 2013-9⁸
- Form 1024⁹
- IRM 4.75¹⁰
- IRM 4.76.13¹¹

⁵ Rev. Rul. 81-95 provides that "an organization may carry on lawful political activities and remain exempt under § 501(c)(4) as long as it is primarily engaged in activities that promote social welfare."

⁶ In Rev. Rul. 67-368, an organization formed for the purpose of promoting an enlightened electorate, whose primary activity was rating candidates for public office, was not exempt under § 501(c)(4) because such activity was not "the promotion of social welfare." The ruling stated that comparative rating of candidates, even though on a non-partisan basis, constitutes participation or intervention in a political campaign on behalf of candidates favorably rated and in opposition to those less favorably rated.

⁷ Rev. Rul. 60-193 concludes that an organization whose purpose was to encourage greater participation in governmental and political affairs promoted social welfare and therefore qualified for recognition of exemption under § 501(c)(4). Activities of the organization included conducting nonpartisan seminars and workshops relating to the American political system. All lecturers were required to maintain certain technical standards and were not allowed to advocate for any particular political group. Seminars and workshops were moderated by permanent staff personnel of the organization in order to prevent the program from becoming partisan in character.

⁸ Rev. Proc. 2013-9 sets forth IRS procedures for issuing, as well as for revoking and modifying, determination letters and rulings on the exempt status of organizations under § 501 of the Internal Revenue Code.

⁹ IRS application form for organizations seeking IRS recognition of exemption under § 501, including § 501(c)(4).

¹⁰ IRM 4.75 provides general examination procedures.

¹¹ IRM 4.76.13 provides examination guidelines on social welfare organizations.

Question 3. In the IRS response of November 23, 2012, you write "Section 6104(a) of the Code permits public disclosure of an application for recognition of tax exempt status and supporting materials only after the organization has been recognized as exempt." On December 14, 2012, Propublica released the 1024 application for tax exempt status filed by Crossroads Grassroots Policy Strategies with the IRS. Please respond to the following:

- a. Did the IRS release the 1024 application filed by Crossroads Grassroots Policy Strategies to Propublica or any other entity?**
- b. If the IRS released the 1024 application filed by Crossroads Grassroots Policy Strategies, why did it do so since the IRS has yet to approve Crossroads' application?**

Section 6103 of the Internal Revenue Code prohibits the disclosure of information about specific taxpayers unless the disclosure is authorized. The protection and confidentiality of tax information is one of our top priorities. When questions arise about the release of tax information, our normal procedure is to refer the matter to the Treasury Inspector General for Tax Administration. We are unable to comment further.

- c. Please also provide an update as to the status of the application for tax exempt status filed by Crossroads Grassroots Policy Strategies.**

Section 6104(a) of the Code does permit public disclosure of an application for recognition of tax-exempt status and supporting materials only after the application has been approved for the organization to be recognized as exempt. The IRS has no record of an approved application for Crossroads GPS.

Question 4. With regard to your June 4, 2012 response:

- a. When describing the § 501(c)(4) application process, you write that "...in situations where there are a number of cases involving similar issues (such as credit counseling organizations, down payment assistance organizations, organizations that were automatically revoked and are seeking retroactive reinstatement, and most recently, advocacy organizations), the IRS will assign cases to designated employees to promote consistency." Please explain the term "advocacy organization" and provide any guidelines, memorandum, or procedures used by the IRS to evaluate § 501(c)(4) advocacy organizations including whether or not the IRS considers an "advocacy organization" to be an organization that is engaged in political activity.**

As the chart below illustrates, the Code distinguishes between advocacy activities that influence legislation, those that influence candidate elections, and those that do neither. Depending on the subsection under which an organization is exempt, there are differing rules regarding the nature and amount of advocacy an organization can conduct and still retain its exemption. As used in the prior response, "advocacy organizations" was a short hand way of describing cases that raise questions whether the type and amount of advocacy an organization undertakes is consistent with the code section under which it seeks exemption.

	501(c)(3)	501(c)(4)	501(c)(5)	501(c)(6)	527
Receive tax-deductible charitable contributions	YES	NO	NO	NO	NO
Receive contributions or fees deductible as a business expense	YES	YES	YES	YES	NO
Substantially related income exempt from federal income tax	YES	YES	YES	YES	YES
Investment income exempt from federal income tax	LTD*	YES	YES	YES	NO
Engage in legislative advocacy	LTD	YES	YES	YES	LTD
Engage in candidate election advocacy	NO	LTD	LTD	LTD	YES
Engage in public advocacy not related to legislation or election of candidates	YES	YES	YES	YES	LTD

*Private foundations are subject to tax on their net investment income.

See also response to question 2(c) above for guidance and procedures used to determine whether a § 501(c)(4) organization primarily engages in exempt activities.

- b. Please provide the "draft educational guide sheet on the issue of political activity for section 501(c)(4) applications that was shared for comment with some employees in EO Determinations" that you reference on page 13 of the letter.**

We would like to provide some additional details regarding this document. The guide sheet draft referenced in this question was an initial staff draft, which was never approved nor finalized. It was distributed for comment only. We are able to discuss with your staff in more detail.

Question 5. Please explain the difference between Rev. Ruling 2007-41, 2007-1 C.B. 1421, which is generally used by the IRS to determine whether issue advocacy crosses the line into campaign intervention and Rev. Ruling 2004-6, 2004-1 C.B. 328, which generally addresses whether an expenditure for an issue advocacy expenditure is subject to the § 527(f) tax. Please also explain which of these is used by the IRS to determine whether a § 501(c)(4) organization is primarily engaged in political activity.

As you note in your question, Rev. Rul. 2004-6 and Rev. Rul. 2007-41 provide guidance under two different statutory provisions. Rev. Rul. 2004-6 provides guidance on the circumstances in which a public policy advocacy communication may constitute an exempt function within the meaning of § 527(e)(2), which would be subject to tax under § 527(f).¹² The ruling describes six factual situations involving organizations that are exempt from federal income tax under § 501(a) as organizations described in § 501(c)(4), § 501(c)(5) or § 501(c)(6). Each of the situations assumes that the organization would continue to be exempt under § 501(a), even if the described activity is not a § 501(c) exempt activity. The ruling provides nonexclusive lists of factors that tend to show that an advocacy communication on a public policy issue is (or is not) for an exempt function under § 527(e)(2), but also states that all facts and circumstances must be considered.

Rev. Rul. 2007-41 provides guidance on when an organization exempt from federal income tax under § 501(a) as an organization described in § 501(c)(3) has participated or intervened in a political campaign on behalf of (or in opposition to) any candidate for public office in violation of § 501(c)(3).¹³ The ruling describes 21 factual situations. In each factual situation, all the facts and circumstances are considered in determining whether the organization's activities result in political campaign intervention for purposes of § 501(c)(3).

Neither Rev. Rul. 2004-6 nor Rev. Rul. 2007-41 specifically addresses whether a § 501(c)(4) organization is engaged in political campaign activity within the meaning of Treas. Reg. § 1.501(c)(4)-1(a)(2)(ii).¹⁴ Nevertheless, consistent with both of these revenue rulings, the Service analyzes all the facts and circumstances to determine whether a § 501(c)(4) organization participated or intervened in a political campaign.

Question 6. It has been reported in the press that some § 501(c)(4) organizations report to the IRS that they do not engage in political activity but then report either they do engage in political activity to the Federal Election Commission (FEC) or report widely varying amounts of political activity to the FEC and the IRS. Please respond to the following:

¹² Section 527(e)(2) provides: "The term "exempt function" means the function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors, whether or not such individual or electors are selected, nominated, elected, or appointed. Such term includes the making of expenditures relating to an office described in the preceding sentence which, if incurred by the individual, would be allowable as a deduction under section 162(a)."

¹³ To qualify under § 501(c)(3) an organization must "not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office."

¹⁴ Treas. Reg. § 1.501(c)(4)-1(a)(2)(ii) provides: "The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office."

- a. Does the IRS track a § 501(c)(4) organization's filings with the FEC?**
- b. What actions does the IRS take when there are differences in what a § 501(c)(4) organization reports to the IRS versus what it reports to the FEC?**
- c. How does the IRS coordinate with the FEC with regard to § 501(c)(4) organizations?**

We use all publicly-available information, including FEC filings, when considering an application or conducting an examination. However, we do not have a system that formally tracks FEC filings of § 501(c)(4) organizations. We also do not formally coordinate with the FEC on matters related to § 501(c)(4) organizations as § 6103 of the Internal Revenue Code prohibits the disclosure of information about specific taxpayers unless the disclosure is authorized by some provision of the Internal Revenue Code. Therefore, exchange of confidential taxpayer information with the FEC generally is barred.

Further, differences in reporting requirements such as the following make coordination between the agencies difficult. These include, for example, differences in who is responsible for filing the reports, what constitutes reportable political campaign activity, and the timing of reports.

The party responsible for filing with the FEC depends upon the nature of the political campaign expenditure. So, for example, if a § 501(c)(4) organization makes any contributions, including in-kind contributions and coordinated expenditures, to an FEC political organization (campaign committee, party committee or PAC), it is our understanding that the § 501(c)(4) organization is not required to file anything with the FEC. Instead, it is our understanding that the recipient political organization is required to include the contribution on its report to the FEC. On the other hand, if a § 501(c)(4) organization makes independent expenditures or electioneering communications, it is required to file a report with the FEC.

The definition of what constitutes reportable political campaign expenditures under the two filing regimes also differs. Although most political campaign expenditures required to be reported to the FEC may constitute political campaign intervention under the Internal Revenue Code, some might not.

In addition, we are not limited by the express advocacy standard or FEC case law in determining whether an activity is political campaign intervention for § 501(c)(4) purposes. The regulations under § 501(c)(4) provide that directly or indirectly participating or intervening in a political campaign on behalf of or in opposition to a candidate for public office is not in furtherance of § 501(c)(4) exempt purposes. This determination is based upon all of the facts and circumstances.

Another factor that can lead to differences in reporting is timing of the reports. Organizations report to the FEC based upon the election cycle; while organizations report to the IRS based upon their fiscal tax year, which differs among organizations. Forms 990

filed with the IRS are due 5 months and 15 days after the end of the organization's fiscal tax year. So, for example, an organization with a June fiscal tax year might make independent expenditures in October that are reported to the FEC prior to the November election. However, because the Form 990 is not due until the 15th day of the fifth month after the end of the fiscal tax year, those same expenses would be reported on the Form 990 that is due on November 15th of the following year (and, because of extensions, may not actually be filed for another six months after that).

All of these factors can contribute to perceived inconsistencies between FEC and IRS records of political campaign activity by § 501(c)(4) organizations.

I hope this information is helpful. If you have questions, please contact me or have your staff contact Catherine Barré, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,



Steven T. Miller
Deputy Commissioner for
Services and Enforcement

Enclosures (9)



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
Internal Revenue Service
TE/GE: EO Examinations
1100 Commerce Street
Dallas, TX 75242

Release Number: 200720026
Release Date: 5/18/07
Date: 2/22/07
UIL Code: 501.04-01

ORG

Taxpayer Identification Number:

Form:
990

Tax Year(s) Ended:
12/31/xxxx

Person to Contact/ID Number:

Contact Numbers:
Telephone:
Fax:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear

We have enclosed a copy of our report of examination explaining why we believe an adjustment of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process*, explains how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

Letter 3610 (04-2002)
Catalog Number 34801V

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action*. We will then send you a final letter modifying or revoking exempt status. If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final. In that event, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate 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. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

3

Thank you for your cooperation.

Sincerely,

Marsha A. Ramirez
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination
Envelope

Letter 3610 (04-2002)
Catalog Number 34801V

PSI-IRS-08-000013

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended
ORG		

Legend:

ORG = Name of Organization

Security Firm – Name of Security Firm

Related Firm = Name of the Related For Profit

City, State = Location of ORG

ISSUE

Does the ORG qualify for tax exempt status under IRC section 501(c)(4)?

FACTS

ORG was created by the Related Firm (Related Firm) in Related Firm began to develop a acre parcel of beach front property as a first rate, mixed-use vacation resort. The resort area was to consist primarily of a large hotel, several distinct groupings of condominiums (condos) and the infrastructure and related facilities necessary to support the resort. Related Firm decided to create extensive common areas that were carefully landscaped to attract buyers to for these condos.

As the condominiums were built, Related Firm created individual condo associations for each distinctive grouping of condos. Related Firm referred to these associations as regimes. These traditional style condo associations were charged with the responsibility for maintaining the exterior of their structures and the care of the common areas closely associated with their condo territory.

To provide coordination between the individual associations and control the maintenance of the roads, streets, trails, lakes, and other landscaped areas, it was necessary for Related Firm to create the ORG to act as overseer to these areas and the individual associations.

ORG is funded with fees from the condo owners. The individual condo associations collect the fees and pass them along to ORG. ORG expends over 70% of the funds that they receive for the maintenance and care and landscaping of the common areas in the ORG area.

Related Firm has retained control of the entire ORG project from it's inception by installing favorable voting rights provisions into the organizational bylaws. The bylaws state that Related Firm receives two votes for every vote received by the other board members. The board consists of one representative from each condo association and a representative appointed by Related Firm.

In the Declaration of Covenants, dated June xx, 198X, Related Firm clearly states that the covenant covers the acre parcel now owned and any and all land that may be acquired by Related Firm and included in the ORG project. Article I, section 1.1.7 of

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended

the covenant states that common areas are for the "common use and enjoyment of the owners and occupants of the development."

FACTS, continued

ORG incorporated on November 2, 199X in City, State. The purpose of the organization is to provide an entity for the operation of and administration of the mixed use, multi-phased, multi-regime residential and commercial community known as ORG

ORG applied for exemption under IRC section 501(c)(4) and were denied by IRS Determinations in early, 20xx. The application was rejected based on the lack of public access. ORG appealed the adverse determination and submitted evidence that the ORG area was in fact open to the public. IRS Appeals found in favor of ORG and granted tax exempt status.

Information contained on Form 1024:

Proposed Activities:

1. Maintain the general common areas of the residential community,
2. Make payment of common area utilities, insurance, street and lighting maintenance, landscaping and maintenance and repair of all association owned common property,
3. Publish a regular newsletter,
4. Conduct social, recreational and educational events in the community,
5. Provide a manned entry gate for traffic control, directions and assistance to both members as well as the public,
6. Within the association there is a hotel, restaurant, pools, lounge, shops and real estate office open to the general public.

The common areas may include but are not limited to maintenance areas, roads, streets, parking lots, parks, open areas, recreational amenities and walkways. The association does not maintain common areas or landscape for the shops, hotel, restaurant, lounge or pools. These areas are open to the general public.

Membership is mandatory. Each owner of every unit is a mandatory member. Membership begins with the purchase of a unit and ceases upon sale. There are no voluntary members and no membership certificate is issued.

Financial support consists of members' assessments, cable TV fees, and interest earned on reserve replacement funds.

ORG hires Security Firm, Inc. to provide security personnel and guards for the entrance into the ORG , area. In section 4.0 of the security handbook, in

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer		Year/Period Ended
ORG		

reference to access control, the guards at the entrance have the authority to deny entry to anyone at any time.

Financial disbursements include repair and maintenance to the common/gated areas.

LAW

Treasury Regulation 1.501(c)(4)-1(a)(2)(i) states; 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 community.

Treasury Regulation 1.501(c)(4)-1(a)(2)(ii) provides that social and recreational activities are not social welfare activities. However, if a substantial part of an organization's activities consists of social functions for the benefit, pleasure, and recreation of its members, it may qualify for exemption under IRC 501(c)(4) if it is primarily engaged in social welfare activities.

Treasury Regulation 1.528-1: With regard to Homeowner's Associations

(a) *In general.* —Section 528 only applies to taxable years of homeowners associations beginning after December 31, 1973. To qualify as a homeowners association an organization must either be a condominium management association or a residential real estate management association. For the purposes of section 528 and the regulations under that section, the term "homeowners association" shall refer only to an organization described in section 528. Cooperative housing corporations and organizations based on a similar form of ownership are not eligible to be taxed as homeowners associations. As a general rule, membership in either a condominium management association or a residential real estate management association is confined to the developers and the owners of the units, residences, or lots. Furthermore, membership in either type of association is normally required as a condition of such ownership. However, if the membership of an organization consists of other homeowners associations, the owners of units, residences, or lots who are members of such other homeowners associations will be treated as the members of the organization for the purposes of the regulations under section 528.

(b) *Condominium.* —The term "condominium" means an interest in real property consisting of an undivided interest in common in a portion of a parcel of real property (which may be a fee simple estate or an estate for years, such as a leasehold or subleasehold) together with a separate interest in space in a building located on such

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
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ORG		

property. An interest in property is not a condominium unless the undivided interests in the common elements are vested in the unit holders. In addition, a condominium

LAW, continued

must meet the requirements of applicable state or local law relating to condominiums or horizontal property regimes.

(c) *Residential real estate management association.* —Residential real estate management associations are normally composed of owners of single-family residential units located in a subdivision, development, or similar area. However, they may also include as members owners of multiple-family dwelling units located in such area. They are commonly formed to administer and enforce covenants relating to the architecture and appearance of the real estate development as well as to perform certain maintenance duties relating to common areas.

(d) *Tenants.* —Tenants will not be considered members for purposes of meeting the source of income test under section 528(c)(1)(B) and §1.528-5. However, the fact that tenants of members of a homeowners association are permitted to be members of the association will not disqualify an association under section 528(c)(1) if it otherwise meets the requirements of section 528(c) and these regulations. [Reg. §1.528-1.]

Internal Revenue Code section 501(c)(4)(A) describes Civic Leagues as follows: Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

Internal Revenue Code section 501(c)(4)(B) states that; Subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

Internal Revenue Code section 528. Certain Homeowner’s Associations

528(a) GENERAL RULE. —A homeowners association (as defined in subsection (c)) shall be subject to taxation under this subtitle only to the extent provided in this section. A homeowners association shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

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Name of Taxpayer ORG		Year/Period Ended

528(b) TAX IMPOSED. —A tax is hereby imposed for each taxable year on the homeowners association taxable income of every homeowners association. Such tax

LAW, continued

shall be equal to 30 percent of the homeowners association taxable income (32 percent of such income in the case of a timeshare association).

528(c) HOMEOWNERS ASSOCIATION DEFINED. —For purposes of this section —

528(c)(1) HOMEOWNERS ASSOCIATION. —The term “homeowners association” means an organization which is a condominium management association, a residential real estate management association, or a timeshare association if —

528(c)(1)(A) such organization is organized and operated to provide for the acquisition, construction, management, maintenance, and care of association property,

528(c)(1)(B) 60 percent or more of the gross income of such organization for the taxable year consists solely of amounts received as membership dues, fees, or assessments from —

528(c)(1)(B)(i) owners of residential units in the case of a condominium management association,

528(c)(1)(B)(ii) owners of residences or residential lots in the case of a residential real estate management association, or

528(c)(1)(B)(iii) owners of timeshare rights to use, or timeshare ownership interests in, association property in the case of a timeshare association,

528(c)(1)(C) 90 percent or more of the expenditures of the organization for the taxable year are expenditures for the acquisition, construction, management, maintenance, and care of association property and, in the case of a timeshare association, for activities provided to or on behalf of members of the association,

528(c)(1)(D) no part of the net earnings of such organization inures (other than by acquiring, constructing, or providing management, maintenance, and care of association property, and other than by a rebate of excess membership dues, fees, or assessments) to the benefit of any private shareholder or individual, and

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528(c)(1)(E) such organization elects (at such time and in such manner as the Secretary by regulations prescribes) to have this section apply for the taxable year.

LAW, continued

528(c)(2) CONDOMINIUM MANAGEMENT ASSOCIATION. —The term “condominium management association” means any organization meeting the requirement of subparagraph (A) of paragraph (1) with respect to a condominium project substantially all of the units of which are used by individuals for residences.

528(c)(3) RESIDENTIAL REAL ESTATE MANAGEMENT ASSOCIATION. —The term “residential real estate management association” means any organization meeting the requirements of subparagraph (A) of paragraph (1) with respect to a subdivision, development, or similar area substantially all the lots or buildings of which may only be used by individuals for residences.

528(c)(4) TIMESHARE ASSOCIATION. —The term “timeshare association” means any organization (other than a condominium management association) meeting the requirement of subparagraph (A) of paragraph (1) if any member thereof holds a timeshare right to use, or a timeshare ownership interest in, real property constituting association property.

528(c)(5) ASSOCIATION PROPERTY. —The term “association property” means —

528(c)(5)(A) property held by the organization,

528(c)(5)(B) property commonly held by the members of the organization,

528(c)(5)(C) property within the organization privately held by the members of the organization, and

528(c)(5)(D) property owned by a governmental unit and used for the benefit of residents of such unit.

In the case of a timeshare association, such term includes property in which the timeshare association, or members of the association, have rights arising out of recorded easements, covenants, or other recorded instruments to use property related to the timeshare project.

528(d) HOMEOWNERS ASSOCIATION TAXABLE INCOME DEFINED. —

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Name of Taxpayer ORG		Year/Period Ended

528(d)(1) TAXABLE INCOME DEFINED. —For purposes of this section, the homeowners association taxable income of any organization for any taxable year is an amount equal to the excess (if any) of ;

LAW, continued

528(d)(1)(A) the gross income for the taxable year (excluding any exempt function income), over

528(d)(1)(B) the deductions allowed by this chapter which are directly connected with the production of the gross income (excluding exempt function income), computed with the modifications provided in paragraph (2).

528(d)(2) MODIFICATIONS. —For purposes of this subsection —

528(d)(2)(A) there shall be allowed a specific deduction of \$100,

528(d)(2)(B) no net operating loss deduction shall be allowed under section 172, and

528(d)(2)(C) no deduction shall be allowed under part VIII of subchapter B (relating to special deductions for corporations).

528(d)(3) EXEMPT FUNCTION INCOME. —For purposes of this subsection, the term “exempt function income” means any amount received as membership dues, fees, or assessments from —

528(d)(3)(A) owners of condominium housing units in the case of a condominium management association,

528(d)(3)(B) owners of real property in the case of a residential real estate management association, or

528(d)(3)(C) owners of timeshare rights to use, or timeshare ownership interests in, real property in the case of a timeshare association.

Commissioner v. Lake Forest, Inc., 305 F. 2d 814 (4th Cir. 1962), the court held that a cooperative housing corporation was not exempt as a social welfare organization under section 501(c)(4) of the Code since its activities were of the nature of an economic and private cooperative undertaking.

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Revenue Ruling 69-280 states that an organization that provides specified services for the member homeowners, such as exterior maintenance on walls and roofs, was not exempt under section 501(c)(4) of the code. The organization described in the ruling was performing services that its members would otherwise have to provide for

LAW, continued

themselves. It is a private cooperative enterprise for the economic benefit or convenience of the members.

In *Commissioner v. Lake Forest, Inc.*, 305 F. 2d 814 (1962), it was held that a corporation that provided housing on a cooperative basis lacked the necessary requirements of an organization described in section 501(c)(4) of the Code. The court held the operation to be a private self-help enterprise with only an incidental benefit to the community as a whole.

Similarly, in this case it was held that the organization is operated primarily for the private benefit of members and any benefits to the community were not sufficient to meet the requirement of the regulation that the organization be operated primarily for the common good and general welfare of the people of the community.

Revenue Ruling 72-102 holds that certain nonprofit organizations of a type usually called homeowners' associations, which are formed to administer and enforce covenants for preserving the architecture and appearance of a housing development and to maintain streets, sidewalks, and other non-residential, non-commercial properties in the development of the type normally owned and maintained by a municipal government, may qualify for exemption under section 501(c)(4) of the Code.

Revenue Ruling 74-99 modified Revenue Ruling 72-102, to make clear that a homeowners' association of the kind described in Revenue Ruling 72-102 must, in addition to otherwise qualifying for exemption under section 501(c)(4) of the Code, satisfy the following requirements: (1) It must engage in activities that confer benefit on a community comprising a geographical unit which bears a reasonably recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district thereof; (2) It must not conduct activities directed to the exterior maintenance of private residences; and (3) It owns and maintains only common areas or facilities such as roadways and parklands, sidewalks and street lights, access to, or the use and enjoyment of which is extended to members of the general public and is not restricted to members of the homeowners' association.

Revenue Ruling 74-17 holds that an organization formed by the unit owners of a condominium housing project to provide for the management, maintenance, and care of the common areas of the project, as defined by State statute, with membership

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assessments paid by the unit owners does not qualify for exemption under section 501(c)(4) of the Code.

By virtue of the essential nature and structure of a condominium system of ownership, the rights, duties, privileges, and immunities of the members of an association of unit
LAW, continued

owners in a condominium property derive from, and are established by, statutory and contractual provisions and are inextricably and compulsorily tied to the owner's acquisition and enjoyment of his property in the condominium. In addition, condominium ownership necessarily involves ownership in common by all condominium unit owners of a great many so-called common areas, the maintenance and care of which necessarily constitutes the provision of private benefits for the unit owners.

Since the organization's activities are for the private benefit of its members, it cannot be said to be operated exclusively for the promotion of social welfare. Accordingly, it does not qualify for exemption from Federal income tax under section 501(c)(4) of the Code.

GOVERNMENT'S POSITION

ORG was created by Related Firm in . As more condominiums were built in the ORG controlled area, Related Firm created separate condominium associations for each specific grouping. Each association or "regime" as Related Firm called them was responsible for maintaining their own common areas. As more condominiums were built, it became necessary for Related Firm to create the Master Association to oversee the subordinate regimes and the maintenance of all common areas.

As a condominium association, or a master condominium association, the organization should never have received tax exempt status under any code section. In Commissioner v. Lake forest, Inc., the court set a clear precedent that organizations that operated on a cooperative basis lacked the necessary requirements of an organization described in section 501(c)(4) of the Code. The court held the operation to be a private self-help enterprise with only an incidental benefit to the community as a whole.

Revenue Ruling 74-17 reiterates the points derived from Lake Forest and specifically states that condominium associations formed by the unit owners of a condominium housing project to provide for the management, maintenance, and care of the common areas of the project, as defined by State statute, with membership assessments paid by the unit owners does not qualify for exemption under section 501(c)(4) of the Code.

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Revenue Ruling 74-17 further states that condominium ownership necessarily involves ownership in common by all condominium unit owners of a great many so-called common areas, the maintenance and care of which necessarily constitutes the provision of private benefits for the unit owners.

Based on the Declaration of Covenants and organization by-laws which are in effect, Related Firm _____ has maintained control of the entire _____ acre ORG project since it's inception in _____ Related Firm Development controls the operation and activities of the ORG project by holding over _____ % of the voting rights. These favorable voting rights allow Related Firm Development to assert a large measure of control on the subordinate associations.

As the ORG project has progressed over time, Related Firm _____ has enjoyed a private benefit from having control over the master association and subsequently, the subordinate associations. This private benefit came in the form of serving Related Firm _____ commercial interests by having well-maintained roads, trails and immaculately landscaped areas which had to increase the ability of Related Firm _____ to sell these condominiums.

IRC section 501(c)(4) specifically states that tax exempt status shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

ORG _____ is not open to the general public, but is rather a closed, gated community where limited access to non-condominium owners may or may not be granted. As evidenced during the tour of the facilities and confirmed by reviewing the security manual used by the guards at the entrance gate, access is controlled by the organization and the guards have written policies on who to let in and the discretion on who to keep out.

The organization is clearly not operating within the spirit of a social welfare organization because they are not engaged in promoting in some way the common good and general welfare of the community.

TAXPAYER'S POSITION

The organization has signed the Form 6018-A agreeing to revocation of their tax exempt status. The organization has elected to file Forms 1120-H as required under code section 528 for the 200 _____, 200 _____ and 200 _____ tax years. The organization has provided these returns and the required payment checks to this office for filing.

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CONCLUSION

The ORG does not qualify for exemption under section 501(c)(4) of the code. The main reason for disallowing tax exempt status is that per Revenue Ruling 74-17, condominium associations do not qualify for exempt status under IRC section 501(c)(4).

Secondary reasons for disallowing the continuance of tax exempt status is that there are two private benefit issues that would preclude exemption under IRC section 501(c)(4).

First, the organization is a condominium association where the maintenance of common areas provides a private benefit to the individual condominium owners. As in *Commissioner v. Lake Forest, Inc.*, this organization provides housing on a cooperative basis which the court held to be the operation of a private self-help enterprise with only an incidental benefit to the community as a whole. As such, the organization cannot qualify for exemption under code section 501(c)(4) because they are operated for the private benefit of the condominium owners and not for the common good and general welfare of the community or general public.

Second, the organization and entire ORG remains under the control of Related Firm. This control in and of itself precludes exemption based on the obvious private and commercial benefit received by Related Firm. Any ancillary benefits received by the community as a whole pale compared to the benefits enjoyed by Related Firm.

The developer of the ORG area has retained voting control over the Master Association's Board of Directors, and as an extension the subordinate individual associations. As the developer has never relinquished control of the common areas, the maintenance of said common areas connotes a private benefit to the developer in relation to having immaculate facilities and grounds to assist in the sale of condominiums still being built. Based on the private benefit bestowed upon the developer, the organization cannot qualify for exemption because they are operated for the private benefit of the developer as well as the condominium owners and not for the common good and general welfare of the community or general public.

A third issue that would preclude exemption is the lack of public access to ORG. The organization restricts access to the ORG by allowing their

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gate guards to deny access to anyone they feel doesn't belong here. Such a policy is in stark contrast to the provisions in code section 501(c)(4). As there is no true open public access, the organization cannot qualify for exemption under code section 501(c)(4) because they are operated for the private benefit of the condominium owners and not for the common good and general welfare of the community or general public.



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

1100 Commerce
Dallas, Texas 75242

UIL: 501.04-01

ORG = Name of Organization

Dear Sir or Madam:

This is a Final Adverse Determination as to your exempt status under section 501(c) (4) of the Internal Revenue Code.

Our adverse determination was made for the following reasons: Organization's activities were operated on a cooperative basis and lacked the necessary requirements of an organization described for a community organization and were more like an operation for a private self-help enterprise.

The ORG fails to meet the requirement for exemption under IRC 501(c) (4) and 528. Section 1.501(c)(4)-1 of the Income Tax Regulations which states 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 community.

As a result of a recent audit of your organization's activities and Form 990 for the period ended December 31, 20xx, the operation is organized and operating solely as a condominium association which do not qualify for exempt status under IRC section 501(c)(4).

Based on the above, we are revoking your organization's exemption from Federal income tax under section 501(c) (4) of the Internal Revenue Code effective January 1, 20xx.

You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for all years beginning after December 31, 20xy. You have executed the Form 6018 agreeing to this revocation.

You are required to file Form 1120, U.S. Corporation Income Tax Return. Form 1120 must be filed by the 15th day of the third month after the end of your annual accounting period. A penalty of \$20 a day is charged when a return is filed late, unless there is reasonable cause for the delay. However, the maximum penalty charged cannot exceed \$10,000 or 5 percent of your gross receipts for the year, whichever is less. This penalty may also be charged if a return is not complete, so please be sure your return is complete before you file it.

You have the right to contact the office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers. You can call 1-877-777-4778 and ask for Taxpayer Advocate assistance. Or you can contact the Taxpayer Advocate from the site where the tax deficiency was determined by calling, or writing to:

Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations, nor extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

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

Sincerely,

Marsha A. Ramirez
Director, EO Examinations



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Release Number: 200720030
Release Date: 5/18/07
Date: 2/3/07
UIL Code: 501.04-01
ORG

Taxpayer Identification number:

Form(s):

Tax Year(s) Ended:

Person to Contact/ ID Number:

Contact Numbers:

Telephone:

Fax

Certified Mail – Return Receipt Requested

Dear :

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(4) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment 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 its administrative remedies within the Internal Revenue Service."

We will then issue a final revocation letter.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate 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. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

Taxpayer Advocate

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Marsha Ramirez
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination

Form 886-A (Rev. January 1994)	REPORT OF EXAMINATION		Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended	

Issue Name: Tax Exempt Status

Per Return: 990

Per Exam:

Issue:

Whether _____ qualifies for exemption under Section 501(c)(4) of the Internal Revenue Code

Facts:

Exhibit A provides copies of the Internal Revenue Service correspondence requesting information from _____ to perform examination, and requesting the organization to file the required return, on tax periods ending _____. _____ failed to respond to the Internal Revenue Service attempts to obtain information to perform an examination, and failed to file Forms 990 for the tax periods ending _____.

Law:

Section 1.61-1 of the regulations provides that gross income means all income from whatever source derived, unless excluded by law. Gross income includes income realized in any form, whether in money, property, or services. Income may be realized, therefore, in the form of services, meals, accommodations, stock, or other property, as well as cash.

Section 511 of the Internal Revenue Code imposes a tax at corporate rates under section 11 on the unrelated business taxable income of certain tax-exempt organizations, including those described in section 501(c)(3).

Section 6001 of the Code provides that every person liable for any tax imposed by the Code, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

Section 1.6001-1(e) of the regulations states that the books or records required by this section shall be kept at all time available for inspection by authorized internal revenue officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.

Section 6033(a)(1) of the Code provides, except as provided in section 6033(a)(2), every organization exempt from tax under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Section 1.6033-1(h)(2) of the regulations provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of

Form 886-A (Rev. January 1994)	REPORT OF EXAMINATION		Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended	

enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and section 6033.

Section 501(c) (4) of the Code provides that a civic organization not organized for profit but operated exclusively for the promotion of social welfare is exempt from Federal income tax.

Rev. Rul. 59-95, 1959-1 C.B. 627, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of section 6033 of the Code and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

In accordance with the above-cited provisions of the Code and regulations under sections 6001 and 6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax.

Conclusion:

It is the IRS's position that the organization failed to meet the reporting requirements under sections 6001 and 6033 to be recognized as exempt from federal income tax under 501(c)() of the Internal Revenue Code. Accordingly, the organization's exempt status is revoked effective

Form 1120 returns should be filed for the tax periods after

In accordance with IRM 4.75.22.12(9)(e), the effective date of the revocation will be the first day after the end of the 90-day period



DEPARTMENT OF THE TREASURY
Internal Revenue Service
TE/GE EO Examination
1100 Commerce Street
Dallas, Texas 75242

July 30, 2007

Number: 200809035
Release Date: 2/29/2008

ORG UIL:501.04-01
Address

Taxpayer Identification Number:

Form:
990

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:
Telephone:
Fax:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear :

We have enclosed a copy of our report of examination explaining why we believe an adjustment of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process*, explains how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

Letter 3610 (04-2002)
Catalog Number 34801 V

PSI-IRS-08-000032

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action*. We will then send you a final letter modifying or revoking exempt status. If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final. In that event, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate 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. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

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Thank you for your cooperation.

Sincerely,

Marsha A. Ramirez
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination
Envelope

Letter 3610 (04-2002)
Catalog Number 34801V

PSI-IRS-08-000034

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended
ORG		12/31/20XX

Legend

ORG = Organization name XX = Date XYZ = State City = city
 CO-1 = Company CO-2 = 2nd company

ISSUES

Does ORG continue to qualify for tax exempt status under Internal Revenue Code section 501(c)(4)?

FACTS

The ORG (ORG) was incorporated May 21, 19XX in the State of XYZ. The ORG is not gated, nor does it enforce any covenant for preserving the architecture and appearance of a particular area.

The Articles of Incorporation shows the purposes for which the ORG was organized as:

- To promote and develop the common good and welfare of the residents within the community, such community being defined as that certain area of the City of City, known as the CO-1,
- To promote and develop good fellowship, neighborliness, and civic responsibility among the members of the corporation including, but not limited to, discussion and collective pursuit of problems of civic interest.

The By-laws identify the purposes of this ORG to be to preserve, protect, and advance the interests of the neighborhood in which its members reside, to disseminate information of interest to those residents, and to promote fellowship among its members.

The By-laws recognize the streets and blocks which make up the member residences which adult residents reside on. Membership is voluntary for all residents in the area covered by the ORG. The ORG provides its members with an annual directory, monthly newsletters, participation in neighborhood events and activities. The ORG has formed a Operations committee to act as liaison, arrange maintenance and periodic inspection of the area behind member's homes.

For the tax year ended December 31, 20XX, the ORG provided members with monthly informative newsletters and an annual telephone directory. The monthly newsletter provides members with property care tips, crime watch report, advertisements geared toward homeowners and the ORG agenda. The monthly newsletter is also used to keep members aware of the ORG events and activities, which promote fellowship and encourage non-member resident owners to join. The ORG holds a Spring and Fall General Membership meeting, Boot Scootin' Progressive Party, Easter Egg Hunt, the 4th of July Parade, Tree Lighting with Santa Claus, and annual Halloween Party. The ORG requires foods and candy as fee for admittance to the events held,

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended
ORG		12/31/20XX

Legend

ORG = Organization name XX = Date XYZ = State City = city
 CO-1 = Company CO-2 = 2nd company

while other activities may require members to pay for events held off-site. The conducting these activities and member benefits make up about % of the organization total expenses.

The ORG also offers crime watch patrol open to the ORG members. The ORG has an agreement with a neighboring homeowner ORG to provide the crime watch patrol. The ORG employs off-duty police officers in City Police cars to patrol in the designated Crime Watch area. The patrol officers' schedule varies, with special emphasis on known peak crime hours. The operation of the crime watch program makes up about % of the ORG expenses. In 19XX the ORG formed the CO-2 to address growing crime in the area. As a result the ORG started Crime watch patrol. The ORG had about 405 participants on the program. The ORG charged \$ per month in dues for the service. Benefits limited to paying participants include:

- Voice mail system – each member has an access code,
- Extra attention to their home while on a trip (such as checking windows and doors for anything unusual, and removing flyers and hiding newspapers and mail,
- Direct access to patrolling officers and off-duty voice mail message via dedicated cell phone,
- Member alert to recent crime in the area,
- Crimes watch member signage for home exterior.

Officers are available approximately 100 hours a week to address other problems and concerns such as:

- Medical emergency assistance
- Investigation of suspicious persons
- Investigation of unknown parked vehicles
- "Open garage door" alerts
- Overseeing personal safety for late-night home arrival
- Stopping vandalism in progress.

LAW

Section 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 and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

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

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended
ORG		12/31/20XX

Legend

ORG = Organization name XX = Date XYZ = State City = city
 CO-1 = Company CO-2 = 2nd company

embraced within this section is one which is operated primarily for the purpose of bringing about civic betterment and social improvements.

Revenue Ruling 77-273, 1977-2 CB 194, A nonprofit organization that provides security services for residents and property owners of a particular community, who agree to voluntarily donate money at a specified hourly rate to defray the cost of the services, is carrying on a business with the general public in a manner similar to organizations operated for profit and does not qualify for exemption under section 501(c)(4) of the Code.

Revenue Ruling 69-280, 1969-1 C.B. 152 concluded that an organization that provides maintenance of exterior walls and roofs of members' homes in a housing development does not qualify for tax-exempt status under IRC section 501(c)(4). The organization was operating primarily for the benefit of individual members rather than the community as a whole.

In *Commissioner v. Lake Forest, Inc.*, 305 F. 2d 814(1962), it was held that the organization, a housing cooperative for World War II veterans and others, did not meet the requirements for tax-exempt status under IRC section 501(c)(4). The court found that the organization was not operating exclusively for "social welfare" purposes, but as a private economic enterprise. The court also determined that the organization was organized and operated for the benefit or convenience of its members by performing services that its members would otherwise have to provide for themselves.

Section 528(c)(1) defines the term "homeowners ORG" to mean an organization, which is a residential real estate management ORG organized and operated to provide for the acquisition, construction, management, maintenance, and care of ORG property. The homeowners ORG must receive at least 60 percent of its gross income from amounts received as membership dues, fees, or assessments, and at least 90 percent of its expenditures must be from the acquisition, construction, management, maintenance, and care of the ORG property on behalf of members of the ORG.

The taxable income of a homeowners ORG for any taxable year is an amount equal to the excess (if any) of the gross income for the taxable year (excluding any exempt function income), over the deductions allowed directly connected with the production of the gross income (excluding exempt function income).

Under section 528, the term "exempt function income" is any amount received as membership dues, fees, or assessments from owners of real property in the case of a residential real estate management ORG. There shall be allowed a specific deduction of \$100. No net operating loss is deductible.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended
ORG		12/31/20XX

Legend

ORG = Organization name XX = Date XYZ = State City = city
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Section 1.528-1 of the Regulations states to qualify as a homeowners association an organization must either be a condominium management association or a residential real estate management association. As a general rule, membership in either a condominium management association or a residential real estate management association is confined to the developers and the owners of the units, residences, or lots. Furthermore, membership in either type of association is normally required as a condition of such ownership. However, if the membership of an organization consists of other homeowners associations, the owners of units, residences, or lots who are members of such other homeowners associations will be treated as the members of the organization for the purposes of the regulations under section 528.

GOVERNMENT'S POSITION

An organization that limits its service to certain property owners, operated to serve the individual interest of its members rather than the community as a whole by providing social activities, security patrol and disseminating information useful to its members, is not a social welfare organization exempt under section 501(c)(4). A social welfare organization must be operated for the benefit of the general public by providing a community benefit to qualify for exemption under section 501(c)(4). Generally, social welfare organization, which operates as an exempt homeowners association, owns and maintains certain common areas open to the public. The Treasury Regulations extend tax-exempt status to those exempt homeowners' associations that are primarily engaged in promoting 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 and social improvements.

ORG has not shown its activities primarily serve the community rather than the private interest of its members. The security patrol services the ORG provides to property owners on a regular basis is similar to organizations operated for profit. The fact that security patrol services are provided does not satisfy the requirements of the regulations that an organization be primarily engaged in promoting the common good and general welfare the community.

ORG is similar to the organizations in Revenue Rulings 69-280 and 77-273, because the ORG activities and services are for the benefit of its members. Most of the ORG member dues are used for patrol services for private residents. An organization of this type described in the rulings is essentially a mutual, self-interest type of organization. ORG's income is used to provide direct economic benefits to its members and any benefit to the larger community is minor and incidental. As in *Commissioner v. Lake Forest, Inc.*, ORG's benefits are neither intended for the public at large, rather for the private interest of property owners paying for a particular service.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended
ORG		12/31/20XX

Legend

ORG = Organization name XX = Date XYZ = State City = city
 CO-1 = Company CO-2 = 2nd company

ORG is similar to organizations describe under section 528 of the Code. The activities and support are of those of a traditional homeowners' ORG as described in section 528.

TAXPAYER'S POSITION

Unknown

CONCLUSION

Since the benefits provided by the ORG are limited to its members, you are not operated exclusively for the promotion of social welfare within the meaning of section 501(c)(4) of the Code.

As a result of our examination of your Form 990 for the period ended December 31, 20XX, we have determined that your organization no longer qualifies as an exempt homeowners ORG described in IRC section 501(c)(4). We are proposing that the Corporation's exempt status be revoked as of January 1, 20XX. Form 1120-H, *U.S. Income Tax Return for Homeowners ORG*, should be filed for the fiscal years ended December 31, 20XX, 20XX and all future years.



**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

DEPARTMENT OF THE TREASURY

Internal Revenue Service
Attn: Mandatory Review, MC 4920 DAL
1100 Commerce Street
Dallas, TX 75424

January 28, 2008

Number: **200817061**
Release Date: 4/25/2008

UIL: 9999.98-00

Legend

ORG = Organization name Address = Address XX = Date

ORG
Address

Employer identification Number:

Person to Contact/ID Number:

Contact Numbers:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear :

In a determination letter dated July 19XX, you were held to be exempt from Federal income tax under section 501(c)(4) of the Internal Revenue Code (the Code).

Based on recent information received, we have determined you have not operated in accordance with the provisions of section 501(c)(4) of the Code. Accordingly, your exemption from Federal income tax is revoked effective July 1, 20XX. This is a final adverse determination letter with regard to your status under section 501(c)(4) of the Code.

We previously provided you a report of examination explaining why we believe revocation of your exempt status is necessary. At that time, we informed you of your right to contact the Taxpayer Advocate, as well as your appeal rights. On October 1, 20XX, you signed Form 6018-A, *Consent to Proposed Action*, agreeing to the revocation of your exempt status under section 501(c)(4) of the Code.

2

You are therefore required to file Form[s] 1120, *U.S. Corporate Income Tax*

Return, for the year[s] ended June 30, 20XX – 20XX with the Ogden Service Center. For future periods, you are required to file Form 1120 with the appropriate service center indicated in the instructions for the return.

You have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal Appeals process. The Taxpayer Advocate 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. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate.

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

Sincerely,

Marsha A. Ramirez
Director, EO Examinations



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
Internal Revenue Service
TE/GE EO Examinations
1500 Ormsby Station Court Suite A - Stop 700
Louisville, KY 40223

ORG
Address

Taxpayer Identification Number:

Form:

990

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear :

We have enclosed a copy of our report of examination explaining why we believe an adjustment of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process*, explains how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

Letter 3610 (04-2002)
Catalog Number 34801V

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action*. We will then send you a final letter modifying or revoking exempt status. If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final. In that event, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate 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. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

3

Thank you for your cooperation.

Sincerely,

Marsha A. Ramirez, Director
Exempt Organizations Examinations

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination
Envelope

Letter 3610 (04-2002)
Catalog Number 34801V

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended June 30, 20XX & 20XX

Legend
 ORG = Organization name XX = Date

Issue:

Whether ORG (ORG) qualifies for exemption under Section 501(c)(4) of the Internal Revenue Code.

Facts:

Exhibit A provides copies of the Internal Revenue Service correspondence requesting that ORG file the Form 990 for the tax periods ended June 30, 20XX & 20XX.

ORG failed to respond to the Internal Revenue Service correspondence or file the Forms 990 for the tax periods ended June 30, 20XX & 20XX.

Law:

Section 6001 of the Code provides that every person liable for any tax imposed by the Code, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

Section 6033(a)(1) of the Code provides, except as provided in section 6033(a)(2), every organization exempt from tax under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Section 1.6001-1(a) of the regulations in conjunction with section 1.6001-1(c) provides that every organization exempt from tax under section 501(a) of the Code and subject to the tax imposed by section 511 on its unrelated business income must keep such permanent books or accounts or records, including inventories, as are sufficient to establish the amount of gross income, deduction, credits, or other matters required to be shown by such person in any return of such tax. Such organization shall also keep such books and records as are required to substantiate the information required by section 6033.

Section 1.6001-1(e) of the regulations states that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended June 30, 20XX & 20XX

Legend

ORG = Organization name XX = Date

Section 1.6033-1(h)(2) of the regulations provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and section 6033.

Rev. Rul. 59-95, 1959-1 C.B. 627, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of section 6033 of the Code and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

In accordance with the above cited provisions of the Code and regulations under sections 6001 and 6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax.

Taxpayer's Position:

The taxpayer failed to file the required Form 990s.

Government's Position:

The tax exempt status of ORG should be revoked effective July 1, 20XX.

If Forms 990 for June 30, 20XX & 20XX are filed within 30 days from the date of this report, the tax-exempt status will not be revoked.

Conclusion:

It is the IRS's position that ORG failed to meet the reporting requirements under sections 6001 and 6033 to be recognized as exempt from federal income tax under 501(c)(4) of the Internal Revenue Code. Accordingly, ORG's exempt status is revoked effective July 1, 20XX.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended
ORG		June 30, 20XX & 20XX

Legend

ORG = Organization name XX = Date

Form 1120 returns should be filed for the tax periods after July 1, 20XX.

Internal Revenue Service

Department of the Treasury

Number: **200829036**
Release Date: 7/18/2008

Date: May 2, 2007

UIL: 501.04-01

ORG
ADDRESS

Taxpayer Identification Number:

Form:
990

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dear :

We have enclosed a copy of our report of examination explaining why we believe revocation of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process*, explains how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

Letter 3610 (Rev. 11-2003)
Catalog Number: 34801V

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action*. We will then send you a final letter revoking your exempt status. If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final. In that event, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate 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. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Judy L. Jones, CPA

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination
Envelope

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number	Year/Period ended December 1, 20XX

LEGEND

ORG = Organization XX = Date

Issue:

Whether ORG, Inc. (ORG) qualifies for exemption under Section 501(c)(4) of the Internal Revenue Code.

Facts:

Exhibit A provides copies of the Internal Revenue Service correspondence requesting that ORG file the Form 990 for the tax period ending December 31, 20XX. ORG failed to respond to the Internal Revenue Service correspondence or file the Forms 990 for the tax period ending December 31, 20XX.

ORG was previously examined for the tax year ended December 31, 20XX and given a letter stating that ORG continued to qualify for exemption, but with an advisory addendum that set out several deficiencies which, if continued, could result in penalties and/or loss of exemption.

Specifically, an exempt organization whose annual gross receipts are normally \$25000 or less does not have to file Form 990. The organization's gross receipts are the total amounts it receives from all sources during its annual accounting period, without subtracting any costs or expenses. An organization's gross receipts are considered normally to be \$ or less if the organization averaged \$ or less in gross receipts for the immediately preceding three tax years.

ORG's gross income for the year 20XX was over \$, so even if it had no other income, it still has exceeded "normally more than \$ annually", for the next three years. ORG was advised that it must file Form 990 for 20XX, 20XX, and 20XX because it had more than \$ in income from the year 20XX alone.

During the course of the examination, it was determined that ORG did not maintain adequate records to report accurately its financial activities as required by Section (§)6033(a) of the Internal Revenue Code and the Regulations there under. The closing letter addendum was the official notice to keep complete records so the accuracy of your returns may be determined.

Law:

IRC §6001 provides that every person liable for any tax imposed by the IRC, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number	Year/Period ended December 1, 20XX	

LEGEND

ORG = Organization XX = Date

IRC § 6033(a)(1) provides, except as required in IRC §6033(a)(2), every organization exempt from tax under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Treas. Reg. §1.6001-1(a) in conjunction with Treas. Reg. §1.6001-1(c) requires that every organization exempt from tax under IRC §501(a) and subject to the tax imposed by IRC §511 on its unrelated business income must keep such permanent books or accounts or records, including inventories, as are sufficient to establish the amount of gross income, deduction, credits, or other matters required to be shown by such person in any return of such tax. Such organization shall also keep such books and records as are required to substantiate the information required by IRC §6033.

Treas. Reg. §1.6001-1(e) states that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.

Treas. Reg. §1.6033-1(h)(2) provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and IRC §6033.

Rev. Rul. 59-95, 1959-1 C.B. 627, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of IRC §6033 and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

In accordance with the above cited provisions of the Code and regulations under IRC §6001 and §6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number	Year/Period ended December 1, 20XX	

LEGEND

ORG = Organization XX = Date

complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax.

Conclusion:

It is the IRS's position that the organization failed to meet the reporting requirements under IRC §6001 and 6033 to be recognized as exempt from federal income tax under IRC §501(c)(4). In addition, it has failed to meet the recordkeeping requirements as required under by Rev. Rul. 59-95, 1959-1C.B. 627, and Treas. Reg. § 6001-1(e). Accordingly, the organization's exempt status is revoked effective January 1, 20XX, the first year following the prior examination year and for which it was specifically required to file a return and keep adequate records.

Form 1120 returns should be filed for the tax periods ending on or after December 31, 20XX.

Internal Revenue Service
Appeals Office
One Cleveland Center-Suite 815
1375 East Ninth Street
Cleveland, OH 44114-1739

Number: 200909072
Release Date: 2/27/2009

Date: December 1, 2008

A

B

LEGEND:

A -
B -

C -

CERTIFIED MAIL

Dear :

This is a Final Adverse Determination as to your exempt status under section 501(c)(4) of the Internal Revenue Code.

Our adverse determination was made for the following reasons:

Your organization fails to meet the requirements for exemption under IRC section 501(c)(4). IRC section 501(c)(4), provides for the exemption of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

As a result of a recent audit of your organization's activities and Forms 990, it was determined that your organization is operated primarily for social purposes, rather than for the promotion of social welfare.

Based on the above, we are revoking your organization's exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code effective January 1, 20 .

Department of the Treasury

Person to Contact:

Employee ID Number:

Tel: *****

Fax: *****

Refer Reply to:

In Re:

EO Examination

Tax Period(s) Ended:

12/20 and 12/20

EIN:

C

UIC: 501.04-00

You are required to file converted Forms 1120, U.S. Corporation Income Tax Return, for any years which are still open under the statute of limitations beginning with the year ending December 31, 2005 and ending with the year ending December 31, 2007. You should file any returns due for these years with the Internal Revenue Service TEGE: EO: 1100 Commerce St. MC 4920 DAL: Mandatory Review, Dallas, TX 75242-1027 by March 31, 2009. Forms 1120 for tax periods beginning on and after January 1, 2008, should be filed with the Cincinnati Service Center, Cincinnati, OH, 45999-0012.

You have the right to contact the office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers. You can call 1-877-777-4778 and ask for Taxpayer Advocate assistance. Or you can call the Taxpayer Advocate for the IRS office that issued this letter. See the enclosed Notice 1214, *Helpful Contacts for Your "Notice of Deficiency"* for Taxpayer Advocate telephone numbers and addresses.

Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations, nor extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels, gets prompt and proper handling.

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

Sincerely yours,

Douglas H. Schulman
Commissioner
By



Charles F. Fisher
Appeals Team Manager

Enclosure:
Notice 1214 Helpful Contacts for your "Notice of Deficiency"

Internal Revenue Service

Department of the Treasury
Internal Revenue Service
230 S Dearborn, 17th Floor, MC 4923 CHI
Chicago, IL 60604

Date: **DEC 01 2008**

ORG
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dear

We have enclosed a copy of our report of examination explaining why we believe revocation of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process*, explains how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

Letter 3610 (Rev. 11-2003)
Catalog Number: 34801V

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action*. We will then send you a final letter revoking your exempt status. If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final. In that event, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate 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. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Marsha A. Ramirez.
Director, EO Examinations.

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination
Envelope

Letter 3610 (Rev. 11-2003)
Catalog Number: 34801V

Form 886A Revised Report	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit Form 990
Name of Taxpayer ORG	Year/Period Ended 20XX12 20XX12	

LEGEND

ORG = Organization name XX = Date City = city XYZ = State Country =
country CO-1, CO-2, CO-3, CO-4, CO-5 & Co-6 = 1st, 2nd, 3rd, 4th, 5th & 6th
Companies.

ISSUE

1. Whether the tax exempt status of ORG (ORG) recognized under Internal Revenue Code 501(c)(4) should be revoked?

BRIEF EXPLANATION OF FACTS

Organization Features

The subject organization is recognized as a 501(c)(4) tax-exempt organization. They received individual exemption on January 06, 20XX. According to its constitution, the primary purpose of the organization is to raise funds to help members within CO-1 and to donate to charitable organizations chosen by the members. Article 2 of the constitution described the objectives as;

Section 4: "...but extend to all types of economic, social, including but not limited to activities of fraternal, charitable, welfare and of social nature which further the interest of this organization, chapters and members directly or indirectly...."

Section 5: "...to unite as brothers and sisters and ride motorcycle for the enjoyment of the ride and to be family oriented association, and watch each others back..."

Section 6: "...to help brothers and sisters who are on the strike line by riding in and joining them....."

The organization is located in City, XYZ and has chartered chapters across Country and Country. Currently, they have over 11 chapters.

Application for Recognition of Tax-Exempt Status

The organization filed Form 1023 with the Internal Revenue Service under penalties of perjury to apply for recognition of tax-exempt status under Internal Revenue Code 501(c)(3) section on May 27, 20XX. The application described the objective as

"...to raise funds to help our brother and sister members within the CO-1 and to donate to charitable organizations especially children's organization. It shall further be an object of this organization to receive, manage, invest, expend, or otherwise use the funds and property of this organization to carry out the duties of the president and to achieve the objectives set forth in the bylaws for such additional purposes and objects not inconsistent therewith as will further the interest of the organization, chapters and its members directly or indirectly. It shall also be the objective of this organization to unite as brothers and sisters and ride motorcycles for the enjoyment of the ride and to be a family oriented association. It shall also be the objective of

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Name of Taxpayer ORG		Year/Period Ended 20XX12 20XX12

this organization to help our brothers and sisters who are on the strike line by riding in and joining them....."

The organization's sources of financial support were listed as " Dues, Initiation Fees, Investment income including gains/loss from sales of investments (if any), sales of patches/Logos/Vests indicating club affiliation, Per Capita tax and fines.

Question 5 of the Form 1023 asked if the organization is controlled by any other organization. The answer was "Yes". The organization stated that CO-2 (CO-3) will control various local chapters when/if established.

Question 11 of Form 1023 asked if the organization is a membership organization. The answer was "YES" The explanation provided in part, that "the organization shall be composed of members and associate members of individual chapters which have been chartered by CO-3"

The following correspondences occurred between the IRS determination office and CO-2 during the application process:

August 09, 20XX: Request to amend organizing documents for proper purpose clause, dissolution clause and description of activities.

August 25, 20XX. Taxpayer responded to the August 09 letter, provided requested information, and amended the organizing documents. Taxpayer described the activities as primarily benefiting needy families. Important extracts from the letter include:

- 1) "The only criteria needed in order for the CO-2 to provide assistance is to show a need for help. The numerous families we assist each year could range from 1-5 or more if the participant demonstrates that he/she needs our help"
- 2) "CO-4, City, XYZ, in 20XX and 20XX, we sponsored a pledge run for the children of CO-4 donating all proceeds to the hospital. In 20XX, we had a member who was stricken with Multiple Sclerosis, we sponsored a run and donated all proceeds to the CO-5. Both of these activities are annual events"
- 3) "...We gather pledge donation from members and the public, we hold raffles on the day of the event, the purpose of this function is to help the children of CO-4 and to help them with the construction of a new wing of the hospital, we also ride a bike show at the hospital, the children of the hospital participates as judges in the bike show giving out trophies to the participants of the run, the purpose of this is to get the children involved with the people who are providing assistance for them..."
- 4) "The CO-6: we gather donations from members and the public, we hold raffles on the day of the event; the purpose of this function is to help the CO-5 defeat Multiple Sclerosis, to create awareness of Multiple Sclerosis and to assist its local chapter in City, XYZ with program (such as the aquatic program) to help there members cope with multiple sclerosis."

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5) "The dues for members are \$ per month, the dues are used to help run the fundraisers, organize new CO-2 chapters in other states, to stock vest and patches for new members, and to make donations to charitable organizations".

October 04, 20XX.

Agent from Internal Revenue Service determination office sent a letter to inform the organization that the activities are not exclusively charitable, educational or religious but are promoting community welfare. The agent suggested that the organization request exemption under IRC 501(c)(4) with a signed letter from the officer and other information regarding activities to substantiate recognition under IRC 501(c)(4).

November 07, 20XX.

Taxpayer responded on this date with the additional information and request to be exempted under IRC 501(c)(4).

January 06, 20XX.

Letter 948 (Exemption Letter) was issued to CO-2 as an organization recognized under IRC 501(c)(4). The organization received an individual organization exemption, not a group ruling.

Activities

ORG (ORG) is an association of motorcycle riders who conducts motorcycle runs for member's pleasure and for charitable purposes. The association is open to all ORG, who ride any brand of bike, and who are interested in joining the group. ORG in City is referred to as "CO-3" and represents the main/parent organization. CO-3 chartered other ORG chapters (over 11 chapters) all over Country including one chapter in Country.

There are two types of motorcycle runs as described below and extracted from the constitution:

- 1) "Runs will be for raising moneys for charities that the chapter has chosen to raise money for. Each chapter will have at least one party or event per year to raise moneys for their charitable organization. All chapters shall make attempt to attend other chapters events to raise moneys for their charitable organization"
- 2) "Other runs will be to unite as CO-2 brothers and sisters and ride for the enjoyment of the ride". "There shall be one designated mandatory run. CO-3 or chapter may call additional mandatory runs if need be. All members on mandatory runs will dress uniformly for such runs. Any member missing a mandatory run will be charged...".

Basically, this organization operates motorcycle runs to unite as ORG brothers and sisters, ride for the enjoyment/pleasure of members and raise money for selected charitable organizations.

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Some of the runs conducted in 20XX include "Defeat M.S Ugly Pledge Run - \$ each, CO-4, Multiple Sclerosis Run and CO-6.

Payment for the runs includes Breakfast, Lunch, Music, 50/50, raffles, door prizes and other social activities for members.

There are no educational or training activities involved in the runs or in any of the events described above.

Membership

As noted above, "membership is open to all ORG who ride any brand of Bike who are interested in joining". The preferred type of bike is Harley Davidson, but not required.

The extracts below described the membership structure as reported in the constitution of the organization:

The organization is composed of "members and associate members of the chapters which have been chartered by CO-3 and which are within the geographical jurisdiction of CO-3, which includes the Country and Country....".

In order to be an associate member "you must be an immediate family, wife, husband, son daughter, girlfriend or significant other and be sponsored by a member in good standing"

Furthermore, each new chapter member is required to sign a pledge agreement obligating her to pay a national initiation fee and annual fees directly to the founding chapter (CO-2).

"...members are required to attend four (4) runs or meetings per year or be put on the inactive member status which makes the member relive the three (3 to 6) month probation period...."
"All members are required to attend four (4) meetings or runs per year or be suspended from membership...."

All new members are put on probationary status until other members vote on their status to convert to full members.

Members are required to wear vest, patches (logos) that distinguish them from other ORG. The logos are sold by CO-3 to all members of CO-3 and members of the other chapters. The logos cannot be purchased elsewhere.

"All chapters will have a 2 patch back logo, a 1-patch front chapter number logo, a 1 patch front association logo with your state, a 1 patch front flag on left chest, with the option of CO-3"

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“Any motorcycle jackets, vests, denim, Levi jackets, T-shirt or any other type of materials with the CO-2 Logo affix to it shall be bought only through CO-3...”

All new chapters and new members are required to pay initiation fee before starting a new chapter.

“Any chapter or member becoming three (3) months in arrears will be revoked and their Logo wearing rights shall be revoked.....

Reporting:

Form 990 return filed for the year ended did not include financial activities of the chapters. Information document request was issued to taxpayer to provided financial documents relating to the chapters on 04/20/XX. Taxpayer’s response regarding the information is as follows, “...Article 15 of the by-laws clearly states the chapter’s responsibilities for maintaining their own books and records and filling their own Form 990 as applicable. Therefore, this organization is unaware of each chapter’s EIN, location and financial activities. That information is not part of our records”

Chapters Affiliations:

ORG created chapters all over Country and Country. and gave authority to the various chapters to operate using their name as the parent organization. The chapters purchase all logos and membership dues from ORG (CO-2) as stipulated in the constitution.

The review of exempt’s status of these chapters disclosed that the chapters are not exempt organization and do not have separate EIN number and did not file a separate Form 990 return.

Although, in the process of the audit, the president confirmed that the chapters have their separate EIN number and are required to file their own separate 990 return. I requested for the EIN numbers and financial information for these chapters, they were never provided.

Extracts from the constitution regarding this arrangement of chartered chapters include:

“In order to be chartered, each officer of the Charter must be a member and remain a member in good standing of CO-3”

“All chapters will apply for their own (FEIN) Federal Employer Identification Number from the IRS, you need to fill out SS4 form, call in for number, then fax form in within 24 hours to be used to open their bank accounts.....

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"All chapters will be responsible for filing their own 990 tax forms, where applicable"

The chapters operating under ORG's IRC 501(c)(4) exemption are listed below:

- | | | |
|-------------|-----------|-------------|
| 1) Chapter | City, XYZ | Parent |
| 2) Chapter | City | Subordinate |
| 3) Chapter | City | Subordinate |
| 4) Chapter | City | Subordinate |
| 5) Chapter | City, XYZ | Subordinate |
| 6) Chapter | City | Subordinate |
| 7) Chapter | City, XYZ | Subordinate |
| 8) Chapter | City, XYZ | Subordinate |
| 9) Chapter | City, XYZ | Subordinate |
| 10) Chapter | City, XYZ | Subordinate |
| 11) Chapter | City | Subordinate |
| 12) Chapter | City, XYZ | Subordinate |
| 13) Chapter | City, XYZ | Subordinate |

LAW

Section 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 Income Tax Regulations 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 community. An organization embraced within this section is one that is operated primarily for the purpose of bringing about civic betterments and social welfare.

Reg. 1.501(c)(4)-1(a)(2)(ii) states that social and recreational activities are not social welfare activities. However, even if a substantial part of an organization's activities consists of social functions for the benefit, pleasure, and recreation of its members, it may qualify for exemption under IRC 501(c)(4) if it is primarily engaged in social welfare activities.

IRC section 501(c)(4)(B), applicable to all section 501(c)(4) organizations, requires that no net earnings inure to the benefit of any private shareholder or individual with respect to such organization.

Regulation 1.501(c)(4)-1 - Social activities for the benefit, pleasure, or recreation of members do not promote accomplishment of social welfare purposes and thus are not qualifying social welfare activities. However, such social activities do not preclude exemption under IRC section 501(c)(4) so long as those social activities, along with any other activities that do not promote social welfare purposes, are not the primary activities of the organization.

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In Rev. Rul. 75-286, 1975-2 C.B. 210, the residents of a city block formed an organization to preserve and beautify that block, to improve all public facilities within the block and to prevent physical deterioration of the block. Much of the public area improved by the organization is part of the public roadway lying between the sidewalk and the street in front of private property owned by members of the organization. This revenue ruling concluded that since the organization's activities promote social welfare because they beautify and preserve public property, although they are limited to a particular block, the community as a whole benefits. Thus, the organization qualifies for exemption under section 501(c)(4) of the Code.

Compare Rev. Rul. 78-69, 1978-1 C.B. 156, which holds that an organization providing rush hour commuter bus service to all residents of a community qualifies for exemption under section 501(c)(4), with Rev. Rul. 55-311, 1955-1 C.B. 72, which holds that a local association of employees operating a bus primarily for the convenience of its members does not so qualify.

Regulation §601.201.(n)(3) Rulings and determination letters

(3) Effect of exemption rulings or determination letters

(i) A ruling or determination letter recognizing exemption is usually effective as of the date of formation of an organization, if its purposes and activities during the period prior to the date of the ruling or determination letter were consistent with the requirements for exemption.

(ii) A ruling or determination letter recognizing exemption may not be relied upon if there is a material change inconsistent with exemption in the character, the purpose, or the method of operation of the organization.

Regulation §601.201. (n)(6)(1) Rulings and determination letters

(6) Revocation or modification of rulings or determination letters on exemption

An exemption ruling or determination letter may be revoked or modified by a ruling or determination letter addressed to the organization, or by a revenue ruling or other statement published in the Internal Revenue Bulletin. The revocation or modification may be retroactive if the organization omitted or misstated a material fact, operated in a manner materially different from that originally represented, or engaged in a prohibited transaction of the type described in subdivision (vii) of this subparagraph. In any event, revocation or modification will ordinarily take effect no later than the time at which the organization received written notice that its exemption ruling or determination letter might be revoked or modified.

Section 1.6033-1(h)(2) of the regulations provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return

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of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and section 6033.

Rev. Rul. 59-95, 1959-1 C.B. 627, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of section 6033 of the Code and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

In accordance with the above cited provisions of the Code and regulations under sections 6001 and 6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax.

GOVERNMENT'S POSITION

Section 501(c)(4) of the Code provides for exemption of organizations not organized for profit but operated exclusively for the promotion of social welfare. An organization may be exempt under section 501(c)(4) of the Code only if it is not organized or operated for profit, and if it is operated exclusively for the promotion of social welfare. Operating exclusively means that a larger percentage of activities and expenses must be towards promotion of social welfare and not towards membership pleasure or enjoyment.

Basically, in order to be recognized under IRC 501(c)(4), the primary activity must be the promotion of social welfare and civic betterment in the community. The benefit from such organization must accrue to the community as a whole, not the membership.

In determining the extent of the social welfare, we reviewed the primary activities and the financial records of CO-2.

ORG is a membership organization and the review of activities indicated that the organization's primary activity is to enjoy the art of riding motorcycle with members. This is evident from the way the membership is structured, such as wearing the same uniform, patches, logos e.t.c. to identify members and also the mandatory requirement to attend runs during a designated functions or event. Members are expected to dress certain way and require mandatory participation in motorcycle runs.

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The membership is restricted to motorcycle riders only, within and outside of Country. Collection of national membership fees is enforced by the power of the executive council, and they can withdraw national membership privileges from delinquent members.

The 20XX Form 990EZ return as filed by ORG reported \$ in revenue and \$ in expenses. The revenue consisted of \$ from contributions and \$ from membership dues and membership program activities. Out of the total expenses reported, only \$ was spent on grants and donations to support social welfare. Thus, the organization spent 16% on social welfare activities and spent over 77% on membership activities while the remaining 7% was spent on general expenses.

The 20XX Form 990EZ had \$ in revenue and \$ in expenses. Revenue consisted of \$ from contributions and \$ from membership dues and membership program activities. \$ was spent on grants and donations promoting social welfare, which amounted to 19% of total expenses. Over 70% was spent on membership activities while the remaining 11% was spent on general administrative expenses.

ORG provides some social welfare programs to the community by making donations to hospitals, scholarship fund, individual's e.t.c. The amount was reported as grants and donations in the books. Overall, amount spent as contributions and donations was less than 20% of total expenses.

The flow of expenses indicated that this organization spend more on member welfare than social welfare of the community. Analysis of program and financial activities disclosed that membership social activities outweigh social welfare benefit to the community.

To be a social welfare organization, the organization must be primarily engaged in promoting in some way the common good and general welfare of the community. In this case, ORG do promotes good and welfare of the community, but that is not the primary activity. In as much as the organization's social welfare program is not its primary activity, the organization is not exempt from Federal income tax under section 501(c)(4) of the Code.

A social welfare organization will jeopardize its exemption under Code section 501(c)(4) if it ceases to operate primarily to further social welfare purposes. Substantial social activities, and operating for the benefit of private individuals (members) are activities present in ORG that do not further social welfare purposes.

In addition, taxpayer failed to provide financial information regarding chapters that operate within the same exemption provided to the EO. Section 6033 provided that failure to provide accurate and required information return may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

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Individual exemption issued to an organization is meant for that organization for which it was issued. Unless the organization applied and received a group exemption, they cannot apply the individual exemption to other organizations not included in the exemption letter. Such organization cannot operate in a manner similar to a group ruling, unless they were issued a group ruling and the subordinate's name were included on the ruling. The claim that "the chapters" chartered by the EO are exempt organization is false and misleading the general public. If ORG is not operating in accordance to the individual exemption received, this may jeopardize exempt status.

Since your services and programs are benefiting your members (private group of individuals) rather than the community and the income from the public is inuring to the benefit of your members because it is used for the maintenance and improvement of social activities, you do not meet the requirements of section 501(c)(4) of the Internal Revenue Code.

CONCLUSION

Based on all the facts and circumstances, you have not established that you operate primarily for the purpose of bringing about civic betterments and social improvements as required by section 1.501(c)(4)-1(a)(2)(i) of the regulations. In addition, you are not operating in accordance with individual exemption received, and failed to provide accurate information return regarding activities/operation of organizations that claim to be your "chapters".

Thus, you are not primarily engaged in promoting the common good and general welfare of the people of the community as required by section 1.501(c)(4)-1(a)(2)(i). Consequently, you do not qualify for recognition of exemption under section 501(a) of the Code.

Revocation of exemption is hereby proposed, effective from January 01, 20XX. You are required to file Federal income tax returns on Form 1120 for 20XX and going forward.

TAXPAYER'S POSITION

Taxpayer's position regarding the revised report is unknown.



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
Attn: Mandatory Review, MC 4920 DAL
1100 Commerce St.
Dallas, TX 75242

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: November 7, 2008

Number: 200910067
Release Date: 3/6/2009

LEGEND

ORG = Organization name XX = Date Address = address
UIL: 501.04-01

ORG.
ADDRESS

Employer Identification Number:
Person to Contact/ID Number:
Contact Numbers:
Voice:
Fax:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear _____ :

In a determination letter dated April 19XXX, you were held to be exempt from Federal income tax under section 501(c)(4) of the Internal Revenue Code (the Code).

Based on recent information received, we have determined you have not operated in accordance with the provisions of section 501(c)(4) of the Code. Accordingly, your exemption from Federal income tax is revoked effective July 1st, 20XX. This is a final adverse determination letter with regard to your status under section 501(c)(4) of the Code.

We previously provided you a report of examination explaining why we believe revocation of your exempt status is necessary. At that time, we informed you of your right to contact the Taxpayer Advocate, as well as your appeal rights. On September 4, 20XX, you signed Form 6018-A, *Consent to Proposed Action*, agreeing to the revocation of your exempt status under section 501(c)(4) of the Code.

You have filed taxable returns on Form[s] 1120, *U.S. Corporation Income Tax Return*, for the year[s] ended June 30, 20XX, 20XX, and 20XX with us. For future periods, you are required to file Form 1120 with the appropriate service center indicated in the instructions for the return.

-2-

You have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal Appeals process. The Taxpayer Advocate 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. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

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

Sincerely,

Vicki L. Hansen
Acting Director,
Exempt Organizations Examinations



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
Internal Revenue Service
Exempt Organizations
135 High Street, Stop 250
Hartford, CT 06103

August 20, 2008

ORG
ADDRESS

re: ORG

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear :

We have enclosed a copy of our report of examination explaining why we believe an adjustment of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process*, explains how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

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Letter 3610 (04-2002)
Catalog Number 34801V

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

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3

Thank you for your cooperation.

Sincerely,

Revenue Agent

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination
Envelope

Letter 3610 (04-2002)
Catalog Number 34881V

PSI-IRS-08-000071

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. of Exhibit
Name of Taxpayer	ORG.	Year/Period Ended 20XX06

LEGEND

ORG = Organization name XX = Date City = city XYZ = State

FACTS:

ORG was formed in 19XX. ORG encompasses a small area of approximately 550 acres within the city of City, XYZ. ORG represents approximately households. Its purpose is to take ownership of private roadways and common areas in a residential development and to provide for their repair and maintenance. In addition, ORG was to provide police protection and generally safeguard the health, comfort and safety of residents. ORG was granted exempt status in April of 19XX.

ORG is a membership organization. Local property owners are referred to as members, their membership is a consequence of property ownership within the City area. Only property owners are allowed to join, and membership is automatic under provisions of the organization's By-Laws and Corporate Charter. Initially organization assessed its members for the funds with which to carry out its activities, but had no legal authority to enforce its assessments.

Dues are not obligatory, unless there is a provision for them in the deed of the property owner, and are used chiefly to defray the costs of printing an annual directory and for some smaller social events. The organization also conducts various holiday programs and recreational activities for resident members, some of which involve additional charges.

The organization's primary activity was in the area of public safety and crime prevention. As a major part of its efforts in this area, the organization contracted with retired police officers to provide the community with professionally trained security personnel. They patrol the area and respond to calls for routine police matters. Access by non-residents is explicitly restricted, and notice is given that any unauthorized vehicles will be stopped. If security personnel detect the presence of non-residents in the area, non residents are asked to leave.

The organization's activities in the City area include removal of deteriorated structures and flora, and improvement and maintenance of residential area roads, signage, drains, and open spaces. Signs are posted at various entry points to the area indicating it is private property.

In 19XX, the state of XYZ adopted a statute to allow for the establishment of districts within municipalities. The City Tax District was formed by area residents. Since association dues or assessments were not enforceable taxes were needed for purpose the purpose of providing security services and maintaining Association's common areas, and to enforce liens against property owners who failed to pay the assessments. The creation of a Tax District ensured that all property owners paid their fair share of the expenses of the area.

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		20XX06

ORG leased its roads and common areas to the Tax District to limit ORG's liability. The Tax District and Association entered into a Service Contract. The Service Contract makes ORG responsible for the duties it always discharged. ORG sub-contracts its responsibilities to other entities for security and maintenance. Provisions of the annual contract are essentially unchanged since 19XX.

ORG is reimbursed for the services it provides at cost from the Tax District. ORG does receive tax return preparation, bookkeeping, and legal services through the Tax District's budget, but this is not disclosed on the 990.

The organization's activities benefit local property owners. Substantially all of its financial support comes from assessments imposed by the Tax District on the property owners, with a minimal portion collected from membership dues. Its expenses primarily grow out of its security patrol contracts, road maintenance activities, and social activities. Legal expenses were substantially increased during the examination year and subsequent year due to the challenge by a local resident to the arrangement with the Tax District. ORG later ended its role in security contracts.

Law:

Section 501(c)(4) of the Code provides for 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 Income Tax Regulations 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 this section is one which is operated for the purpose of bringing about civic betterments and social improvements.

Rev. Rul. 72-102, 1972-1 C.B. 149, holds that certain nonprofit organizations of a type usually called homeowners' associations, which are formed to administer and enforce covenants for preserving the architecture and appearance of a housing development and to maintain streets, sidewalks, and other non-residential, non-commercial properties in the development of the type normally owned and maintained by a municipal government, may qualify for exemption under section 501(c)(4) of the Code.

Rev. Rul. 74-99, 1974-1 C.B. 131, modified Rev. Rul. 72-102, to make clear that a homeowners' association of the kind described in Rev. Rul. 72-102 must, in addition to otherwise qualifying for exemption under section 501(c)(4) of the Code, satisfy the following requirements: (1) It must engage in activities that confer benefit on a community comprising a geographical unit which bears a reasonably recognizable relationship to an area ordinarily identified as a

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governmental subdivision or a unit or district thereof; (2) It must not conduct activities directed to the exterior maintenance of private residences; and (3) It owns and maintains only common areas or facilities such as roadways and parklands, sidewalks and street lights, access to, or the use and enjoyment of which is extended to members of the general public and is not restricted to members of the homeowners' association.

Section of the Statutes states in pertinent part that a "district" means any

Section of the Statutes states in pertinent part that voters may establish a district for any or all of a number of purposes, including to

among other things.

Flat Top Lake Association, Inc., v. U.S., 868 F.2d 108, involved an organization's tax exempt status pursuant to IRC Section 501(c)(4). In the Flat Top Lake case the

"Association acquired approximately 2,200 acres of land. It constructed a 230 acre artificial lake. The land surrounding the lake front was subdivided into lots and sold. Access to the property was provided by a two-lane road constructed by the Association. The road is not a public highway and bears a sign at the entrance to the development stating "Flat Top Lake Association, Private Property, Members Only." There are 375 lots in the Flat Top Lake development owned by members...

The Association performs "tasks of quasi-governmental nature" for the Association members and others. Those tasks include year-round water and sanitation services, snow removal from common areas, police protection, road and equipment maintenance and maintenance of the dam and other common areas. The Association is working with local authorities in considering construction of a sewage treatment plant. Further, it has promulgated a disaster relief plan in the event of failure of the dam, and it supplies a backup water supply to the nearby City of Beckley, a city of some 19,000 population."

The court concluded that the Flat Top Lake Association did not qualify for exempt status under section 501(c)(4) because it did not represent a community as the term is described in the published precedent. The area served did not bear a reasonably recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district. The court further held that the benefits of the organization were limited to its members and benefits were not enjoyed by the general public. The exclusionary nature of the organization where benefits were limited to members indicated that the organization was not organized for social welfare but for

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		20XX06

the private benefit of its members.

Government's Position:

Rev. Rul. 74-99, 1974-1 C.B. 131, is a key published precedent concerning ORG's right to continued exemption. The ruling cites the following requirements: (1) the organization must engage in activities that confer benefit on a community comprising a geographical unit which bears a reasonably recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district thereof; (2) the organization must not conduct activities directed to the exterior maintenance of private residences; and (3) it owns and maintains only common areas or facilities such as roadways and parklands, sidewalks and street lights, access to, or the use and enjoyment of which is extended to members of the general public and is not restricted to members of the homeowners' association.

The *Flat Top Lake Association, Inc. v. U.S.*, 868 F.2d 108, confirmed the criteria in the revenue ruling. Even though the Flat Top Lake Association performed many more quasi governmental activities than ORG the court still ruled that the organization did not qualify for exemption because its size was not reasonably recognizable as a governmental subdivision and the benefits provided served the organization's members.

ORG serves a members only area. Security personnel expel all those who are determined to be non-residents of the City area without regard to their activities, such as fishing, bicycling, or enjoying the local park. Further, non-residents are warned away and informed the roadways and common areas maintained in the course of the organization's activities are private property and not for public use. Benefits of the maintenance are restricted to property owners.

As stated in the *Flat Top Lake* case, although it is unquestionably their right to do so, when a group of citizens elects to separate themselves from society and to establish an entity that solely advances their own private interests, no potential for general social advancement is implicated. The requirements expressed in *Rev. Rul. 74-99* have not been met.

Taxpayer's Position:

The organization's position has not been made known.

Conclusion:

Since the organization's activities serve the private benefit of its members, it is not operated for the promotion of social welfare. Accordingly, it does not qualify for exemption from Federal income tax under section 501(c)(4) of the Code.

Further, since ORG is not organized for pleasure, recreation, or other non-profitable purposes, it does not qualify for exemption from Federal income tax under section 501(c)(7) of the Code.

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Similarly, since the organization's revenues are not primarily from member assessments, it does not qualify as a Homeowner's Association under section 528 of the Code.

ORG appears to be properly described by IRC 277 as a membership organization which is not exempt from taxation.



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE

TE/GE EO Examinations
1100 Commerce Street
Dallas, TX 75242

501-04-00

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: December 4, 2009

Release Number: **201013060**

Release Date: 4/2/10

LEGEND

ORG = ORGANIZATION NAME XX = DATE ADDRESS = ADDRESS

ORG
ADDRESS

Taxpayer Identification Number:
Form:
Tax Year(s) Ended:
Exemption under Section 501(c)(4)
of the Internal Revenue Code
Person to Contact/ID Number:
Contact Numbers:
Phone:
Fax:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear

In a determination letter dated 03/12/20XX, you were held to be exempt from Federal income tax under section 501(c)(4) of the Internal Revenue Code (the Code).

Based on recent information received, we have determined you have not operated in accordance with the provisions of section 501(c)(4) of the Code. Accordingly, your exemption from Federal income tax is revoked effective 01/01/20XX. This is a final adverse determination letter with regard to your status under section 501(c)(4) of the Code.

We previously provided you a report of examination explaining why we believe revocation of your exempt status is necessary. At that time, we informed you of your right to contact the Taxpayer Advocate, as well as your appeal rights. On 05/15/20XX, you signed Form 6018-A, *Consent to Proposed Action*, agreeing to the revocation of your exempt status under section 501(c)(4) of the Code.

You are required to file Federal income tax returns for the tax period(s) shown above. If you have not yet filed these returns, please file them with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted, or unless an examiner's report for income tax liability was issued to you with other instructions. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

You have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal

Appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in the United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:
Taxpayer Advocate Service

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

Sincerely,

Sunita Lough
Director, EO Examinations



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
Internal Revenue Service
1100 Commerce Street
Dallas, TX 75242

April 8, 2008

ORG
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear

We have enclosed a copy of our report of examination explaining why we believe an adjustment of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process*, explains how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

Letter 3610 (04-2002)
Catalog Number 34801V

PSI-IRS-08-000079

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action*. We will then send you a final letter modifying or revoking exempt status. If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final. In that event, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate 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. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

3

Thank you for your cooperation.

Sincerely,

Marsha A. Ramirez
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination
Envelope

Letter 3610 (04-2002)
Catalog Number 34801V

PSI-IRS-08-000081

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
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LEGEND

ORG = Organization name XX = Date State = state River = river
 CO-1, & CO-2 = 1st Company, 2nd Company ATT-1, ATT-2, ATT-3, ATT-4, ATT-5,
 ATT-6, ATT-7 & ATT-8 = 1st ATTRACTION, 2ND ATTRACTION, 3RD ATTRACTION, 4TH
 ATTRACTION, 5TH ATTRACTION, 6TH ATTRACTION, 7TH ATTRACTION & 8TH ATTRACTION

ISSUE:

Whether ORG's (ORG) section 501(c)(4) exempt status should be revoked effective January 1, 20XX, because the ORG is organized for profit. and is not operated exclusively for social welfare purposes.

FACTS-ORGANIZATIONAL:

The ORG (ORG) was incorporated or formed on 11/12/19XX. The ORG applied for exempt status under Section 501(c)(7) as a social ORG on 11/19/01. The ORG received a determination letter granting them exempt status under Section 501(c)(4) on 3/12/20XX. The ORG's Form 1024, Application for Exempt Status states, "The organization formerly owned and operated a private nine hole golf course and ORG house/restaurant for its members only. A couple of years ago, however, the organization went through a change. Rather than focusing on its members, it became a community organization. It opened its golf course up to the public. As a part of this change, it entered into an agreement with ORG, State, to combine with the organization's nine holes of golf the nine holes of golf owned by ORG, State. Thus, the organization currently operates an 18 hole course that is open to the public. ORG requested the organization to operate the entire course. This is the only golf course near City, State. ORG requires that all green fees be used towards the maintenance of the 18 holes of golf. ORG regularly meets with the organization to provide suggestions as to how to make this course better for the general community..."

The ORG's most recent ARTICLE's OF INCORPORATION dated 3/31/20XX [and prior Articles] state the following:

Article III PURPOSES AND POWERS

The ORG was organized and continues as a non-profit country ORG for the purpose of owning and operating a golf course, a ORG house and other related recreational, dining and social facilities for the recreation and enjoyment of the ORG's duly qualified members. The ORG shall have the power to carry on all activities reasonably related or incidental to the operation of a golf and country ORG. No part of the net earnings of the ORG shall inure to the benefit of any member or individual. The ORG's powers shall include but shall not be limited to the following:

- (1) To construct, own, operate, and carry on a golf ORG for the use and enjoyment of its members and their guests, and to build, own, operate and maintain a golf course, a pro shop, a ORG storage facility and other related facilities, on its own or in conjunction with

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other public or private entities as may be determined by the ORG's Board of Directors, for the use, pleasure and enjoyment of the ORG's member, their guests and the public.

(2) To construct, own, operate, and maintain a ORG house and other facilities as may be determined by the Board of Directors, including a restaurant, dining areas, dance floors or areas, refreshment stands, locker rooms, and other rooms, places or facilities, and to provide or conduct social, entertainment or amusement activities, for the convenience, health, comfort, and entertainment of the ORG's members and their guests;

Article VI (f) POWERS OF THE BOARD OF DIRECTORS

- (1) To make, alter or amend the Bylaws and ORG rules and provide penalties for infractions thereof by members; all bylaws made and enacted by the Board shall have full and final effect unless inconsistent with the laws of the State of State or the Constitution and Articles of Incorporation;
- (2) Prescribe the terms upon which persons may be accepted to membership in the ORG;
- (3) Accept or reject any application for membership;
- (4) Fix and prescribe classifications of members;
- (5) Determine and fix admission fees and dues;
- (6) Levy assessments against the members and provide for the collection of the same;
- (7) Approve the hiring of the ORG manager, the golf pro, the greens superintendent, and all other employees of the ORG, and approve all salaries of ORG employees;
- (8) Fine, reprimand, suspend or expel any member;
- (9) Remove for cause any director or officer....

Article IX MEMBERSHIP

- (a) Eligibility. Any person of good moral character, twenty-one years of age or over, shall be eligible for membership in the ORG, subject to the provisions of the Bylaws and rules of the ORG.
- (b) Application for Membership and Action Thereon. Matters relating to applications for membership and action thereon shall be as fixed in the Bylaws.

The ORG's BYLAWS dated 3/31/20XX [and prior bylaws] state the following:

Article I Section 1.1 Purposes. The ORG was formed and continues as a nonprofit country ORG for the purpose of owning and operating a golf course, ORG house and other related recreational, dining and social facilities in City, State for the enjoyment and recreation of its members.

Article II MEMBERS:

Section 2.1.1. Members...In the case of a membership owned by a corporation or other entity, such entity shall designate one individual who will be deemed the owner for purposes of use of ORG facilities and voting.

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Section 2.1.2. Equity Members. Equity Members are those members who have purchased an equity membership, have received a certificate of equity membership issued by the ORG, and whose equity membership has not been sold by the member or terminated by the ORG. Equity Members are entitled to vote, hold office, share in any liquidation proceeds, and sell, transfer or bequeath their membership in the ORG as permitted by these Bylaws.

Section 2.1.3. Non-Equity Members. Non-Equity Members are those members who have purchased a non-equity membership and whose non-equity membership has not been terminated by the ORG. Non-equity Members are not entitled to vote, hold office, share in any liquidation proceeds, or sell, transfer or bequeath their membership in the ORG.

Section 2.4 Admission Procedures. Membership in the ORG will be solely by invitation of the Board. A request that an invitation to membership be extended must be made in writing by at least one (1) voting Equity Member in good standing. All requests for invitations will be submitted to the Membership Committee of the Board for consideration and review. The Membership Committee will carefully examine all information and communications in reference to each candidate. Before each monthly Board meeting, the Membership Committee will submit to the Board members a list of individuals for whom an invitation for membership has been requested, together with its recommendation for action. All information regarding the candidates, as well as all action taken by the Membership Committee and the Board regarding such candidates will be kept confidential. The affirmative vote of four Board members will be required to admit a candidate. Should the nomination be unfavorably acted upon, it may not be submitted again for a period of one (1) year. It will be the duty of each Member of the ORG possessed of any negative information regarding the character of a candidate, or knowing of any good reason why membership should not be granted to such individual, to communicate the same to the Membership Committee. All such communications will be held by the Membership Committee in strictest confidence.

Section 2.6. Upgrade from Non-Equity Membership to Equity Membership. At the discretion of the Board, a Non-Equity Member may become an Equity Member by requesting such status and by paying as an initiation fee the difference between the fee paid by the Member at the time he or she became a Non-Equity Member and the then current initiation fee for an equity membership. [For 20XX, both the purchase of an Equity membership and the initiation fee for a Non-Equity membership were \$.]

Section 2.8. Voting Rights. ...Each Equity Member in good standing shall have one vote. Non-Equity Members shall not have voting rights. [In 20XX, the ORG had 127 equity members and 105 associate/non-equity members; both classes pay annual dues of \$ per person.]

Article XV DISSOLUTION

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Section 15.1. Dissolution of the ORG. In the event that the ORG shall be dissolved, the Equity Members in good standing shall participate on a pro-rata basis in the distribution of the net assets of the ORG.

FACTS – OPERATIONAL:

Golf Course Open to Public

The ORG operates an 18 hole championship golf course under an arrangement with ORG, State. The County owns 9 holes and leases this to the ORG in exchange for the ORG managing and maintaining it along with their 9 holes, and keeping the entire 18 holes open to the public. The County requires the ORG to roll green fees from the golf course back into the course for operating expenses, maintenance and improvements. For 20XX, the County also appropriated \$ for capital improvements and equipment for the golf course.

Numerous golf tournaments are held on the golf course including fundraisers, state sponsored or sanctioned events, and company outings. All of the golf tournaments are open to the public as well as the ORG members. There are many people from out of the area that participate in the tournaments.

Members of the ORG and members of the general public all pay the same to play golf– whether it is a season pass or green fees.

Private ORG house – Members pay dues to patronize but also open to the public.

Facilities owned by the ORG include a restaurant and bar which is a private ORG house with a Class A liquor license as contemplated in Section 32A-5 of the State Code. The building also contains several large conference rooms not subject to the state private ORG rules.

Although the ORG house is a “private ORG” for purposes of the state liquor law, the ORG maintains that it is open to the public for practical purposes. The ORG actively seeks to book business meeting luncheons and corporate golf outing dinners with local and visiting companies and groups as well as company holiday parties, weddings, reunions, birthday gatherings, etc. The ORG meets and works with the Convention and Visitors Bureau and local hotels, rents billboards, and buys radio time to find bookings for the ORG house. The ORG explained that private ORG rules are followed by having a member of the ORG sponsor an event. Thus, the attendees are guests of that member. When an event is initiated by a non-member, they will ask one of their relatives or friends that is a member to sponsor the event. If it happens that there is non-member business, the person who is hosting the party must buy a temporary membership. [See section below on membership.]

Snack bar and pro-shop – Open to the public

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ORG property also includes a building housing a snack bar and pro-shop, open to the public. Beer, but not liquor, is served in the snack bar so it is not subject to the State private ORG rules. The snack bar business is owned and operated by the ORG. The pro-shop business is owned and operated by the general manager (GM) of the ORG who is also their golf professional.

Membership: Voting, Non-Voting and Temporary

There are three classes of membership: (1) equity members, who have purchased an equity membership, are entitled to vote, hold office, share in any liquidation proceeds, and sell, transfer, or bequeath their shares in the ORG, (2) non-equity members, who are not entitled to vote, hold office, share in any liquidation proceeds, or sell, transfer or bequeath their shares in the ORG and (3) temporary members, whose only benefit is the use of the ORG house. Equity and non-equity membership is only by invitation of the ORG.

For 20XX, the purchase of both an equity membership and the initiation fee for a non-equity membership was \$. Both classes pay annual dues of \$ per person. In 20XX, there were 127 equity (voting) members and 105 non-equity (non-voting) members. Upgrade from non-equity to equity membership is at the discretion of the Board. Since the equity and non-equity members pay the same dues and fees, it is not immediately apparent why the non-equity members are not allowed to vote. One possible explanation may be that the State State liquor law requires at least of the membership of a Class A liquor licensee have full voting rights [and an equal share in the equity of the ORG if it is a stock corporation]. The ORG has members with full voting rights. This arrangement will generate dues revenue from all "members" willing to pay dues while granting full voting membership only to the extent required by State law. This would allow for maximum revenue and minimum sacrifice of voting control and equity.

Regarding the temporary memberships, in actuality, very few are sold. Non-member/temporary dues in 20XX totaled \$. Regular membership dues totaled \$. Initially, the examining agent was told that a temporary membership costing \$ entitled the purchaser and guest(s) the use of the ORG house for two weeks. This amount was charged at the request of regular members because it approximates member's annual dues on a prorated basis. The members didn't think it was fair if they had to pay \$ per person; \$ per married couple to patronize the ORG house if a non-member could get in on a \$ visitor card. [Under state law, the \$ visitor card can be good for 3 weeks.] Per correspondence from the ORG's representative dated 3/13/20XX, "for the last several months they have three different types of non-member use of the restaurant. First, non-members are able to purchase a one month membership for the \$. Second, they can purchase a one day membership for \$. Third, and apparently the largest use, is that non-members are allowed to use the restaurant based upon being a guest of a member."

Membership dues, whether annual or temporary, do not entitle a member to use the golf course, only the restaurant and bar.

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Control of ORG

According to the Articles of Incorporation, control of the ORG rests with a board of seven directors who are elected by the members. The board determines who will be accepted as a member to the ORG and who will not. A prospective equity/voting member must be recommended to the board by a current equity member. An affirmative vote of four board members is required to admit a candidate.

The board meets with the County regularly regarding the management of the golf course, but manages the ORG house and membership in the ORG independently.

The area where the ORG is situated

The ORG is 1 of 5 golf courses in all of _____ covers a comparable geographic area and has 88 golf courses. The golf course winds along the River and is banked by sandstone and shale cliffs. It is located between the towns of City and City in ORG. The approximate population of City is _____ and City, the largest town in the county, _____ There are at least two hotels in City which have event facilities. The CO-1 advertises that it has meeting and banquet facilities for groups of 10 to 500. The CO-2 has two meeting rooms. The larger has a capacity of 200 and the smaller, 50. Per an internet source, ORG per capita income is approximately \$ with _____ of the population below the poverty line. Largest industries are mining, government, and wholesale/ retail trade.

ORG terrain consists of mountain and desert. The area appears to be somewhat economically depressed, however many tourist attractions draw in additional commerce. City was once the hub of State's transportation and mining industries, and now nearly every building on Main Street is on the NATT-2. Other attractions in this area called "ATT-1" (unusual rock formations) include ATT-3, ATT-4, ATT-5, ATT-6 ATT-7, and ATT-8. There are hundreds of miles of mountain bike trails, trout fishing, hiking tours and camping.

FACTS - FINANCIAL:

The following two pages contain the ORG's financial statements. The ORGs allocates income and expenses to either the ORG house or the golf course.

Form 990	Revenue	ORG house	Golf Course	Combined
	Green Fees-ORG Members & General Public			
	Golf Season Passes - General Public			
	Driving Range Income			
	Riding Cart Rentals			
	Advertising Income - Bench Ads			
	Visitor cards - Temporary Membership ORG house			

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	Mineral lease income			
	Miscellaneous income			
	Collection charge returned cks			
Line 2	Program Service Revenue			
	ORG house Member Golf Passes			
	ORG house Member Dues			
Line 3	Membership Dues			
Line 4	Interest Income			
	Sale of Fixed Assets			
Line 8				
	ORG house - Food			
	ORG house - Minimum Charges			
	ORG house - Bev			
	ORG house - Liquor			
	ORG house - Beer			
	ORG house - Catering Deposits			
	Subtotal			
	Snack Bar - Food			
	Snack Bar - Beverages			
	Snack Bar - Beer			
	Subtotal			
Line 10a	Gross Sale of Inventory			
	Total Gross Receipts			
Line 10b	Cost of Goods Sold			
Line 12	Total Revenue			
Line 44	Total Expense			
Line 18	Excess or (deficit)			
Form 990	Expense	ORG house	Golf Course	Combined
	Groundskeeper Salary			
	Assistant Groundskeeper Salary			
	Assistant Golf Pro Salary			
	Grounds Labor			
	Salary - Driving Range			
	Starter's Salary			
	Marshalling			
	General Manager and Golf Pro Salary			
	Office Clerk and Office Manager Salary			
	Crew Labor			

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	Labor Snack Bar	
	Janitor	
Line 26	Other Salaries and Wages	
Line 29	Payroll Taxes	
Line 31	Accounting Fees	
Line 32	Legal Fees	
	Office Supplies	
	Paper Supplies, Linens	
	Janitor Supplies, Misc Supplies, Freight	
	Kitchen Supplies, Uniforms, China/Silver,	
	Gasoline & Lubricants	
	Bar Supplies, Mistakes/Spills Liquor	
Line 33	Supplies	
Line 35	Postage and Shipping	
Line 37	Repairs & Maintenance - Bldgs & Equip	
Line 42	Depreciation	
	Outside Labor	
	Electric	
	Phone	
	Water	
	Tax & license	
	Property Taxes	
	Insurance	
	Employee ed, insure, bene, wrkmns comp	
	Legal services	
	Advertising	
	BDay, dues/sub, entertain, cable, misc, bad cks	
	Bank charges	
Line 43	Other Expenses	
Line 44	Total Expenses	

LAW:

IRC, 2007-CODE-VOL, SEC. 501. EXEMPTION FROM TAX ON CORPORATIONS, CERTAIN TRUSTS, ETC.

501(c)(4)(A) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

501(c)(4)(B) Subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

The term "shareholder" includes a member of an organization. See *West Side Tennis Club v. Comm.*, 111 F. 2d 6 (2d Cir. 1940).

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FINAL-REG, TAX-REGS, §1.501(c)(4)-1. Civic organizations and local associations of employees

Reg. §1.501(c)(4)-1 does not reflect P.L. 99-514, P.L. 100-203, P.L. 100-647, P.L. 101-73 or P.L. 104-168.

(a) *Civic organizations*

(1) *In general.* —A civic league or organization may be exempt as an organization described in section 501(c)(4) if:

- (i) It is not organized or operated for profit; and
- (ii) It is operated exclusively for the promotion of social welfare.

(2) *Promotion of social welfare*

(i) *In general.* —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 betterments and social improvements.

(ii) *Political or social activities.* —The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. Nor is an organization operated primarily for the promotion of social welfare if its primary activity is operating a social club for the benefit, pleasure, or recreation of its members, or is carrying on a business with the general public in a manner similar to organizations which are operated for profit.

Revenue Ruling 64-313

The organization in question was incorporated under state law, without capital stock, as a nonprofit corporation. Its purpose is to maintain a registry for the wishes of members in regard to arrangements following death; to study and develop methods of achieving simplicity and dignity in funeral and memorial services; and to educate and inform its members and the public as to the results of such study.

Membership is available to any person who is in sympathy with the purposes of the organization on payment of a nominal membership fee. The income of the organization is derived from membership fees and donations. Its funds are expended for office rental, printing and supplies, secretarial help, and other miscellaneous expenses.

It is clear that the educational functions of the organization benefit the community as a whole by informing it of the problems involved in funeral arrangements. Furthermore, the maintenance of the registry is not similar to a business ordinarily carried on for profit, and in view of the nominal cost of membership and the non-exclusiveness of membership, this activity also serves a public purpose by facilitating the completion of decedents' funeral arrangements and the disposition of their remains in accordance with their wishes. Supplying information to members or their

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representatives as to local funeral directors furnishing low cost funerals is incidental to and in furtherance of the organization's primary social welfare functions.

Revenue Ruling 67-109

A nonprofit corporation which operates a roller skating rink is exempt under section 501(c)(4). The roller skating rink is located in a county-owned building which is made available by the county government to the organization on a rent free basis. The income of the organization, which is derived from admissions, membership fees, and concessions operated in conjunction with the skating facilities, is used to defray operating expenses. Although the charges made are aimed at a break-even operation, any profit which the rink might realize is donated to the county for necessary improvements to the rink building. Membership in the organization, which qualifies one to vote for officers and directors at the annual meeting, and admission to the rink are open to all residents of the county upon payment of a nominal amount.

Revenue Ruling 66-273

An organization was formed to provide supervised facilities in a community for the development of good pistol, rifle, and shotgun marksmanship and for instruction in the safe handling and proper care of firearms. Membership is open to any citizen of the community of good moral character over 18 years old. Its receipts are derived from membership dues, range fees, and proceeds from the sale of ammunition and targets. Disbursements are made for the purchase of ammunition and targets, improvements to the range ground and buildings, expenses of special events, and miscellaneous operating expenses. The organization does not maintain a clubhouse. Social affairs are limited to an annual dinner for members, occasional picnics, and special events. None of the organization's income inures to the benefit of private individuals.

American Women Buyers Club, Inc. v. Commissioner, 238 F.2d 526 (2nd Cir. 1964)

The court affirmed denial of exemption to a membership corporation of female ready-to-wear buyers organized to promote the general good and welfare of members in the trade, encourage friendly relations, and give aid to members in distress. Membership, even within the trade, was restrictive as approximately 15% of the applicants were turned down. The services provided by the club (such as employment facilities, information about sources of supply, lectures, dinners, installations, publications, and sick and death benefits) were all primarily, if not exclusively, for the club membership.

Revenue Ruling 80-205

The Service ruled that it will not follow the decision in Eden Hall Farm v. United States, 389 F. Supp. 858 (W.D. PA 1975). This case held that an organization providing recreational facilities to the employees of selected corporations qualifies for exemption as a social welfare organization described in IRC 501(c)(4).

Revenue Ruling 69-385

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A corporation was formed for the stated purpose of promoting the general welfare of the residents of a particular community. Membership in the corporation was available to those who owned property in a designated area. They paid an assessment based on the amount of property owned. Membership was transferable to successive purchasers of property owned by the original members. The corporate bylaws provide that any profits of the corporation shall be apportioned pro rata among the members according to the assessment originally paid. The corporation used the original assessments to purchase unimproved lots and some undeveloped land in the area. Over the years, the corporation sold on a sporadic basis some of the property and received substantial income from such sales. It derived additional income from the investment of the proceeds from the sales. The corporation improved and maintained nonresidential property and engaged in other activities for the benefit of all the residents of the area. On several occasions the corporation distributed profits to the members in accordance with its bylaws provisions. The corporation is authorized to make, and in fact made, distributions of profits to its members. These distributions are equivalent to dividends based upon equity ownership and result in profit to the members. It was held that the corporation does not qualify for exemption from Federal income tax under section 501(c)(4) of the Code since the authority for making the distributions and the distributions themselves are incompatible with the requirements of the regulations that an organization must not be organized or operated for profit.

In P.L.L. Scholarship Fund v. Commissioner, 82 T.C. 196 (1984) [CCH Dec. Link 40,960]
An organization operated bingo at a bar (a for-profit enterprise) for purposes of raising money for scholarships. The board of directors included the bar's owners and accountant, and two other persons. The court reasoned that, because the bar owners controlled the organization and appointed its directors, the organization's fundraising activities could be used to the advantage of the bar owners, and thus, provide them with a maximum private benefit. The organization claimed that it was independent because there was a separate accounting and that no payments were going to the bar. The court maintained that the organization's and the bar's activities were so interrelated as to be "functionally inseparable." A separate accounting did not change that fact. Thus, the organization did not operate exclusively for exempt purposes, but rather benefited private interests - the bar owners. Exemption was properly denied.

Revenue Ruling 74-298

A nonprofit organization was formed by local businessmen to provide recreation and entertainment for the citizens and visitors of the community. All residents of the community are eligible to become members of the organization upon payment of a nominal initiation fee and approval of a majority of the Board of Directors. The organization's sole activity is the sponsorship of an annual professional golf tournament that would otherwise not be available to the community. The tournament features nationally known competitors and receives nation-wide news coverage. The organization charges a standard admission fee to the public to attend the tournament. The organization's income is from gate receipts, membership fees, and assessments. Its disbursements are for prize money for the golfers, rental of a golf course, and miscellaneous administrative expenses. The ruling held that a professional golf tournament is an activity that

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can be operated for profit, and the sponsorship of such a golf tournament can itself be a business for profit. The golf tournament sponsored by the organization is carried on with the general public and is operated in a manner similar to tournaments operated for profit. Accordingly, the organization is not operated primarily for the promotion of social welfare and, therefore, does not qualify for exemption from Federal income tax under section 501(c)(4) of the Code.

In People’s Educational Camp Society, Inc. v. Commissioner, 331 F.2d 923 (2nd Cir. 1964), a nonprofit corporation’s social welfare activities were supported by its operation of a commercial resort. The court rejected the argument that the resort activities were social welfare and characterized them as business activities. It noted that a large portion of the revenue was being reinvested in the commercial operation. As the business activities were of such magnitude in comparison with the social welfare activities that the organization could not be said to be exclusively (that is, “primarily”) engaged in the promotion of social welfare, the court held the organization nonexempt.

In Club Gaona, Inc. v. United States, 167 F. Supp. 741 (S.D. CA 1958), the organization’s principal activity was the promotion of regular public dances, which were its main source of income. The club used these profits for speculative real estate dealings. The court held that the organization was not primarily promoting social welfare as its profits were devoted to the accumulation of funds which were not used for ascertainable civic projects.

GOVERNMENTS POSITION:

The ORG operates in several capacities:

- 1.) As a private ORG bar and restaurant in order to comply with the state liquor laws, to control membership and ownership, and for the benefit, pleasure and recreation of the members.
- 2.) Carrying on a business with the general public by actively seeking bookings for golf tournaments, banquets, other events and daily business.
- 3.) Managing and operating a County owned 9 hole golf course in conjunction with their own 9 hole course to provide recreation for the community and for ORG members.

During the course of this examination, there has been a good deal of discussion and fact finding in an attempt to determine whether the ORG is organized and operated as required under IRC 501(c)(4). i.e. Are the Articles and Bylaws consistent with IRC 501(c)(4)? What is the primary activity and is it in furtherance of social welfare purposes? Relevant facts and circumstances are as follows.

Social and recreational activities for members and activities similar to those carried on by a business operated for profit are present to a substantial degree. Functions for members in the ORG house and member golf leagues are not IRC 501(c)(4) activities. They are social and recreational activities for members. Also, operating a bar, restaurant, banquet facilities, renting out meeting rooms, and even hosting golf tournaments [R.R. 74-298] are activities similar to

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those carried on by a business operated for profit and are not IRC 501(c)(4) activities. However, these activities do not preclude exemption provided they do not comprise the primary activity of the organization.

Factors such as the remote location of the golf course, the economically depressed area, the community's need for recreation, and the golf course being available at the same cost to the general public and ORG members, are indicative that the golf course may be operated for the benefit of the community. The ORG has suggested that the arrangement they have with the County and the support they receive from them shows that they qualify under IRC 501(c)(4).

The examining agent suggests that the "arrangement" is a management contract and the "support" is compensation under that contract; i.e. capital acquisition funds [9 holes are ORG property], additional revenues generated by the draw of having an 18 hole course suitable for tournaments, and additional revenues from being open to the public. The County's purpose was to provide a golf course open to the community. To achieve this, they contracted with a privately owned golf course [the ORG] to manage and operate it. The ORG did not apply for exempt status until a couple of years later. Nevertheless, without regard to the private ownership of the ORG, operation of a public golf course can qualify as a 501(c)(4) activity provided other facts and circumstances are consistent with IRC 501(c)(4). The examining agent will continue with the government's position allowing the presumption that the 18 hole golf course activity is considered to be an activity of the ORG and an activity described in IRC 501(c)(4).

Returning to the determination of the primary activity of the ORG; one method of determining the primary activity is a gross receipts test. Initially, the examining agent used the ORG's allocation of receipts on their financial statements for the gross receipts test which resulted in the ORG house having of gross receipts. However, the ORG pointed out that this allocation was

flawed because receipts from riding cart rentals and the snack bar are related to the golf course. Thus, these receipts were moved to the golf course column as reflected in the schedule below. Gross receipts from the golf course activities, i.e. green fees, season passes, golf cart rentals, driving range income and snack bar income make up of total gross receipts.

	ORG house	Golf Course	Total
<u>ORG Financial Statements</u>			
Gross Receipts			
Cost of Goods Sold			
Total Revenue			
Total Expense			
Excess or (Deficit)			
Riding cart rentals			
Snack Bar receipts			

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Reallocation

Gross Receipts
Cost of goods sold
Total Revenue

Labor snack bar
Total Expense

Excess or (Deficit)

The gross receipts test shows the golf course activity to be the primary activity and there are factors supporting that the golf course is operated for the benefit of the community. Additional facts and circumstances relevant in determining qualification for exempt status are as follows.

The examining agent feels it is important to point out that the riding cart rentals and snack bar income are not required by the County to be rolled back into the golf course. [Not that this would necessarily prevent funds from benefiting equity members as they own half of the 18 hole course.] These receipts may be disbursed as deemed necessary by the ORG board. In fact, the ORG financial statements allocate all of these receipts to the ORG house. Regardless, the excess from general public patronage benefits ORG members in such forms as an increase in services offered by the ORG without a corresponding increase in dues or other fees and as an increase in the ORG's assets which are distributable to equity members upon the dissolution of the ORG.

Equity membership in the ORG is exclusive; limited by the Board. Equity members are given access to the ORG house, the right to vote, hold office, and share in the net assets of the ORG upon dissolution. Non-equity members pay the same dues and fees and only receive access to the ORG house. They are not allowed to vote, hold office, or share in the net assets of the ORG upon dissolution. An organization that is operated for the benefit of the community should be open to all persons in the community with full voting rights and equal dues for equal rights. The exclusivity of membership is inconsistent with IRC 501(c)(4) purposes.

The ORG has stated that the ORG house itself provides social welfare activities because it has meeting rooms which provide a place for "various charities and other public gatherings" and that the bar and restaurant is not just for members but, open to the public, for all practical purposes. The examining agent contends that the activities are not social welfare activities. There are other bars, restaurants, event centers, banquet facilities, and a convention center, in the area. These are business activities carried on with the general public and operated for profit. However, it is not the operation of the ORG house as a business activity [or social activity for members] that precludes exemption. The ORG house does not appear to be the primary activity. The problem is the private ownership of the ORG house along with the limited membership. Revenues treated as tax exempt are inuring to private individuals.

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The Articles and Bylaws are not consistent with and in furtherance of IRC 501(c)(4) purposes. They state "In the event that the ORG shall be dissolved; the Equity Members in good standing shall participate on a pro-rata basis in the distribution of the net assets of the ORG." The net earnings of a 501(c)(4) organization must be devoted exclusively to charitable, recreational, or educational activities. The ORG's dissolution clause which provides for the distribution of nets assets to its members is not consistent with exemption under IRC 501(c)(4). [R.R. 69-385]

The organizing documents do state that the ORG was organized as a non-profit country ORG and that no part of the net earnings shall inure to the benefit of any member or individual. However, this declaration is contradicted when these same documents also authorize the issuance of certificates of equity, which are certificates of stock representing ownership in the corporation, and dedicate the assets to the owners/members of the corporation.

The ORG states that it is the net assets of the ORG that will be shared by the members and that IRC 501(c)(4) only requires that no net earnings inure to the benefit of any private shareholder or individual. The examining agent argues that for purposes of the prohibition against inurement, these terms are indistinguishable and interchangeable. Both the net assets and the net earnings of an IRC 501(c)(4) organization are protected by this prohibition. The ORG is organized so that equity members will participate on a pro-rata basis in the distribution of the net assets upon dissolution. This is a fatal flaw in the ORG's organizing documents.

TAXPAYER'S POSITION:

[Letter dated 12/28/20XX] The report basically ignores the fact that substantially all of the activities and funds of the Golf Course are devoted to maintenance and operation of the public golf course which provides needed recreational activities to the general public and is of the type that ORG clearly recognizes and supports. In addition to the larger capital acquisition payments, ORG contributes indirectly to the operations of the golf course. This results from the County making the additional nine holes of golf available for use with no charge. Thus, the golf course is able to use the green fees generated by this free use of the County's property for the operation of the golf course as a whole. All such green fees, as well as all golf passes sold to members and non-members must be used for the care, maintenance, and operation of the golf course. The vast majority of such green fees are paid from the general public users or from public tournaments. In addition to the use of the County's portion of the golf course, the County contributed last year about \$ for golf course capital acquisitions. Given these two forms of contributions, there is no doubt but that the operation of the golf course is furthering one of the purposes of the County.

A "de minimis" part of the Golf Course activities is the operation of the restaurant. The restaurant is owned and operated in the manner imposed upon it by the State of State as a result of its liquor license. These rules make it appear as if it is similar to other private ORGs. However, like most places in State that permit the sale of alcohol, the actual operation of the

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ORG is radically different from a true private ORG. The public is able to and does use the restaurant. This is facilitated by the payment of a small three day fee, now being the minimum \$ fee set by the state of State. The requirement of a member sponsoring an event to be held at the restaurant by the public on paper also looks like a private ORG. Here again, the state of State requires a member to sponsor such an event. However, this is form over substance, since such member sponsorship has been and is available upon request. In addition, in the same building as the restaurant, there are several large conference rooms. These are fully available, without the minimum liquor license fee, for all types of community and other charitable uses and are frequently used for such purposes.

Proceeds from the golf cart rentals are used for golf cart repair, maintenance, and purchase of new replacement carts. This is not the profit center alleged in the report, especially since this "profit" only goes to improve the facilities used by the public.

Although Code Section 501(c)(4) may use stricter language, the regulations make it clear that all that is required for an entity to qualify under this section is that it be "primarily" engaged in promoting the common good and general welfare of the people of the community. Regs. 1.501(c)(4)-1(a)(2)(i). Given the large percentage of funds and time devoted to the golf course, it is clear that this is the primary focus. There is no question that ORG clearly believes that the operation of a golf course is for the common good and general welfare of its citizens. This is the only golf course in ORG and ORG not only owns a portion of the course in question, but also regularly contributes substantially towards the cost of capital improvements. It is also clear that the golf course is available to the general public.

Although the report recognizes the obvious desire of the County to provide this type of recreation to its citizens, it suggests that this for some reason is not the type of social welfare addressed in Section 501(c)(4). The providing of recreation by governmental entities is common place and clearly is a governmental function. The fact that an economically strapped county, such as ORG, desires to make this type of capital resource available for recreation is proof that the golf course operation satisfies the social welfare requirement.

The report asserts the finding in a case which benefits a small group of apartment renters as reason why the golf course is not for the public benefit. There is no comparison between these two. There is not a select group that benefit from the golf course as there was in the apartment case. Every citizen is able to enjoy the benefit of this course. Clearly, this is a public and not a private benefit and the comparison to an apartment complex is completely incorrect. The lack of benefit to the members is additional evidence of the public purpose of the golf course.

The report also focuses on the restaurant as preventing satisfaction of the "primarily" engaged requirement. The report is wrong on three points. The activity and cost of operating the restaurant pales in comparison to the operation of the golf course. Second, the restaurant, for a small fee required by the state of State, is available to the public. Third, a portion of the

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restaurant itself provides social welfare. It provides a place for various charities and other public gatherings. In this economically strapped county, the ability for a large public group to gather satisfies a public welfare requirement. Although the state of State dictated liquor laws place some technical road blocks for such public gatherings, these have and continue to not be anything more than technical. For example, member sponsoring is required, but freely given to all. Such activities are very similar to those involved in Rev. Rul. 65-195, which found a social welfare activity to be present in conducting community sports contests.

We believe that the regulations and case law provide that once the public welfare benefit is established, minor profit activities do not destroy its qualifying under Section 501(c)(4). Although the court found that the primary activity of the taxpayer in People’s Educational Camp Society, Inc. v. Comr. was the providing of for profit management services, the court indicated that had this been a secondary activity, the taxpayer would still qualify under Section 501(c)(4).

Similarly, see TAM 9815061, where the entire activity was a for profit activity. This distinction is best found, however, in TAM 97110004. Here a number of subordinate organizations were found to have as their “predominant activity” the commercial operations of a bar and restaurant. However, the parent company that oversaw such subordinate organization as well as other charitable organizations remained qualified since this commercial activity was not the primary or principal activity of the parent company. In short, the existence of minor non public welfare activity does not destroy the qualification.

Here, it is only a minor activity that is arguably a for profit activity. By far and away the vast majority of the activity is the operation of the public golf course. It is this activity that should control.

PRIOR APPROVAL: Even if the primary purpose of the golf course is ignored and hence the golf course is denied 501(c)(4) status, such change cannot be done retroactively. The golf course obtained a determination letter from the IRS. Neither its organizational documents nor its operations have changed from those disclosed in the application for this determination. Thus, this is a re-determination of the same facts and one that must be done prospectively only.

[Letter dated 1/30/20XX] We still disagree on two basic points. First, the regulations do not prohibit all other activity, but only require that the organization be “primarily” engaged in promoting the common good and general welfare of the people of the community. Reg. 1.501(c)(4)-1(a)(2)(i). We believe that even if the areas you have focused upon do not fit squarely in this general welfare requirement, such activities are very minor compared to the real focus of the golf course operator.

Second, we disagree with your conclusion that the provision to distribute the assets of the golf course operator to its members results in the sharing in net profits. In fact, the organizational documents prohibit the sharing in the net profits. Instead, they require the distribution of the

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remaining assets to the members if the entity ever dissolved. These two provisions are not in conflict since the net profits would be required to be distributed to a public charity and the initial capital (the land) distributed to the members.

[Letter dated 3/13/20XX] This is a follow up to our telephone conversation of about a week ago. [manager appeal conference] Attached is a summary of the financial income statement for the ORG. I have tried to allocate the income generated by the golf course versus that generated by the restaurant/ convention facility. It shows \$ of income being generated by the golf course as compared to \$ being generated by the restaurant/convention facility. It is difficult to make this same allocation based upon expenses since many of the upper level employees jobs are divided between the two activities.

With respect to the restaurant, management confirmed that for the last several months they have three different types of non-member use of the restaurant. First, non-members are able to purchase a one month membership for the \$. Second, they can purchase a one day membership for \$ (the minimum permitted by the state of State). Third, and apparently the largest use, is that non-members are allowed to use the restaurant based upon being a guest of a member. This last option is used the most and on a very liberal basis. Thus, any time there is any possibility that a non-member can attach himself or herself to a member, then no fee is charged. The reason being is that the restaurant needs more customers and hence they have an incentive to permit non-members use of it.

I had the ORG take a count of member versus non-member use of the restaurant over the time period from February 26 to March 8th 20XX. During this time, there were 29 members who used the restaurant and 180 non-members who used the restaurant. According to the ORG management, this is a typical use ratio.

Given the non-member availability to use the restaurant and the actual use of the restaurant by non-members, it is obvious that there is no real value to the members and hence no inurement to them. Given the low or no cost to use the restaurant there is clearly no real value being given to the members.

I did some research on the issue of the land going to the members upon a dissolution and whether or not the unrecognized appreciation would be treated as "net income" for purposes of the prohibition against sharing in income. I was not able to find anything on point going either direction. The board of directors has no problem amending the bylaws so that to the extent income was used to improve the property that the value of such improvements would go to a 501(c)(3) charity upon any dissolution. However, as to the real property itself, I still believe that an entity should be able to distribute such an asset to members upon dissolution without violating the sharing in net income, whether or not there has been unrecognized appreciation.

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I also said that I would check on a modification of the bylaws so that both classes of stock were able to vote, rather than only the equity class having a right to vote. Because of the conflict between these two on a dissolution, the board of directors wanted to retain the right to have the equity class vote. Because ORG dictates how the golf course is to be run and maintained, the members have little power. For this reason, do not think that the voting disparity is all that important.

I believe the above covers those issues that were flushed out during our last telephone call. Hopefully, you will find that this supports my argument that the restaurant is either too immaterial to be concerned with or alternatively, that it provides a service for the community as a whole. If so, then the members are receiving no real advantage from the restaurant and it does not generate an inurement problem.

I like to try to compromise issues wherever possible, including those with the IRS. What I propose in this case is that the ORG retain its 501(c)(4) status, but that the restaurant is treated as an unrelated trade or business. I believe this fits with the facts since there is no real inurement to the members. Thus, to the extent it generates any income, there would be an UBIT. I realize that this compromise position cuts against by argument that the restaurant serves a community purpose since the conference rooms are used by the community as a whole. However, since such is basically free, the restaurant still generates the lion share of the income.

CONCLUSION:

IRC section 501(c)(4) provides that social welfare organizations must not be organized for profit and must be operated exclusively for the promotion of social welfare. IRC section 501(c)(4)(B) requires that no net earnings inure to the benefit of any private shareholder or individual with respect to such organization.

The ORG does not meet the organizational and operational requirements of IRC 501(c)(4) because it is owned by its stockholding/voting members, membership is limited, revenues generated by public patronage inure to the benefit of ORG members, and net assets are dedicated to ORG members upon dissolution.

Therefore, we propose revocation of the ORG's section 501(c)(4) exempt status retroactive to January 1, 20XX with consideration given to any request for IRC 7805(b) relief.



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
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501.04-00

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: June 9, 2010

Release Number: 201037034
Release Date: 9/17/10

LEGEND

ORG = Organization name
XX=Date Address = address

Employer Identification Number:
Person to Contact/ID Number:
Contact Numbers:
Voice:
Fax:

ORG
ADDRESS

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear

This is a final adverse determination letter with regard to your status under section 501(c)(4) of the Internal Revenue Code.

You were established in June 19XX as a subordinate under group exemption number 1710. The parent organization was granted tax exempt status as an organization described in section 501(c)(4) of the Code in January 19XX.

Based on recent information received, we have determined you have not operated in accordance with the provisions of section 501(c)(4) of the Code. You ceased operations at the end of 20XX. Currently, you have no financial resources and no assets. You also failed to meet the reporting requirements under IRC §§ 6001 and 6033 necessary for continued exemption from federal income tax under IRC § 501(c)(4).

Accordingly, your exemption from Federal income tax is revoked effective December 31, 20XX.

You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for all years beginning after December 31, 20XX.

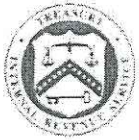
2

You have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal Appeals process. The Taxpayer Advocate 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. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, 1-877-777-4778, and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at: (405) 297-4055 (not toll-free).

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

Sincerely,

Nanette M. Downing
Director, EO Examinations



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
Internal Revenue Service

January 28, 2010

ORG
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear

We have enclosed a copy of our report of examination explaining why we believe an adjustment of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process*, explains how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

Letter 3610 (04-2002)
Catalog Number 34801 V

PSI-IRS-08-000103

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action*. We will then send you a final letter modifying or revoking exempt status. If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final. In that event, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate 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. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

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Thank you for your cooperation.

Sincerely,

For Nanette M. Downing
Acting Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination
Envelope

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number	Year/Period ended December 31, 20XX	

LEGEND

ORG = Organization name XX = Date Officer = officer Manager =
manager RA = RA

Issue:

Whether ORG qualifies for exemption under Section 501(c)(4) of the Internal Revenue Code.

Facts:

The Internal Revenue Service has made reasonable requests to ORG to file Form 990 for the tax period ending December 31, 20XX.

The following requests were made:

1. Cover Letter 3606, Form 4564, Information Document Request, (IDR), and Publication 1 were sent to the organization on June 18, 20XX.
2. Agent called EO Officer at (405) 412-5019 several occasions to discuss the case and requested delinquent Return for 20XX12, but demands for filing were not met.
3. A 90 day notice and demand letter and IDR were sent by certified mail to the organization on September 22, 20XX. The certified receipt was returned signed on 09/28/20XX by Officer.
4. A letter was sent to EO Manager on October 16, 20XX requesting delinquent Returns forms 941 and 990 but not respond was receipted.

ORG, has failed to respond to IRS correspondences and phone calls, and failed to file the Form 990 for the tax period ending December 31, 20XX. The organization reported wages paid in 20XX of \$ and failed to file Forms 941. Substitute-for>Returns were established by RA and Letter 3596 and form 2504 (Agreement to Assessment and Collection of Additional Tax) was mailed to EO for consent but the form was not return. The organization was required to file a 990 return as well for the year ending December 31, 20XX, but failed to respond to multiple correspondence sent and phone calls.

Background:

ORG, was established in June 19XX as part of a group ruling, group exemption number: 1710. The organization was granted tax exempt status as a 501(c)(4) non-profit organization in January, 19XX. According to the executive director, Officer, the organization no longer exists and does not conduct exempt activities. EO ceased

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number	Year/Period ended December 31, 20XX	

operations at the end of 20XX. Currently, the organization has no financial resources and no assets. A letter was received from Quartermaster of the national office, RA, confirming ORG ceased of operations in 20XX.

Nonetheless, ORG, did not follow proper procedures for termination of its exempt status, Articles of dissolution were not filed, nor a final Return was submitted when requested.

Failure to File Form 990s:

IRC § 6001 provides that every person liable for any tax imposed by the IRC, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

IRC § 6033(a)(1) provides, except as provided in IRC § 6033(a)(2), every organization exempt from tax under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Treas. Reg. § 1.6001-1(a) in conjunction with Treas. Reg. § 1.6001-1(c) provides that every organization exempt from tax under IRC § 501(a) and subject to the tax imposed by IRC § 511 on its unrelated business income must keep such permanent books or accounts or records, including inventories, as are sufficient to establish the amount of gross income, deduction, credits, or other matters required to be shown by such person in any return of such tax. Such organization shall also keep such books and records as are required to substantiate the information required by IRC § 6033.

Treas. Reg. § 1.6001-1(e) states that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.

Treas. Reg § 1.6033-1(h)(2) provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and IRC § 6033.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number	Year/Period ended December 31, 20XX	

Rev. Rul. 59-95, 1959-1 C.B. 627, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of IRC § 6033 and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

In accordance with the above cited provisions of the Code and regulations under IRC §§ 6001 and 6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax.

Conclusion:

It is the IRS's position that the organization failed to meet the reporting requirements under IRC §§ 6001 and 6033 to be recognized as exempt from federal income tax under IRC § 501(c)(4). Accordingly, the proposed revocation would be effective as of December 31, 20XX. Any contributions to the organization would no longer be deductible as charitable contributions. Any contributions to this organization by those who were in part responsible for or were aware of the activities or deficiencies on the part of the organization that gave rise to loss of exempt status will not be allowed as a deduction effective the date of revocation.

If this revocation becomes final, appropriate State officials will be advised of the action in accordance with Internal Revenue Code 6104(c) and applicable regulations.

JOINT COMMITTEE ON TAXATION

PRESS RELEASE

JCT Press Release: 00-02

March 16, 2000

For Immediate Release:

For Further Information, Contact: Michael Boren (202-225-3621)

(Michael.Boren@mail.house.gov)

The staff of the Joint Committee on Taxation (the "Joint Committee") today submitted a Report Of Investigation of Allegations Relating to Internal Revenue Service Handling of Tax-Exempt Organization Matters to Chairman William V. Roth, Jr., Vice-Chairman Bill Archer, Senator Daniel Patrick Moynihan, and Congressman Charles B. Rangel of the Joint Committee. Attached is the Executive Summary containing an overview of the Joint Committee staff investigation and findings.

On March 24, 1997, Chairman Roth, Vice-Chairman Archer, Senator Moynihan, and Congressman Rangel (the "Members") sent a letter to then-Joint Committee Chief of Staff Kenneth J. Kies indicating their concern about recent reports alleging politically motivated treatment of certain tax-exempt organizations and individuals by the Internal Revenue Service ("IRS"). The Members directed the Joint Committee staff to investigate whether the IRS's selection of tax-exempt organizations (and individuals associated with such tax-exempt organizations) for audit had been politically motivated. The scope of the investigation was limited to tax-exempt organizations described in Internal Revenue Code sections 501(c)(3) ("charitable, educational, religious, etc., organizations") and 501(c)(4) ("social welfare organizations"). Because allegations had also been made concerning IRS handling of determination letter applications, a review of these IRS processes was included within the scope of the Joint Committee staff investigation.

The Joint Committee staff report contains the following information: (1) an executive summary of the investigation and findings (Part I); (2) a summary of the allegations (Part II); (3) a detailed discussion of the Joint Committee staff findings (Part III); (4) the methodology employed by the Joint Committee staff in conducting its investigation (Part IV); (5) details of IRS operations relating to tax-exempt organizations (Part V); and (6) exhibits and appendices containing additional information relevant to the investigation (Exhibits 1-1, 1-2, and 1-3 and Appendices A and B).

I. EXECUTIVE SUMMARY

Summary of allegations made concerning IRS handling of exempt organization matters

Beginning in 1996, allegations appeared in various media reports that the IRS was engaged in politically targeted examinations of tax-exempt organizations. Additional allegations were made in submissions to, and by individuals interviewed by, the Joint Committee staff in connection with its investigation.

Some allegations related to IRS actions with respect to political and lobbying activities of specific tax-exempt organizations. Other allegations related to more general targeting by the IRS of organizations with views opposed to the Clinton Administration. These allegations can be summarized as follows:

- the IRS handling of determination letter requests for organizations perceived to represent political views that were opposed to the Clinton Administration was biased;
- the IRS inappropriately granted determination letters or expedited the granting of determination letters for organizations whose views were in line with those of the Clinton Administration;
- the IRS handling of examinations of tax-exempt organizations (and individuals associated with such organizations) that were opposed to or were critical of the Clinton Administration's policies was biased;
- the IRS did not conduct examinations of organizations favored by the Clinton Administration engaged in activities similar to other tax-exempt organizations that were under examination;
- the IRS inappropriately initiated examinations of certain tax-exempt organizations in response to information provided to the IRS by the White House or other influential individuals (e.g., Members of Congress) whose views aligned with the Clinton Administration and in opposition to the organizations targeted; and
- IRS employees assigned to cases of tax-exempt organizations whose views were in opposition to the Clinton Administration exhibited bias in their handling of such cases.

Joint Committee staff investigation in general

The Joint Committee staff investigation focused on a review of (1) how the IRS generally administered the law relating to the political and lobbying activities of tax-exempt organizations, (2) how the IRS generally administered determination letter requests of tax-exempt organizations, (3) how the IRS generally selected tax-exempt organizations for examination, and

(4) the IRS handling of matters relating to certain specific tax-exempt organizations and individuals associated with such tax-exempt organizations.

Joint Committee staff review of IRS handling of specific tax-exempt organizations and individuals

The Joint Committee staff identified 142 tax-exempt organizations (and individuals related to such organizations) that were potentially within the scope of the Joint Committee investigation through the following sources: (1) media reports, (2) contacts from tax-exempt organizations and individuals, (3) information provided by the IRS (including the IRS Office of Inspection) and the Treasury Inspector General, and (4) information received from the Senate Governmental Affairs Committee. From these sources, the Joint Committee staff identified more than 130 organizations and individuals potentially within the scope of the investigation. The Joint Committee staff received briefings and/or summary materials prepared by IRS National Office personnel relating to each of these organizations or individuals. The Joint Committee staff identified 83 organizations and individuals for which complete case file reviews were conducted to evaluate IRS conduct with respect to the taxpayers.

The Joint Committee staff reviewed hundreds of boxes of case file material supplied by the IRS with respect to the organizations and individuals identified as within the scope of the Joint Committee staff investigation. In addition, the Joint Committee staff conducted in-depth interviews of 57 current and former IRS employees, many of whom were directly or indirectly involved in the cases of the organizations and individuals within the scope of the Joint Committee staff investigation. Follow-up interviews were conducted with a number of IRS employees to clarify inconsistencies in statements or to pursue additional information relating to the cases in question. The Joint Committee staff reviewed personnel files of IRS employees in certain circumstances.

The Joint Committee staff contacted organizations and individuals whose names had appeared in media reports and invited the organizations to meet with Joint Committee staff or to submit written responses to questions. The Joint Committee staff met with representatives of ten organizations or individuals and received written submissions from a number of other organizations.

Joint Committee staff review of other materials

In addition to the review of specific case file information with respect to organizations and individuals within the scope of the Joint Committee staff investigation, the Joint Committee staff reviewed extensive other information relating to IRS handling of tax-exempt organization matters in general and other information that may be relevant to the cases within the scope of the investigation. The Joint Committee staff review included the following information: (1) all determination letter and examination data for tax-exempt organizations from 1990 through 1998, (2) all Congressional correspondence to the IRS from 1995 through 1997, (3) IRS management

information and reports from 1990-1997, (4) IRS correspondence and case tracking systems, (5) Internal Revenue Manual procedures, (6) policies and procedures of the IRS, the Treasury Department, and the White House with respect to conduct of employees and employee involvement in specific taxpayer matters, (7) all allegations of employee misconduct with respect to tax-exempt organization matters from 1990-1998, and (8) information supplied by the Justice Department, the Treasury Department, and the White House.

Summary of Joint Committee staff findings

Most of the information supplied by the IRS to the Joint Committee staff in the course of its investigation constitutes taxpayer return information that cannot be disclosed pursuant to section 6103 of the Internal Revenue Code.¹ Thus, the Joint Committee staff findings do not include any specific findings of the Joint Committee staff with respect to the organizations and individuals within the scope of the Joint Committee staff investigation or any information that might identify such organizations or individuals. These findings represent the general conclusions drawn by the Joint Committee staff from its extensive review of IRS case file information, other information received from the IRS, other Federal agencies, and other sources, and interviews with relevant Federal employees and others.

IRS handling of tax-exempt organization determination letter requests

- The Joint Committee staff found no credible evidence that the IRS delayed or accelerated issuance of determination letters to tax-exempt organizations based on the nature of the organization's perceived views.
- The Joint Committee staff found that determination letter applications forwarded to the IRS National Office for handling took much longer on average for the IRS to process. The Joint Committee staff found no credible evidence that the forwarding of certain determination letter applications to the IRS National Office was the result of a deliberate effort by IRS employees to subject organizations with views that opposed the Clinton Administration to more intense scrutiny. The Joint Committee staff found that the delay by the IRS National Office in processing the determination letter application of one organization was unacceptably slow, but the Joint Committee staff found no credible evidence either of bias by IRS employees or other political intervention causing the delay.

¹ Under section 6103(f)(4), the Chief of Staff of the Joint Committee may receive taxpayer return information from the IRS. However, such Chief of Staff may not disclose any taxpayer return information received. Unauthorized disclosure of tax return information protected under section 6103 is a felony punishable by a fine of up to \$5,000, imprisonment for up to five years, or both.

IRS handling of tax-exempt organization examinations

- The Joint Committee staff found no credible evidence that tax-exempt organizations were selected for examination, or that the IRS altered the manner in which examinations of tax-exempt organizations were conducted, based on the views espoused by the organizations or individuals related to the organization.
- The Joint Committee staff found no credible evidence of intervention by Clinton Administration officials (including Treasury Department and White House officials) in the selection of (or the failure to select) tax-exempt organizations for examination.
- The Joint Committee staff found that certain cases involving high-profile tax-exempt organizations and individuals received intense internal review and scrutiny by the IRS; however, the Joint Committee staff found no credible evidence that such increased review or scrutiny was politically motivated.
- The Joint Committee staff found that the interaction between the Office of IRS Chief Counsel and the Office of the Assistant Commissioner (Employee Plans and Exempt Organizations) with respect to technical advice requests results in significant delays in the processing of such requests and contributes to a reluctance by certain IRS Key District Office employees to submit such requests for technical advice. These delays contributed to a perception that the IRS was not treating all tax-exempt organizations consistently. The Joint Committee staff concluded that the delays in processing such requests were unnecessarily excessive in some cases.
- The Joint Committee staff found no credible evidence that the IRS had improperly targeted for examination individuals related to tax-exempt organizations within the scope of the Joint Committee staff investigation.

IRS use of information items in the tax-exempt organization area

- The Joint Committee staff found no credible evidence that the IRS systematically used information items (such as media reports, letters from Members of Congress, letters from taxpayers, etc.) to identify for examination tax-exempt organizations that espouse views that are opposed to the political views of the Clinton Administration. Prior to the middle of 1998, most IRS Key District Offices destroyed information items when a decision was made not to pursue the item. Thus, the Joint Committee staff could not evaluate whether there was a pattern of behavior by the IRS in the handling of information items that resulted in certain organizations being selected for examination and other organizations engaged in similar activities not being selected for examination. The Joint Committee staff found that the IRS had initiated examinations of certain tax-exempt organizations with views clearly in opposition to the Clinton Administration based on media reports and other information items provided to the IRS. The Joint Committee staff found that the IRS also initiated examinations of organizations that would be considered supportive

- of the Clinton Administration based on such information items.
- The Joint Committee staff found a few instances in which the stated IRS National Office policy of sending information items without comment to the appropriate IRS Key District Office was not followed and the IRS National Office memorandum transmitting an information item contained statements as to the IRS National Office view of either the law or the relevance of the information item. The Joint Committee staff did not find any credible evidence that the IRS National Office attempted to influence IRS Key District Office decisions on whether to initiate examinations of tax-exempt organizations.
 - Certain media reports raised issues relating to statements attributed to an IRS employee concerning the handling of Congressional inquiries relating to tax-exempt organizations. According to the reports, the IRS employee allegedly stated (1) that IRS employees had been or were shredding documents identifying the names of Members of Congress and their staff as the sources of examination requests and (2) suggesting ways to disguise information items received from Members of Congress. The Joint Committee staff reviewed documentation provided by the IRS relating to the IRS employee's statements. According to the documentation, the IRS employee's statements concerning the shredding of documents related to the previous practice in the IRS Key District Offices of destroying information items that did not result in an audit. The employee's statements with respect to the attribution of information items received from Members of Congress related to the concern raised by an IRS Office of Inspection Internal Audit report (discussed in detail below) that recommended identifying a media report as the source of an information item relating to a tax-exempt organization even if a taxpayer or a Member of Congress forwards such media report to the IRS.
 - The Joint Committee staff found no credible evidence that Congressional inquiries had improperly altered the manner in which the IRS handled tax-exempt organization cases.
 - The Joint Committee staff found no credible evidence that information items forwarded to the IRS by the Treasury Department or the White House were given more weight by the IRS than information items received from other sources.

Employee misconduct with respect to tax-exempt organization matters

- The Joint Committee staff found no credible evidence that any IRS employee had improperly altered the outcome of a tax-exempt organization case. The Joint Committee staff found that the IRS had procedures in place to ensure that political appointees, such as the Commissioner of Internal Revenue and the IRS Chief Counsel, did not generally become involved in the resolution of issues relating to specific taxpayers.
- The Joint Committee staff found that allegations of IRS employee misconduct with respect to organizations within the scope of the Joint Committee staff investigation that were referred to the IRS Office of Inspection were thoroughly investigated by IRS

management and the IRS Office of Inspection and disciplinary action, if warranted, was taken.

- The Joint Committee staff found that instances of employee misconduct or other issues relating to organizations within the scope of the Joint Committee staff investigation that were referred to the Treasury Inspector General's office were lost, misplaced, or not investigated by the Inspector General. The Joint Committee staff found no credible evidence that this failure to investigate referrals by the Inspector General's office occurred as a result of a concerted effort to protect high-ranking IRS and Treasury Department officials. Rather, it appeared that these failures to investigate resulted from lack of accountability, recordkeeping failures, and incompetence within the Inspector General's office.
- The Joint Committee staff identified eight instances of alleged IRS employee misconduct relating to organizations within the scope of the Joint Committee staff investigation. With respect to these eight instances, the Joint Committee staff found the following:
 - Two instances related to statements made by IRS employees to representatives of tax-exempt organizations under examination by the IRS. In each instance, the IRS employee's statements were interpreted by the representative of the tax-exempt organization to indicate that there was bias in the handling of the examination by the IRS. The Joint Committee staff found that the IRS employees' statements were ambiguous. In addition, based upon interviews of IRS employees by the Joint Committee staff and based upon records of interviews conducted by the IRS Office of Inspection and the Treasury Inspector General, the Joint Committee staff found that the IRS employees did not intend their statements to mean what the statements had been interpreted to mean by the representatives of the tax-exempt organizations.
 - Three instances related to allegations made by tax-exempt organizations that IRS employees assigned to the tax-exempt organizations' cases were biased, based generally on information the tax-exempt organization had about the political views of the IRS employees. In one instance, the case was transferred to the IRS National Office based on the issues involved and the IRS employee had no further involvement in it. In the other two instances, the IRS either reassigned the case in question to another IRS employee or added IRS employees to the case to ensure that individual IRS employee bias would not occur.
 - One instance related to an allegation that IRS employees had violated the church audit procedures contained in Code section 7611. The Joint Committee found that the contact made by IRS employees was done to educate the relevant church as to the law with respect to impermissible political campaign intervention by organizations described in section 501(c)(3). See the discussion in Part III.B., concerning the Joint Committee staff's findings with respect to the church audit procedures.

- One instance involved allegations of potential misconduct identified by one IRS employee with respect to the actions of the employee's supervisor. Based on the available information and evidence and the statements of the IRS employee and the employee's supervisor, the Joint Committee staff found no credible evidence that the supervisor had acted in a manner intended to influence improperly either the initiation or conduct of examinations of tax-exempt organizations.
- One instance involved an allegation of an improper attempt to obtain information by an employee of the Office of IRS Chief Counsel with respect to the examination of a tax-exempt organization within the scope of the Joint Committee staff investigation. The Joint Committee staff found no credible evidence that the employee had acted in a manner intended to influence improperly the handling of the examination by the IRS.
- Allegations of IRS employee misconduct with respect to the handling of tax-exempt organization cases are not recorded in a single IRS data base and the IRS does not have a comprehensive system in place to identify all such allegations. In order to respond to Joint Committee staff requests with respect to allegations of employee misconduct, the IRS surveyed managers in the IRS National Office and IRS Key District Offices to determine their recollections of any such allegations. This manager survey identified one allegation that was also identified through one of the two relevant IRS databases. However, due to the lack of a comprehensive data base, the Joint Committee staff was unable to evaluate systematically whether all instances of alleged IRS employee misconduct with respect to tax-exempt organizations within the scope of the Joint Committee staff investigation were located.
- The Joint Committee staff found evidence of two nonroutine contacts of IRS employees made by White House and Treasury officials.
 - In the first instance, the Joint Committee staff found evidence of a single nonroutine direct contact in 1997 between White House officials and the IRS in which the White House officials appear to have attempted to obtain taxpayer return information to which they were not entitled under section 6103. Because the tax-exempt organization in question was not an organization described in section 501(c)(3) or (c)(4), the contact was outside of the scope of the Joint Committee investigation and, therefore, was not extensively reviewed. However, limited materials reviewed by Joint Committee staff indicated that the contact related to the status of certain forms filed by members of a tax-exempt organization. It appears that White House officials initially contacted employees in the Treasury Office of Tax Policy and were referred, in apparent violation of Treasury Order 107-05, directly to the IRS. The White House officials then, in violation of written White House policies, contacted directly several IRS employees (none of whom worked in the Exempt Organization Division) and attempted to secure taxpayer return information. The Joint Committee staff found that the IRS employees

involved (1) refused to disclose taxpayer return information protected under section 6103; and (2) promptly referred the contact to the Treasury Inspector General.

- In the second instance, a Treasury Department official was alleged to have made a 1995 inquiry to IRS employees concerning the status of an examination of a tax-exempt organization within the scope of the Joint Committee staff investigation. One of the IRS employees contacted in connection with the inquiry was sufficiently concerned about the nature of the contact that a referral was made to the IRS Office of Inspection. As the matter pertained to a Treasury Department official, the IRS Office of Inspection referred the matter to the then-Treasury Inspector General's office.² The Treasury Inspector General did not act upon the referral until it was brought to the Inspector General's attention during the Joint Committee staff investigation during 1997. When asked about the referral by the Joint Committee staff, the Treasury Inspector General's office could not locate it and had no record of any action taken with respect to the referral. Materials received by the Joint Committee staff from the Treasury Inspector General's office in 1999 indicate that the Inspector General received a copy of the referral in July 1997 and assigned an investigator to it. There was no evidence of any other action by the Treasury Inspector General with respect to this referral after September 1997. During 1999, following further Joint Committee staff inquiries with respect to the referral, the Treasury Inspector General for Tax Administration investigated the allegations made with respect to this contact and found that the evidence concerning the nature of the contact made by the Treasury official was inconclusive. However, the Treasury Inspector General for Tax Administration did not find any evidence that the IRS handling of the examination of the tax-exempt organization in question was improper. The Joint Committee staff interviewed all parties involved in this contact and reviewed IRS and Treasury records, including the relevant case file. The Joint Committee staff found no credible evidence that the contact by the Department of Treasury employee influenced the conduct or outcome of the examination.

Other investigations

Prior to and during the Joint Committee staff investigation, the IRS Office of Inspection, the Treasury Inspector General, and the Treasury Inspector General for Tax Administration conducted a number of investigations into the IRS processes relating to tax-exempt organizations generally and into allegations relating to IRS employee handling of certain cases specifically. The Joint Committee staff had access to all information obtained by or generated by these offices in connection with the various investigations.

² There is conflicting information regarding the timing of the referral by the IRS Office of Inspection to the Treasury Inspector General. IRS Office of Inspection records indicate that the referral was forwarded in 1995; however, the Treasury Inspector General's office had no record of receiving the referral prior to July, 1997.

THOMAS R. CARPER, DELAWARE, CHAIRMAN

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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

May 23, 2013

VIA U.S. MAIL & EMAIL (Catherine.M.Barre@IRS.gov)

Mr. Daniel I. Werfel
Acting Commissioner
Internal Revenue Service
U. S. Department of the Treasury
1111 Constitution Avenue
Washington, D.C. 20224

Dear Mr. Werfel:

We are writing to urge you to suspend immediately Lois Lerner from her office as Director of the Office of Exempt Organizations at the Internal Revenue Service (IRS). We believe that Ms. Lerner failed to disclose crucial information concerning the IRS's inappropriate targeting of some conservative 501(c)(4) organizations during the course of a Permanent Subcommittee on Investigations inquiry into how the IRS enforces the 501(c)(4) law, leading to an incomplete account of the full operations of her unit.

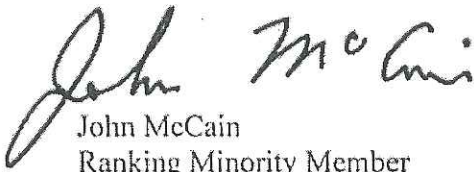
Since March of last year, the Subcommittee has been examining whether the IRS adequately and appropriately enforces tax code provisions and implementing regulations regarding the extent to which tax-exempt 501(c)(4) groups may engage in political campaign activity. The Subcommittee asked the IRS why it was not enforcing the 501(c)(4) statute which states that social welfare organizations should be used "exclusively for the promotion of social welfare" and instead enforcing the more lenient IRS regulation which states that a social welfare organization may be used "primarily" for social welfare. It also asked the IRS about how they reviewed applications filed by certain Democratic and Republican leaning 501(c)(4)s. Our investigation has included a year's worth of correspondence between the Subcommittee and the IRS, as well as document productions and repeated consultations with IRS staff.

On April 30, 2013, Ms. Lerner and seven IRS colleagues spent six hours being interviewed, on a bipartisan basis, by Subcommittee staff. That interview covered, among other topics, how the IRS determines which groups to review, what actions are taken in connection with the IRS reviews, and how the laws and regulations are used to examine those groups. Ms. Lerner failed to disclose the internal controversy over the search terms used by the Cincinnati office to identify 501(c)(4) groups for further review, the actions taken by that office in reviewing the identified groups, the investigation and imminent findings by the Treasury Department Inspector General for Tax Administration (TIGTA), and TIGTA's conclusion that the IRS had used inappropriate criteria to target Tea Party and other conservative groups. Ms. Lerner also failed to disclose that she was fully aware of these issues as early as June 2011, and,

according to TIGTA, had been personally involved in reviewing questionable actions taken by the Cincinnati office.

Given the serious failure by Ms. Lerner to disclose to this Subcommittee key information on topics that the Subcommittee was investigating, we have lost confidence in her ability to fulfill her duties as Director of Exempt Organizations at the IRS. Ms. Lerner's continued tenure in the office she holds, where she is responsible for overseeing 1.6 million tax-exempt organizations, would erode public trust and confidence in the IRS and its professional integrity. We believe that the immediate removal of Ms. Lerner from office would be a vital step in helping to restore public trust in the agency.

Sincerely,



John McCain
Ranking Minority Member
Permanent Subcommittee on Investigations



Carl Levin
Chairman
Permanent Subcommittee on Investigations



INSPECTOR GENERAL
FOR TAX
ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20005

July 19, 2013

The Honorable Sander M. Levin
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515-6348

Dear Representative Levin:

On June 26, 2013, I responded to your letters dated June 24, 2013 and June 26, 2013 regarding our recent audit report entitled "Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review." As a result of additional review of this matter, we would like to clarify two points from our previous response.

Before proceeding, I would like to reiterate that TIGTA did not make any characterizations of any organizations in our audit report as "conservative" or "liberal" and I believe it would be inappropriate for an Inspector General to make such conclusions. Therefore, our audit did not focus on names except for those that the Internal Revenue Service (IRS) informed us that it used to select potential political cases for additional review.¹ We reviewed all 298 potential political cases the IRS identified as of May 31, 2012 and statistical samples of 338 cases out of 4,510 Section 501(c)(4) tax-exempt applications that we identified, to determine if they matched names the IRS included in its criteria.² The analyses we are providing in this letter were conducted subsequent to our audit to respond to concerns expressed by congressional Members.

The first point I would like to clarify concerns a statement in our prior response that a total of 6 out of 20 applications filed between May 2010 and May 2012 including the words "Progress" or "Progressive" in the organization's name were processed as potential political cases. We subsequently found an additional organization whose name had been misspelled by the IRS on the listing it provided to us of 298 potential political cases that we believe should have been included in our analysis of "Progress" or "Progressive."³ Therefore, we now believe that 7 of 21 Section 501(c)(4) tax-exempt applications having the words "Progress" or "Progressive" in their names were included in the 298 cases the IRS identified as potential political cases as of May 31, 2012. Of

¹ Until July 11, 2011, the Rulings and Agreements office referred to these cases as "Tea Party" cases. Afterwards, the Exempt Organizations function referred to these cases as "advocacy" cases.

² Id.

³ The IRS misspelled a word in one organization's name as "Progessive" in the listing it provided to us.

these, three specifically had the word "Progressive" in the organizational name. These figures are based on our research of data for 4,510 Section 501(c)(4) tax-exempt applications that were open as of May 31, 2012 or closed between May 2010 and May 2012.⁴

In addition, we researched the IRS's listing of 298 potential political cases to determine if any included the word "Occupy." We determined that none of the 298 organizations included the word "Occupy" in the organization's name as of May 31, 2012. Furthermore, we determined that there were no applications in the population of Section 501(c)(4) tax-exempt applications that we identified containing the word "Occupy" in the organization's name. Two organizations with the word "Occupy" were identified as potential political cases by December 2012 after the IRS removed "Occupy" from the Be On the Look Out (BOLO) listings.

In addition, on July 9, 2013, we received two documents from July 2010 that the IRS failed to provide to us during the conduct of our audit which refer to the term "Progressive" in association with "current activities/politics." In one of the documents, the Determinations Unit specialist responsible for processing potential political cases at the time of the documents states "'Progressive' applications are not considered 'Tea Parties'." Since we were not aware of the existence of these two documents during our audit, we did not ask questions about them. We are reviewing this matter further.

The second point we would like to clarify concerns a statement in our June 26, 2013 response that 100 percent of the tax-exempt applications filed between May 2010 and May 2012 including the words "Tea Party," "Patriots," or "9/12" were subjected to additional scrutiny as potential political cases. To clarify, 100 percent of the Section 501(c)(4) tax-exempt applications in our *statistical samples* with the words "Tea Party," "Patriots," or "9/12" in their names were processed as potential political cases.

⁴ To be consistent with our audit, we researched a population of 4,510 Section 501(c)(4) tax-exempt applications. This includes 2,051 applications that the IRS determined required minimal or no additional information that were closed between May 2010 and May 2012. This also includes 2,459 applications that the IRS determined required additional information from the organization applying for tax-exempt status that were closed between May 2010 and May 2012 or open as of May 31, 2012. Additional applications that were open as of May 31, 2012 or closed between May 2010 and May 2012 were not considered as part of our analysis because they did not meet the criteria for our statistical samples, e.g., applications that were returned to organizations because they were incomplete or applications that had not made it through the IRS's initial review. Three additional applications with the words "Progress" or "Progressive" in the organizational name were open as of May 31, 2012, but were not in the population from which we sampled. None of these applications were included in the 298 cases the IRS identified as potential political cases as of May 31, 2012.

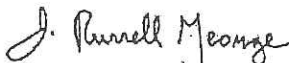
The IRS recently shared with us additional information indicating that some applications with the words "Tea Party," "Patriots," or "9/12" in their names were not processed as potential political cases. We conducted additional analyses and determined that 12 of the 4,510 Section 501(c)(4) applications considered as part of our audit with the words "Tea Party" (two cases), "Patriots" (four cases), or "9/12" (six cases) in their names were not processed as potential political cases, as of May 31, 2012.⁵ None of the 12 applications appeared in our statistical samples. We researched data for these 12 applications and determined that four were later processed as potential political cases; one was treated similarly to a potential political case, and one was not a potential political case. Specifically:

- Three of the "9/12" applications and one "Patriots" application were included on a listing of potential political cases prepared after May 2012.
- One "Tea Party" application was transferred to the Exempt Organizations Technical Unit to be processed.
- One application with "Patriots" in its name did not appear to relate to a group involved with political campaign intervention.

The remaining six cases included two that were withdrawn by the organization in Calendar Year 2010; two that were approved in Calendar Year 2010, and two that were approved in Calendar Year 2011.

As the IRS continues to provide us with additional information from its internal review, we will continue to provide you with updates as necessary. If you or your staff have any questions, please contact me at [REDACTED] or Acting Deputy Inspector General for Audit Michael E. McKenney at [REDACTED].

Sincerely,



J. Russell George
Inspector General

[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations

⁵ Four additional applications with the words "Tea Party," "Patriots," or "9/12" in the organizational names were either open as of May 31, 2012 or closed between May 2010 and May 2012, but were not in the population from which we sampled. The IRS returned three of the four applications to the applicants as incomplete. The remaining application required minimal information to process, but had not been closed. None of these applications were included in the 298 cases the IRS identified as potential political cases as of May 31, 2012.

IRS list reveals concerns over Tea Party 'propaganda'

Gregory Korte, USA TODAY 12:57 p.m. EDT September 18, 2013

<http://www.usatoday.com/story/news/politics/2013/09/17/irs-tea-party-target-list-propaganda/2825003/>

Correction: An earlier version of this story understated the number of groups represented by the the American Center for Law and Justice.

WASHINGTON — Newly uncovered IRS documents show the agency flagged political groups based on the content of their literature, raising concerns specifically about "anti-Obama rhetoric," inflammatory language and "emotional" statements made by non-profits seeking tax-exempt status.

The internal 2011 documents, obtained by USA TODAY, list 162 groups by name, with comments by Internal Revenue Service lawyers in Washington raising issues about their political, lobbying and advocacy activities. In 21 cases, those activities were characterized as "propaganda."

The list provides the most specific public accounting to date of which groups were targeted for extra scrutiny and why. The IRS has not publicly identified the groups, repeatedly citing a provision of the tax code prohibiting it from releasing tax return information.

More than 80% of the organizations on the 2011 "political advocacy case" list were conservative, but the effort to police political activity also ensnared at least 11 liberal groups as of November 2011, including Progressives United, Progress Texas and Delawareans for Social and Economic Justice.

The IRS controversy first exploded in May, when Exempt Organizations Director Lois Lerner admitted that the IRS had targeted Tea Party groups for additional scrutiny beginning in early 2010. The IRS placed a hold on those applications for more than 20 months, an inspector general's investigation found.

On Nov. 16, 2011, IRS lawyers in Washington sent a list of cases to front-line agents in Cincinnati, along with comments and guidance on how to handle political organizations.

Tax law experts say those comments appear to show IRS employees trying to apply the murky rules governing political activities by social welfare groups.

But the American Center for Law and Justice, a nonprofit legal institute that represents 33 of the groups appearing on the IRS list, said it appears to be "the most powerful evidence yet of a coordinated effort" by the IRS to target Tea Party groups.

"The political motivations of this are so patently obvious, but then to have a document that spells it out like this is very damaging to the IRS," said Jay Sekulow, chief counsel for the ACLJ. "I hope the FBI has seen these documents."

The IRS categorized the groups as engaging in several advocacy-related activities that could have barred them from tax-exempt status, such as lobbying and "propaganda."

But the word "propaganda" doesn't appear in section 501(c)(4), which governs the social welfare status that most Tea Party groups were applying for, said John Colombo, a law professor at the University of Illinois. Instead, it appears in section 501(c)(3), which governs public charities.

"There would be no reason I would think to flag them if it's for a 501(c)(4) status," Colombo said. "That's very odd to me."

In three cases, IRS lawyers noted that groups appeared to be connected to Republican politicians: Stand Up for Our Nation Inc., linked to former Alaska governor Sarah Palin; Reform Jersey Now Inc., linked to Gov. Chris Christie; and American Solutions for Winning the Future, founded by former House speaker Newt Gingrich. Gingrich's group was approved last year.

Five groups were flagged as having "anti-Obama" materials in their applications or on their websites.

For instance, the IRS said the website of the Patriots of Charleston contains "negative Obama commentary." Though the IRS didn't cite examples, a November 2011 article on the group's site says: "Obama's and the Democrats' track record of disaster is based upon a combination of their ignorance and their fundamental desire to convert America into a ruling class of wealthy all-powerful elitists and a single class of serfs."

"The web site, as we explained to them on multiple occasions, is really a blog" that members can submit commentary to, said Joanne Jones, the group's vice chairwoman. "I'm not going to tell you we weren't political. We were to an extent, but we were within the limits of the law. For example, there's one clear-cut issue: We did not endorse candidates."

"To focus in on somebody saying something anti-Obama," she said, "it's almost like the speech police there. It's disturbing. It's the kind of overreach that leads into Obamacare."

The group received its tax exemption in September 2012.

RHETORIC OF SOME GROUPS QUESTIONED

It wasn't just anti-Obama rhetoric the IRS was looking out for. Progress Texas was identified by the IRS as engaging in lobbying, propaganda and political activities. IRS lawyers in Washington noted "anti-Rick Perry" rhetoric, referring to the Republican Texas governor, then a presidential candidate.

Progress Texas received a tax exemption as a social welfare group in June, 2012.

Campaign-finance watchdogs say the IRS scrutiny came out of a justified effort to police "dark money" in politics. After the U.S. Supreme Court ruled in 2010 that corporations and unions — and even non-profit groups — could engage in independent political advertising, social welfare groups became a vehicle for funneling undisclosed cash into the election system.

That's the position of Progressives United, a group founded by former senator Russ Feingold, D-Wis., that itself appeared on the 2011 IRS target list.

"The fact that our group received some scrutiny does not change at all our opinion that scrutiny like this from the IRS, it's their job. The law applies to us as it would any conservative group," said Progressives United's Josh Orton. "I feel like there's this group of campaign finance nihilists who want to expand this into an argument that there should be no scrutiny at all. They want a wild west of election law, because they want to continue using secret corporate money to influence elections."

Crossroads GPS, a group affiliated with GOP strategist Karl Rove, spent \$70 million on the 2012 election. Its 2010 application for a tax exemption, obtained by the non-profit news organization Pro Publica last year, said it would spend 50% of its resources on "public education." In the 2011 list, the IRS noted "significant anti-Obama rhetoric." Crossroads has not received a tax exemption.

'WE ARE TOTALLY ABOVE BOARD'

The Tea Party of North Idaho filed its tax-exempt application in February, 2010 — the same month IRS screeners in Cincinnati first brought Tea Party applications to the attention of officials in Washington, according to IRS employee testimony before a congressional committee.

A lawyer in the IRS Exempt Organizations Technical Unit in Washington wrote the Idaho group had "No significant amount of clear campaign intervention; however little issue advocacy or educational; significant inflammatory language, highly emotional language, little to no educational information on issues."

The IRS lawyers recommended that screeners in Cincinnati look for other materials — including "press releases, commentary, articles, and research reports," according to the IRS list.

That's when Leslie Damiano, who co-founded the North Idaho group, started getting what she considered to be intrusive questions from the IRS. She said the tax agency wanted to know who her donors were, and what companies they own. They wanted to know the educational background of the group's board members. And they wanted to know whether candidates were invited to the group's meetings, and whether it made endorsements.

"We're a conservative organization. We invited some independents," she said. "We never had any rallies that were off the charts by any stretch of the imagination."

Frustrated with the process, the Tea Party of North Idaho withdrew its application in 2012.

"We had an accountant, we had a bookkeeper. We were totally above board with everything we did," Damiano said.

REDUCING THE NATIONAL DEBT

Some groups caught in the IRS' net had no connection to national politics on either side. The Citizens for the Preservation of Rural Murrysville says it's "dedicated to the preservation of the open and natural, rural character of Murrysville, Pa.," although the IRS said it endorsed some local candidates. The Sarasota Bay Tiger Club is one of several similar Florida clubs that provide "a non-partisan forum on current political issues." The club says it has "never endorsed political candidates nor advocated a particular ideology," but the IRS said in its spreadsheet that it was "unclear" if that was the case.

The list also includes the Association to Reduce the National Debt, which was seeking to be recognized as a charity so it could solicit tax-deductible contributions — and give those contributions to the U.S. Treasury to put toward the national debt.

Founder Seth Eisenberg said the group was not political — and he told the IRS that.

IRS tax specialists noted "no political campaign activities." But two years after applying, the association still hasn't gotten his ruling letter. And without that letter, contributions are not tax-deductible and no one will give, he said.

All for a group that said it wanted to give the government money.

"I thought this would be a fast-tracked application. A no-brainer. But it got caught up in this whole political controversy," Eisenberg said. "It's the greatest irony that ever was."

DOCUMENT: [The IRS list of 'political advocacy cases'](http://www.usatoday.com/story/news/politics/2013/09/17/irs-tea-party-target-list-document/2827925/)
<http://www.usatoday.com/story/news/politics/2013/09/17/irs-tea-party-target-list-document/2827925/>

Organization Name	Date	EIN	Subsection	EDS Status	Current	Lobbying	General Advocacy (i.e. issue advocacy and/or educational)	Propaganda (i.e. inflammatory educational aspects)	Political Activities	Development	Comments	Suggested Action(s)
1	Chattanooga Tea Party	11/19/09	27-0840657	c-4	52	X		X	X	Yes	Lobbying; general advocacy (little to no educational aspects); political activities (not primary)	Suggestions are based on initial screening of cases in TEDS, not on a full review and development of the cases. * Indicates that development may not be needed. Suggest that EOD may want to review the case to make final determinations whether to or not to develop the case.
2	Mississippi Tea Party	12/04/09	27-0197731	c-4	52	X	X	X	X	Yes	Substantial political campaign intervention; could be primary activity. Development	
3	Richmond Tea Party	12/29/09	27-0920175	c-4	52		X				General advocacy; educational; limited campaign activities.	Possible favorable
4	American Patriots Against Government Excess	01/02/10	27-1203868	c-4	52	X			X	Yes	Lobbying/political campaign intervention; little to no general (issue) advocacy activities/educational activities. More development may be needed. <u>Include minutes from meetings held</u>	
5	Take Back Our Country	02/10/10	61-1610784	c-4	52		X		X	Yes	Under whether primarily political campaign intervention or an advocacy org; more development needed, including copies of weekly newsletters. Based on website; primarily political campaign intervention. On the org's blog under "President's Message," states: "Our ultimate goal is to turn California's 54 electoral votes back to a conservative candidate. First order of business is to	
6	Tea Party Patriots of North Idaho	02/10/10	27-0354907	c-4	52					Yes	Additional development needed; no significant amount or clear campaign intervention; however little issue advocacy or educational; significant inflammatory language, highly emotional language, little to no educational information on issues. Additional development should include copies of materials provided to members; press releases, articles, commentary, and research reports; should obtain copies of these reports/articles/press releases. Review for possible denial; activities are commercial in nature.	
7	Patriots Educating Concerned Americans Now	03/02/10	27-1672341	c-3	52					Yes	May be proposed denial; Articles of Incorporation specifically state their purpose is to "Promote the election of candidates that support limited government."	May be proposed denial if primary activity is political
8	Pennsylvania Coalition for Responsible Government	03/08/10	60-0364430	c-4	52				X			

9	1776 Tea Party	03/15/10	26-4317943	c-4				X	X			Issue advocacy; additional development may be needed as majority of website involves reposting various news articles; postings on website show little educational value; appear mostly emotional.	
10	Everyday Patriots	03/18/10	27-1802261	c-4				X				General advocacy org	
11	Roane County Tea Party	03/19/10	27-0945423	c-4				X	X			Political campaign activity; activities unclear; no real educational activities/content apparent	
12	San Angelo Tea Party, Inc.	03/26/10	27-0783603	c-4				X				Development needed; hosted Fairman Cain event	
13	Freedom and Values Alliance, Inc.	03/28/10	27-0424641	c-4				X				Appears to be mostly engaging in primarily political campaign activity; no apparent educational or legislative activities	
14	Voices of Western Slope Conservative Alliance	03/29/10	27-0466188	c-3				X				General advocacy org; additional development should include requests for pamphlets, other published materials, etc	
15	912 Lane County	04/01/10	27-0320117	c-4			X	X	X			Not on TEDS; no website	Possible favorable
16	Red River Tea Party LLC	04/05/10	27-1930524	c-4				X				Legislative and general advocacy; some apparent political advocacy	
17	Tri-Cities Tea Party	04/09/10	27-0759001	c-4			X	X	X			Maybe general advocacy org but need to determine if really educational and good CA activities; more development likely bc website requires member login to majority of website	
18	Shenandoah Valley Tea Party	04/14/10	36-4668117	c-4				X				General advocacy and lobbying; appears to be good CA activities	Possible favorable
19	Norcal Tea Party/Patriots	04/16/10	27-0704510	c-4				X	X			Advocacy org; some political campaign activity on state level (see Form 1024)	
20	Patriots of Charleston	04/29/10	27-1940800	c-4				X				Advocacy org; additional development needed to determine if PA are primary; ex hold candidate forums (one indep, 3 republicans, no dems or others); website offers little information about activities/issues	
21	Stand Up for Our Nation, Inc.	05/03/10	26-4684102	c-4				X	X			General advocacy org	Possible favorable
22	Kaly Tea Party	05/05/10	27-1068109	c-4				X	X			Both general advocacy and some apparent political campaign activities (re negative Obama commentary); more development may be needed to determine if good CA activities	
23	Refoundri Org	05/07/10	27-0253964	c-4				X				Unclear; Additional development; website requires login. News articles say that Sarah Palin formed the org; Form 1024 is bare as to activities	
24	Conservative Grass Roots (King Street Patriots)	05/11/10	26-4490743	c-4				X				Substantial campaign activity; additional development needed to determine if primary	
25	Reform Jersey Now Incorporated	05/11/10	27-1620172	c-4				X	X			Could not pull up on TEDS	Possible favorable
26	912 Project Fort Worth, Inc.	05/20/10	27-2435222	c-4				X	X			Unclear whether general advocacy or primarily political campaign activities	
27								X				General advocacy; voter education activities	
28								X	X			May be general advocacy org; additional development needed. Web articles link the org to Gov. Chris Christie	
								X	X			Additional development needed; little issue adv/educational activities on website; just information on rallies/meetings, etc	

29	Georgia Tea Party, Inc.	05/21/10	27-0473262	c-4	52	X							General advocacy org; possible lobbying; may be favorable but may need additional development to see what actual activities engaging in	
30	Peoples Tea Party Corp												Political activities; narrative states "half of" activities include getting to know candidates running for office; also publish voting score cards; need to determine if candidate activity is educational or partisan	
31	Hawaii Tea Party	05/26/10	27-2287542	c-4	52		X						General advocacy org	
32	Grimmes County Tea Party	05/27/10	27-0884650	c-4	52		X						General advocacy; lobbying	
		05/28/10	27-1126823	c-4	52	X							c3. Couldn't pull up on TEDS; but did a website search (verify website); based on website indirect prohibited political activities (anti-Obama rhetoric on website); substantial propaganda	
33	The America We Love Foundation	06/03/10	26-4693625	c-3	52								General advocacy	
34	Montana Conservative Alliance	06/07/10	27-2607672	c-4	52			X					General advocacy	
35	North Houston Tea Party Patriots, Inc.	06/11/10	27-0343879	c-4	52			X					Political campaign intervention seems substantial; more development to determine if primary activity; also more development on any advocacy activities because as of filing Form 1024, had not engaged in any. See no educational activity or issue advocacy	
36	Manassas Tea Party													
37	Unite In Action	06/11/10	27-2566386	c-4	52				X				Lobbying and general advocacy; development may be needed; Website includes a "I'm Timothy Gaitner" section and a section to "Demand Joe Biden apologize"	Possible favorable
38	American Leadership Council	06/14/10	27-1686680	c-4	52								c3. unclear; state purpose is to hold forums but little to no description of why/what purposes/topics/etc; more development needed; description of activities very bare.	
39	Idaho Rights Foundation, Inc.	06/18/10	27-1760073	c-3	52								General advocacy; educate public on civil rights and liberties.	
40	Ohio Liberty Council Corp	06/23/10	27-1899255	c-3	52								(General advocacy; political activities (hold candidate forums))	
41	Dallas Tea Party, Inc.	06/29/10	27-0336042	c-4	52			X					Appears to be general advocacy; more development needed; no detail as to what issues they're advocating/educating on; can't access website.	
42	Waco Tea Party	07/06/10	27-0274628	c-4	52					X			Unclear; need to determine if activities actually constitute good ed activities (i.e. issue adv or educational activities)	
43	10th Amendment Foundation, Inc.	07/09/10	27-0186644	c-4	52						X		Lobbying (healthcare legislation repeal) appears to be significant; Also, political activities (held candidate forum where only 1 candidate appeared and 2 others did not)	Possible denial
44	The Common Sense Campaign Corp	07/12/10	27-0338663	c-3	52				X				Lobbying and general advocacy; need more info on actual activities	
45	Coalition for a Conservative Majority Colorado Springs	07/13/10	27-0886714	c-4	52								General advocacy; little to no details or info on issues/educational activities on website or Form 1024	
		07/14/10	27-0625005	c-4	52					X			General advocacy; little to no details or info on issues/educational activities on website or Form 1024	

46	Louisville Grassroots Tea Party, Inc.	07/19/10	27-0528697	c-4	52				X	X	Yes	Political campaign activities; verify website; website articles are emotional/inflammatory; little to no description of activities on Form 1024; more development needed re political activities and educational value of website/other materials	
47	Allen Area Patriots	07/20/10	27-2785947	c-4	52				X	X	Yes	Substantial amount of campaign activity, including candidate forums, candidate ratings, etc. More development to determine if primary activity.	
48	Rochester Tea Party Patriots	07/21/10	27-0995725	c-3	52		X				Yes	Lobbying; provide narrative description of activities; website is heavy on legislation, call to action on specific legislation; little to no educational aspects other than bare description of legislation; no substantive discussion of issues	
49	Laurens Co Tea Party/Dianne Belson	07/23/10	27-2061290	c-4	52				X	X	Yes	Significant political campaign activity; further development needed to determine if primary activity; have "vetting committees" for candidates and endorse specific candidates for various elections	
50	Arkansans for Common Sense	08/04/10	27-2075668	c-4	52		X			X	*	Lobbying and general advocacy org; candidate election advocacy (does not appear primary)	Possible favorable
51	San Antonio Tea Party, Inc.	08/05/10	80-0280303	c-4	52		X		X	X	*	Lobbying and general advocacy org; engages in political campaign activity; but, negative comments referring to liberals, etc.; may need development regarding inflammatory/emotional statements	
52	Slop This Insanity, Inc.	08/09/10	27-1909830	c-4	52					X	*	Proposed denial; Org states in its application that it is a PAC "which primarily helps members elect candidates who reflect our values through a variety of activities aimed at influencing the outcome of elections."	Possible denial
53	Southeastern Ohio 912 Project Inc.	08/20/10	30-0637171	c-4	52			X			*	General advocacy org	
54	Myrtle Beach Tea Party, Inc.	08/24/10	27-0239091	c-4	52					X	Yes	Appears to be primarily political campaign intervention; website shows no educational activity or issue advocacy or legislative advocacy. Narrative of activities is bare with no detail other than dates of rallies.	
55	Texas Puentes Initiative	08/28/10	30-0634239	c-3	52			X			*	Appears to be general educational advocacy; website down so could not view so may want to do additional development	
56	912 Project of Burlington County	08/31/10	27-2962958	c-4	52			X			*	Appears to be general advocacy; couldn't access website so may want to do additional development	
57	First Coast Tea Party, Inc.	08/31/10	27-0213422	c-4	52		X			X	*	General advocacy and legislative advocacy; may be indirect negative political activities (indirect negative comments on Obama)	
58	SD Citizens for Liberty	08/31/10	27-3244200	c-4	52		X		X	X	Yes	General advocacy/issue lobbying, but does engage in candidate election advocacy; further development bc little to no educational value; emotional/inflammatory language/unsupported "factual" statements.	

59	Crossroads Grassroots Policy Strategies	09/02/10	27-2753378	c-4	52	X	X	X	X	X	X	Yes	Lobbying and general advocacy org, however, significant anti-Obama rhetoric and articles, appears to be an anti-Obama Administration website; however there are educational materials on site.
60	Sidney Shelby County Liberty Group	09/13/10	36-4674344	c-4	52	X						Yes	Appears to be lobbying; have held a number of candidate forums, development should explore if political activities are primary activity etc. Also need more info on actual activities.
61	KSP True the Vote	09/20/10	27-2860095	c-3	52		X					Yes	c3: Educational advocacy org; voter registration/drive activities; However, may be direct/indirect campaign intervention (substantial language/information on website focuses on democratic attacks and republican/conservative response so development is needed and should examine his language/web section)
62	OKC PIA Association	09/21/10	27-0434401	c-4	52	X					X	Yes	General advocacy org & lobbying activities, however little to no educational activities/issue advocacy; highly inflammatory and disparaging commentary/articles. Appears to have no objectivity, no factual support for statements, etc.
63	US Health Freedom Coalition, Inc.	09/24/10	87-0809179	c-4	52	X					X	Yes	Lobbying appears to be primary activity. Org is advocating a health care reform/freedom act.
64	Just Liberty Incorporated	09/28/10	27-1101708	c-4	52	X						Yes	Appears to be substantial lobbying activities; need membership to log in so development may want materials distributed via email, materials distributed at rallies, meeting minutes, etc.
65	CVFC	09/30/10	27-3210078	c-4	52							Yes	More development necessary; affiliated with Combat Veterans for Congress PAC; Form 1024 provides little to no information on activities and is vague and broad as to planned activities.
66	Weiumpka Tea Party Inc.	10/13/10	27-1231032	c-4	52							Yes	Org specifically states activities involve candidate election advocacy; need to determine if primary activity.
67	Bedford County Patriots	10/16/10	80-0589953	c-4	52						X	Yes	Political campaign activities; supporting candidates; website has little on educational activities, a lot of info on campaign activities and candidate forums. Need to determine if primary activity
68	North East Tarrant Tea Party, Inc.	10/18/10	27-2948663	c-4	52						X	Yes	Political campaign intervention appears to be a significant if not primary activity.
69	American Patriots for Conservative Action, Inc.	10/23/10	27-3587326	c-4	52							Yes	Unhelpful; much more development needed; Form 1024 description of activities is bare and not detailed. No website.
70	Comeback America Initiative, Inc.	10/25/10	27-3489428	c-3	52				X			Yes	c3: Appears educational in line with 501(c)3 purposes; no apparent political campaign activity; may want to look into whether compensation of CEO is reasonable and if absolutely no political intervention

1	San Fernando Valley Patriots, Inc.	10/25/10	27-3587925	c-4	52			X	X	X	Yes	Significant political campaign activities (a lot of anti-Obama) but also general advocational activities (some facts/some inflammatory/emotional viewpoint/language); need to determine if PCA is primary.
2	Coffee Party USA	10/28/10	27-2504746	c-4	52			X	X		Yes	General advocacy, some educational activity on website, however, a lot of emotional commentary/personal commentary based more on personal positions; conclusions/comments based more on strong emotional feelings than objective analysis. Do not present candidate examination as possible denial. Engages in political campaign activity. Specifically checked on Form 1023, Part VIII. Specific Activities, that the org will support or oppose candidates. Additionally in narrative the org states it raises candidates and allow candidates who engages in candidate election advocacy, specifically endorses certain candidates; engages in some legislative and general advocacy; need to determine if campaign election activities are primary activity.
3	Yuba Sutter Tea Party Patriots	11/12/10	27-2076246	c-3	52					X	Yes	Engages in candidate election advocacy, specifically endorses certain candidates; engages in some legislative and general advocacy; need to determine if campaign election activities are primary activity.
4	Citizens for the Preservation of Rural Murrysville	11/12/10	28-4714753	c-4	52		X				Yes	General advocacy org; however, very vague on activities, for example states that its purpose is to educate on local, state and national issues but does not discuss those issues. Website is bare except for disparaging commentary about a local council person.
5	San Juan County 912 Project Corporation	11/19/10	27-1008251	c-4	52			X			Yes	Primary activity may be political activities/campaign intervention, majority of website involves anti-Obama articles and
6	Las Cruces Tea Party	12/01/10	27-1195139	c-4	52					X	Yes	Unclear, org states its activities include helping "tea party" orgs market themselves, develop their org, attract speakers, develop websites, produce stickers/bags/forms, etc. which seems like commercial/business activity; little to no educational or issue advocacy on website. Additionally, alot of campaign rhetoric, references to taking back the country after Nov 2 elections. Attachment includes emotional rhetoric, nothing objective or informational; viewpoints/positions unsupported by facts. Development may also want to include examining whether exec compensation is reasonable.
7	Tea Party Patriots Inc.	12/17/10	27-0470327	c-4	52						Yes	C3, Unclear, no website, Form 1023 narrative description of activities bare; additional development
8	Tea Party Patriots Foundation, Inc.	12/17/10	27-3893619	c-3	52						Yes	Appears to be general advocacy (educational activities). No website; development should request copies of brochures/pamphlets/materials distributed at fundraising or speech events, etc. to determine if
9	Restoring Freedom Foundation, Inc.	12/17/10	27-3988938	c-3	52			X			Yes	Appears to be general advocacy; must sign up to access "stay informed" part of website; may want to do further development.
0	Union County 2020, Inc.	12/21/10	28-2446373	c-4	52			X				

96	Tea Party Patriots Denver, Inc.	01/03/11	27-3173122	c-4	52		X				Yes	States it's an advocacy org. Form 1024 narrative is bare and undeveloped; website is unavailable. More development likely.
97	Citizen opinion inc	02/01/11	27-2030004	c-3	52						Yes	Couldn't access on TEDS
98	The Carlsson Center for Public Policy	02/01/11	27-4682545	c-3	52			X			Yes	501c3; potential political campaign activity; negative commentary/articles on Obama on website. More development needed.
99	Intersections, Inc.	02/03/11	80-0675701	c-3	52			X			Yes	501c3; additional development needed on reasonableness of executive compensation as well as activities and if there are any prohibited campaign activities.
100	The Tim Mellon Foundation	02/10/11	37-1647354	c-4	52						Yes	Org's purpose appears to be to raise money for an org called Pontiac Promise Zone (college tuition funding org). But also spent approx. \$1,000 to send Tim Mellon to the American Legislative Exchange
101	Constitution Education Foundation	02/14/11	27-4602098	c-3	52						Yes	Couldn't access on TEDS
102	Delawarsons for Social and Economic Justice	02/14/11	27-1612626	c-4	52						Yes	Primary purpose may be political campaign intervention; website which states "our goal is to impact the 2010 elections." Form 1024 narrative provides little, undetailed information. Website is less educational and more emotional commentary.
102	Cincinnati 9 12 Project, Inc.	02/22/11	30-0662569	c-4	52	X					Yes	Lobbying and general advocacy
104	Minnesota Campaign for Liberty	02/22/11	27-2917133	c-4	52	X	X				*	Primary purpose is to lobby for legislation; lobbying appears to relate to its exempt purposes
105	Delawarsons for Growth and Development	02/22/11	27-5085351	c-4	52	X					*	Appears to be general advocacy org; no website. Form 1024 narrative provides emotional language as opposed to description of educational activities. More development needed to determine if good or
106	Citizens for Prosperity and Reform Movement	02/22/11	27-3623663	c-4	52	X	X				Yes	General advocacy org
107	Freedom Path Inc.	03/07/11	90-0648831	c-4	52	X	X				*	Legislative and general advocacy
108	Ohio First for a Better Government, Inc.	03/08/11	27-5401086	c-4	52	X	X				*	Primary/main activity is lobbying. Some candidate election advocacy on website (verify website).
109	The Tea Party In Action, Inc.	03/08/11	27-2579530	c-4	52	X	X				*	Lobbying, general adv., political campaign activities; ex. voter education activities (voter registration, get out vote drives, etc)
110	Faith and Freedom Coalition of Ohio, Inc.	03/10/11	27-2162340	c-4	52	X	X				*	Unclear; anti-Rick Warren rhetoric; voter education activities sought; political commentary that may be disparaging/emotional/inet educational
111	Progress Texas	03/11/11	80-0687741	c-4	52	X	X				Yes	Couldn't access on TEDS
112	The Labor Committee	03/15/11	27-1491803	c-4	52						Yes	Couldn't access on TEDS
113	Spirit of Freedom Institute	03/16/11	27-3731345	c-3	52						Yes	Couldn't access on TEDS

29	Tea Party Patriots of Southern NJ, Inc	04/18/11	37-1803684	c-4	52	X	X	X	Yes	501c3; significant inflammatory/emotional comments; potentially substantial lobbying activities; not good c3 activities.	Possible denial
30	Mid-Coast Tea Party Patriots, Inc.	04/19/11	80-0498559	c-4	52		X		Yes	General advocacy org. engages in political activities; development should include questions on candidate forums, copies of any materials distributed, etc.	
31	American Solutions for Winning the Future	04/22/11	45-1652137	c-4	52				Yes	This org was a 527 that terminated its status, news reports talk about a bankruptcy. It was associated with/formed by Newt Gingrich. It seeks to become a 501c4; the 527 is transferring any assets to the c3 engaging in prohibited political campaign intervention; website has a section devoted to an Elections Committee that "identifies, vets, and supports" candidates for office, pictures of group at campaign rallies wearing shirts supporting certain candidates. Form 1023 they checked no to engaging in political campaign activity.	Possible denial
32	Bayshore Tea Party Foundation	04/27/11	27-5471915	c-3	52		X		Yes	c3; also filed first page of a 1024 application; educational activity; no apparent lobbying activities; no political activities; "development may want to address reasonableness of contribution for the Under what activities are; website bare; activity may just be lobbying; development should request copies of "educational" materials it distributes/produces, materials from events, etc	
33	America's Trust, Inc.	05/02/11	20-0149287	c-3	52				Yes	c3; development needed to determine if engaging in prohibited political activities/propaganda; no access to website (must sign in to view)	
34	Freedom Club	05/04/11	80-0684337	c-4	52				Yes	c3; engaging in prohibited political activity (see Candidate Bio page on website with language that appears to favor candidates discussed on page in addition the org fails to provide bios on ALL candidates for the offices at issue); additionally, there is language on website regarding "hold your elected officials accountable"; development should ask what the org means by this? Or how it intends to "hold elected officials accountable." A substantial part of activities also may be lobbying.	Possible denial
35	Liberty Markets Fund for Freedom	05/12/11	27-3005430	c-3	52				Yes	c3; development needed to determine if engaging in prohibited political activities/propaganda; no access to website (must sign in to view)	
36	Asheville Tea Party, Inc.	05/13/11	80-0403110	c-3	52				Yes	c3; engaging in prohibited political activity (see Candidate Bio page on website with language that appears to favor candidates discussed on page in addition the org fails to provide bios on ALL candidates for the offices at issue); additionally, there is language on website regarding "hold your elected officials accountable"; development should ask what the org means by this? Or how it intends to "hold elected officials accountable." A substantial part of activities also may be lobbying.	Possible denial
37	Orions for Healthcare Freedom, Inc.	05/17/11	45-2453243	c-4	52	X			Yes	c3; no website or can't find via web search; appears to be general advocacy/educational org; development should determine if any prohibited	Possible favorable
38	Oregon Capital Watch Foundation	05/28/11	80-0711747	c-3	52		X		Yes	General advocacy/issue advocacy; need to determine if any educational activity or if activity/language of org is purely based on	
39	Portage County Tea Party, Inc.	06/06/11	27-1448661	c-4	52		X		Yes	Couldn't locate on TEDS	
40	Louisiana Campaign for Liberty	06/08/11	27-2857260	c-4	52				Yes	Couldn't locate on TEDS	
41	Athens Campaign for Liberty	06/09/11	27-2856338	c-4	52				Yes	Couldn't locate on TEDS	

142	Kentucky Campaign for Liberty	06/09/11	27-2837130	c-4	52					Yes	Couldn't locate on TEDS
143	Wyoming Campaign for Liberty	06/09/11	27-2859990	c-4	52					Yes	Couldn't locate on TEDS
144	Missouri Campaign for Liberty	06/09/11	27-2839026	c-4	52					Yes	Couldn't locate on TEDS
145	Kansas City Campaign for Liberty	06/09/11	27-2857069	c-4	52					Yes	Couldn't locate on TEDS
146	Association to Reduce the National	06/10/11	45-2485453	c-3	52	X				Yes	c3: purpose is to raise money to send to the Treasury Department to help pay off national debt. No political campaign activities; legislative activities.
147	West Suburban Patriots	06/10/11	80-0609004	c-4	52		X			Yes	General advocacy org. activities may be less educational and more emotional rhetoric (see website articles). Very political rhetoric; website has substantial inflammatory/emotional rhetoric, no educational information found. Bad ct activity.
148	Oklahoma's for Liberty	06/15/11	27-4542143	c-4	52	X		X		Yes	Lobbying and general advocacy. Need more info on actual activities
149	We the People of Maryland, Inc.	06/15/11	45-2437070	c-4	52	X				Yes	Couldn't locate on TEDS
150	Take Back Our Country	06/17/11	27-2922748	c-4	52					Yes	Org's purpose appears to be "educating" on the dangers of radical Islam/Sharia law/Muslim Brotherhood etc. While there are educational aspects to some articles on website, the materials/articles/etc could be propaganda, and Primary activities appear to be lobbying and political campaign activities, will compose candidate questionnaires, voter guides, etc. (development unclear; more development needed to determine whether political activities are primary
151	Act for America Middle Tennessee	06/21/11	27-4431473	c-4	52		X			Yes	c3: 501(c) election; educational activities. However, have concerns about one activity of org that involves its website and that will "provide a means by which corporate employees and citizens with information on illegal and fraudulent corporate behavior may General advocacy org. purpose is to influence regulations
152	New York Civic Action, Inc.	06/25/11	45-2680388	c-4	52	X				Yes	Lobbying activities and general advocacy; need more info on activities engaging in
154	Michigan Faith and Freedom Coalition	06/28/11	45-1316574	c-4	52					Yes	c3: no website; additional development to determine if any political activities; request materials, etc.; as well as compensation and allowance of discretionary
155	Corporate Accountability Project	06/28/11	45-2288010	c-3	52	X		X		Yes	
156	Californians for Regulatory Reform	06/28/11	45-2549959	c-4	52			X		Yes	
157	Free Congress Action, Inc.	06/29/11	27-3180178	c-4	52	X				Yes	
158	Conserve our Republics Dignity	06/29/11	45-2023073	c-3	52					Yes	

59	New Roosevelt Foundation, Inc.	06/30/11	45-0821734	c-3	52						Yes	501(c)3; website: Under construction; additional development recommended to obtain materials distributed; research conducted; more detail on activities. c4 appears to be engaged in lobbying & general advocacy; has raised 527 PAC	
60	Progressives United, Inc.	07/01/11	45-2317777	c-4	52	X							
61	Arizona Citizens United	07/05/11	45-2521317	c-4	52				X		Yes	Political campaign activities appear to be substantial based on Form 1024 narrative; development may be needed	
62	whereas the fine America foundation	07/06/11	27-4818012	c-3	52	X				X	Yes	c3 (exempted case); 501(c)3 election; also general advocacy; however, unsure whether good c3 activities; website is down	

The Colorado Independent

Does the IRS really have it in for tea party groups?

Teddy Wilson

March 28, 2012 Politics

<http://www.coloradoindependent.com/116361/does-the-irs-really-have-it-in-for-tea-party-groups>

Conservative activists and some Republican lawmakers are up in arms about what they describe as the Internal Revenue Service conducting a partisan and ideologically driven campaign against tea party groups around the country. They claim that progressive organizations are not experiencing the same level of scrutiny. However, some progressive groups say they have had similar experiences with the IRS, and at least one expert dismisses the notion that the government is engaged in an ideological witch hunt.

Tea party groups, as well as other non-profit organizations, can apply for tax-exempt status with the IRS. Under the 501(c) designation there are 28 different types of organizations that are exempt from paying some or all federal taxes. Typically, organizations like tea party groups will apply either for 501(c)3 or 501(c)4 status, depending on the organization's activities. One of the differences between the designations is that donations to a 501(c)3 are tax deductible and donations to a 501(c)4 are not.

In an interview with the Texas Independent, Toby Walker of the Waco Tea Party said that the group applied for 501(c)4 status by filing a 1024 form with the IRS in July of 2010. About a month later the group was informed that the IRS would take 90 days to inform it of an approval, a denial, or a request for more information. "The 90 days came and went," said Walker. "But on their web site it said that they were behind. We started calling and checking in, and they said they were backlogged."

Then on Feb. 7 of this year, the Waco Tea Party received a letter from the IRS asking for the answers to 20 questions. "Some of the questions were acceptable," said Walker. "We knew they were going to ask for more information, and we weren't surprised to get the letter. What surprised us were a number of the questions that did not pertain to the 1024."

"Red alert"

Walker specifically cited the seventeenth question as being a "red alert." The question asks if the group has a "close relationship with any candidate for public office or political party." The question also asks them to describe the relationship.

"I told our treasurer to find out what that means," said Walker. "When we called the IRS they said that close relationship is subjective and to send them the names, and they will let us know. What does that mean?"

"It was so onerous to answer," said Walker.

The letter asked for transcripts of the group's social media activities, including posts on Facebook and Twitter. It also requested transcripts of the group's online radio show. Walker said that the group was looking at significant costs for printing and shipping all of the documents required. "Just to do our Twitter account would be between 2,500 and 3,000 pages," said Walker.

Walker said that she knew that "left leaning groups" that filed the same year had been approved. While she did not name the specific groups, **Walker referred to a March 8 Roll Call article.** The article stated that "several liberal groups contacted by Roll Call did not report similar experiences."

The article specifically cited **Protect Your Care**, a 501(c)4 organization that describes its mission as providing a space to "champion the Affordable Care Act," as an organization that did not receive any such questionnaire letter from the IRS. Roll Call also said that one other unnamed liberal 501(c)4 organization was granted tax exempt status in May after receiving "only a modest six-part questionnaire."

Progressives get same treatment

However, interviews conducted by the Texas Independent with three different progressive organizations call into question charges that the IRS is engaged in ideological discrimination. Each organization reported varying degrees of interactions with the IRS, and the amount of time it took each to receive final approval also varied. However, two of the organizations did receive correspondence from the IRS requesting more information, and these letters included similar questions to those received by the Waco Tea Party.

In College Station, Texas, the **Brazos Progressives**, a coalition of progressive groups and businesses, originally filed for 501(c)3 status and, after being denied, filed for and received 501(c)4 status. **Clean Elections Texas**, an organization that seeks to build support for a public funding option for candidates seeking public office in Texas, filed for 501(c)4 status and said that they avoided requests for more information by being advised on what specific information the IRS was looking for on the 1024 forms.

A staff member of a progressive organization in Texas spoke with the Texas Independent on the condition of anonymity due to the fact that their organization is undergoing a similar review as the Waco Tea Party. The staff member said that while the organization's application for 501(c)3 and 501(c)4 status went through "fairly smoothly," the organization also had to answer extensive follow-up questions about its finances and mission.

"We received a questionnaire of around twenty questions," said a staff member. "The letter was looking for a deeper understanding of our organization. There were no questions that were that surprising. I think they [the questions] were just about really drilling into why we wanted to have a tax exempt status. It made us focus on what we are working on and what kind of great good agenda, not just a partisan agenda, we are working toward."

"The IRS is asking similar questions of organizations from all over the political spectrum."

The staff member, who said that he has worked for multiple 501(c)3 and 501(c)4 organizations during the Clinton, Bush, and Obama administrations, said that he has perceived no difference in how non-profits applying for tax-exempt status are treated. "When the IRS asks questions, then you answer them," said the staff member. "If you are upset with being upfront and clear about your organization, then maybe you shouldn't be filing for a 501(c)4 status."

A comparison of the letter from the IRS released by the Waco Tea Party and of a letter provided by the progressive Texas organization found that both are extensively detailed, asked similar questions, and were tailored to each organization. Both letters asked for copies of the organization's board meeting minutes and for copies of each organization's web sites. Questions also addressed specific concerns that the IRS had with each organization but, on the whole, did not appear to treat the organizations differently.

Marcus Owens, an attorney who represents non-profit organizations and has previously worked with the IRS, told the Texas Independent that the IRS is attempting to "get behind the rhetoric" of organizations that are interested in public policy.

"The IRS is asking similar questions of organizations from all over the political spectrum," said Owens. "The real issue for the IRS when it looks at organizations that apply for 501(c)4 status is whether or not they are social welfare organizations or something else. It's not whether or not they should be exempt or not, but which code section they should be exempt under."

While Owens did think that some of the questions were too broad and could have been worded better, he also said that groups applying for tax exempt status have options when questioned by the IRS.

"Fundamentally the IRS has a right ask the questions," said Owens. "However, the IRS is usually open to negotiating how much information you need to provide. What is clear is that this application process is normally not improved by public posturing. It is the task of the organization or the organization's representatives to add to the facts and make the case to the IRS."

Walker says that when the Waco Tea Party received the letter from the IRS, the group contacted its members, volunteers, and supporters. At no time did the group contact the IRS directly for clarification of the questions or to negotiate what information would be acceptable.

The Waco Tea Party also sought out the **American Center for Law and Justice** for legal advice and representation.

The ACLJ has taken up the cause of the Waco Tea Party and other tea party groups. The ACLJ describes itself as "committed to ensuring the ongoing viability of freedom and liberty in the United States and around the world." Founded in 1990 by television evangelist Pat Robertson, the group has gained notoriety for taking up conservative causes. These have included **providing a legal defense for a public bus driver** who was fired for refusing to take a woman to a Planned Parenthood clinic in Texas.

“When a branch of the fed government is violating citizens’ rights, they need to be investigated and put into their constitutional box.”

The ACLJ posted a petition on its web site to “**Stop the IRS from Silencing the Tea Party.**” The petition claims that under the Obama Administration the IRS “appears to be conducting politically motivated investigations of tea party organizations nationwide.” The petition characterizes the investigations as “bullying tactics” that are “designed to silence these organizations.” The petition calls for the Speaker of the House and others to “provide IRS oversight.” Other Republican lawmakers and candidates have joined in supporting these claims, and some have called for congressional investigations.

Rep. Flores gets involved

Republican Rep. Bill Flores (TX-17), whose district includes Waco, **penned a letter** to House Committee on Oversight on Government Reform Chairman Rep. Darrell Issa stating that he is “concerned that the IRS is targeting tea party organizations around the country.” The letter requests that Issa’s committee open an investigation into the issue and hold congressional hearings. Republican senators **also sent a letter** to Commissioner of the IRS Douglas Shulman, requesting a response to similar concerns and demanding that the agency hold further “demands for information.”

The Waco Tea Party also taken to social media to make its case that it is being targetted by the IRS, characterizing it as a battle between the “**IRS versus the tea party.**” Posting multiple status updates and links on Facebook and Twitter, the group has made the claim that you are “**either with us or against us and the constitution.**” The group has also promoted the petition drive by the ALCJ, tweeting “**defend the tea party from the IRS, sign the petition and call Congress.**”

Another recent tweet reads: “The left is trying to silence Rush, and the IRS is trying to silence the tea party.”

Walker shares the desire for an investigation and hearings. “Yes there needs to be congressional hearings,” she said. “When a branch of the fed government is violating citizens’ rights, they need to be investigated and put into their constitutional box.”

IRS Letter to Waco Tea Party

Internal Revenue Service
██████████
Cincinnati, OH 45201

Department of the Treasury

Date: February 1, 2012

Waco Tea Party
PO Box 5231
Waco, TX 76708

Employer Identification Number:
██████████

Person to Contact - Group #:
██████████

Contact Telephone Numbers:

██████████ Phone

██████████ Fax

Response Due Date:

February 23, 2012

Dear Sir or Madam:

We need more information before we can complete our consideration of your application for exemption. Please provide the information requested on the enclosed Information Request by the response due date shown above. Your response must be signed by an authorized person or an officer whose name is listed on your application. Also, the information you submit should be accompanied by the following declaration:

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

If we approve your application for exemption, we will be required by law to make the application and the information that you submit in response to this letter available for public inspection. Please ensure that your response doesn't include unnecessary personal identifying information, such as bank account numbers or Social Security numbers, that could result in identity theft or other adverse consequences if publicly disclosed. If you have any questions about the public inspection of your application or other documents, please call the person whose name and telephone number are shown above.

To facilitate processing of your application, please attach a copy of this letter and the enclosed Application Identification Sheet to your response and all correspondence related to your application. This will enable us to quickly and accurately associate the additional documents with your case file. Also, please note the following important response submission information:

- Please don't fax and mail your response. Faxing and mailing your response will result in unnecessary delays in processing your application. Each piece of correspondence submitted (whether fax or mail) must be processed, assigned, and reviewed by an EO Determinations specialist.
- Please don't fax your response multiple times. Faxing your response multiple times will delay the processing of your application for the reasons noted above.

2


Waco
[REDACTED]

- Please don't call to verify receipt of your response without allowing for adequate processing time. It takes a minimum of three workdays to process your faxed or mailed response from the day it is received.

If we don't hear from you by the response due date shown above, we will assume you no longer want us to consider your application for exemption and will close your case. As a result, the Internal Revenue Service will treat you as a taxable entity. If we receive the information after the response due date, we may ask you to send us a new application.

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

Sincerely yours,



[REDACTED]
Exempt Organizations Specialist

Enclosure: Information Request
Application Identification Sheet

Waco
[REDACTED]

Additional Information Requested:

1. Please provide copies of your current web pages, including your Blog posts. Please provide copies of all of your newsletters, bulletins, flyers, newsletters or any other media or literature you have disseminated to your members or others. Please provide copies of stories and articles that have been published about you.
2. Provide copies of the pages of your social networking sites.
3. You provided a copy of your Articles of Incorporation that does not exhibit the State agency's date stamp. Please provide a copy exhibiting the date stamp.
4. Provide an updated roster of your Board and officers.
5. Provide your actual revenues and expenditures for 2010 and 2011, and a projection of your 2012 revenues and expenditures. Please be very explicit about your expenditures.
6. Provide copies of the action items you have sent to members and others by email or otherwise.
7. Provide copies of the agendas and minutes of any Board meetings and, if applicable, membership meetings, in which electoral issues were discussed or to which candidates for political office were invited.
8. Have you expressly endorsed or oppose candidates for public office or slates of candidates at public events, on your website, on your radio show or You Tube page, in your literature or in any other forum? Do you plan to do so in the current election cycle? If so, provide a list of candidates for political office you have expressly endorsed or opposed, and describe the occasion on which you made each endorsement.
9. Describe in detail any financial or other support you have given to candidates, slates of candidates, or political parties, or which you plan to give in the current election cycle.
10. List the community events, including rallies, you organized or took part in in the past, or plan to organize or participate in during the current election cycle. What are the dates on which they took place or will take place?
 - a. Describe the purpose of the event, and the issues that it addressed.
 - b. Provide copies of any materials disseminated to participants in the event.
 - c. If you permitted a candidate qua candidate to address the participants in any event, explain in detail.
11. List the dates of the radio shows in which candidates for political office were invited or in which candidates as candidates were mentioned by name. Please provide transcripts of the pertinent parts of those shows.
12. Submit copies of any candidate questionnaires you submit to candidates. How do you communicate the results of the questionnaires to the electorate? Provide copies of these communications.
13. Do you compile voter guides or distribute voter guides, either your own or those provided by others? Provide copies.
14. Provide copies of any documents you disseminate that rate incumbents or all candidates for political office. State the dates on which you disseminated these documents, and through which media.

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[REDACTED]

15. Do any issue-related advocacy communications compare to the positions of candidates or slates of candidates on these issues with your positions? Provide copies of these communications. What percentage do these constitute of your issue-related advocacy communications?
16. Do you encourage eligible voters to educate themselves, register to vote, and vote?
 - a. Explain in detail how you do this. For example, do you conduct voter registration or get out the vote drives, or voter education?
 - b. In the course of conducting these activities do your members or volunteers urge the voters to support or oppose particular candidates or slates of candidates?
 - c. If not, describe how you ensure that these activities are conducted in a strictly non-partisan manner.
17. Do you have a close relationship with any candidate for public office or political party? If so describe fully the nature of that relationship.
18. Provide copies of any agreements you have with others for provision of goods or services, sharing of facilities or other cooperative arrangements, or anything else.
19. What percentage of your time is devoted to each of the following? What percentage of your resources?
 - a. Member events in which electoral issues, including the qualifications of candidates or slates of candidates are also discussed.
 - b. Organization/participation in public events. Within this category, what percentage involved some kind of intervention in the political process, including, but not exclusively, express or implicit endorsement or opposition to candidates or slates of candidates.
 - c. Express endorsements of candidates through press releases, advertising, member communications, radio shows, or other media.
 - d. Financial or other support to candidates, slates of candidates, or political parties.
 - e. Voter education and engagement activities which tend to support or oppose specific candidates or slates of candidates.
 - f. Issue-related advocacy communications. Within this category, what percentage include comparisons of the positions of candidates or slates of candidates on these issues with your positions?
 - g. Compilation and distribution of candidate questionnaires, voter guides, incumbent or candidate ratings, and so forth.
 - h. Member events in which only legislative issues are discussed.
 - i. Nonpartisan voter education or engagement activities.
 - j. Fundraising.
 - k. Website maintenance.
 - l. Other administrative, including officer travel and participation in conferences.
 - m. Other – please describe fully.

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[REDACTED]

20. Apart from your responses to the preceding, estimate the percentage of your time and what percentage of your resources you will devote to activities in the 2012 election cycle, in which you will explicitly or implicitly support or oppose a candidate, candidates or slates of candidates, for public office.

PLEASE DIRECT ALL CORRESPONDENCE REGARDING YOUR CASE TO:

US Mail:

Street Address for Delivery Service:

Internal Revenue Service
Exempt Organizations

Internal Revenue Service
Exempt Organizations

[REDACTED]
Cincinnati, OH 45201
[REDACTED]
[REDACTED]

[REDACTED]
Cincinnati, OH 45202
ATT [REDACTED]
[REDACTED]

IRS Letter to Progressive Group

ORGANIZATION: [REDACTED]
CASE #: [REDACTED]
AGENT: [REDACTED]
DATE: [REDACTED]

ADDITIONAL INFORMATION

NOTE: Your response to this letter must be submitted over the signature of an authorized person or of an officer whose name is listed on the application. Also, the information you submit should be accompanied by the following declaration:

Under penalties of perjury, I declare that I have examined this information, including accompanying documents, and, to the best of my knowledge and belief, the information contains all the relevant facts relating to the request for the information.

1. Please submit statements regarding educational, work and philanthropic backgrounds of the organization's officers, directors, board members and trustees.
2. Please provide information as follows pertaining to each of the organization's officers, directors or trustees:
 - a. Please describe the duties that each individual performs for the organization.
 - b. Other than serving as an officer, director and/or board member for the organization, please provide the names and addresses of each individual's employer/business, the nature of their employment/business, and the number of hours devoted to their employment/business.
3. Other than the Cost Sharing Agreement submitted with Form 1024, please submit copies of any other written leases, contracts or agreements entered into by the organization.
4. Will anyone use the organization's facility other than for the purpose of directly carrying out its work? Will any of the directors or employees reside and/or work (e.g. not related to the organization's activities) at the facility? If so, explain fully. Please fully explain if the owner of the facility is related to the organization and/or its officers, directors, etc. in any way other than as landlord?
5. Please submit complete copies of the organization's financial statements and balance sheets for the following periods:
 - a. Fiscal year ending December 31, 2011, and
 - b. Period covering January 1, 2012 through Present.
6. Please provide copies of board meeting minutes since the organization's inception.
7. Please provide copies of agendas and/or descriptions of topics covered at each of the organization's general meetings and events since inception.

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8. Please provide copies of materials distributed at each of the organization's meetings since inception.
9. Does the organization have a website? If so, please provide its website address and complete copies of the organization's web pages and action alerts from its website. Please also ensure to include web pages that are accessible only to members.
10. Please provide copies of all of the organization's promotional material.
11. Has the organization distributed or will it distribute materials or conduct other communications that are prepared by another organization or person? If so, provide the following:
 - a. Please provide details of this activity.
 - b. Please provide the names of the individual(s) and/or organization(s) that prepared the materials.
 - c. Please submit copies of materials and contents of the communications.
 - d. When and where the distributions have been conducted or will be conducted?
 - e. Who has distributed or will distribute the materials?
12. Is the organization a membership organization? If so, submit the following:
 - a. Please indicate how many members the organization has currently.
 - b. Please fully explain what the organization's memberships consist of (i.e. individuals, businesses, organizations, etc.).
 - c. Please provide a numerical breakdown of members in each membership class.
 - d. Please provide a complete copy of the member application/registration form.
 - e. Please provide the membership agreement and rules that govern members.
 - f. Please provide a membership fee schedule.
 - g. Please fully describe the requirements for membership.
 - h. Please fully describe what services and benefits are available only to the organization's membership.
 - i. Please fully describe the members' roles and duties within the organization.
13. The attachment to Part II, Line 5 of Form 1024 indicates that the organization has a close connection to [REDACTED]. Please submit the following:
 - a. Please fully describe the activities [REDACTED]
 - b. Please fully describe how the activities of [REDACTED] differ from those of the organization.
 - c. Please provide the website address for [REDACTED]
 - d. Please provide promotional material relating to [REDACTED]

ORGANIZATION: [REDACTED]
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- e. Please provide the names of officers, directors and board members of [REDACTED]
 - f. Please fully explain if [REDACTED] has been granted exemption from the Internal Revenue Service. If so, please provide complete evidence.
14. Please submit a breakdown list showing the percentage of time and resources that the organization devotes to its activities (For example, this organization is spending 20% of its activities conducting educational seminars and conferences, 35% of its activities on fund-raising activities, etc.).
15. We wish to call the organization's attention to section 4.03 of Rev. Proc. 2008-9, 2008-2 I.R.B. 258 states:

.03 Exempt status may be recognized in advance of the organization's operations if the proposed activities are described in sufficient detail to permit a conclusion that the organization will clearly meet the particular requirements for exemption pursuant to the section of the Internal Revenue Code under which exemption is claimed.

- (1) A mere restatement of exempt purposes or a statement that proposed activities will be in furtherance of such purposes will not satisfy this requirement.
- (2) The organization must fully describe all of the activities in which it expects to engage, including the standards, criteria, procedures or other means adopted or planned for carrying out the activities, the anticipated sources of receipts, and the nature of contemplated expenditures.
- (3) Where the organization cannot demonstrate to the satisfaction of the Service that it qualifies for exemption pursuant to the section of the Internal Revenue Code under which exemption is claimed, the Service will generally issue a proposed adverse determination letter or ruling.

The attachment to Part II, Line 1 on Page 2 of Form 1024 indicates that the organization's mission [REDACTED]

The information submitted with the exemption application does not contain sufficient information in detail to fully describe the organization's past, current and proposed activities. Therefore, please submit a much more detailed description of those activities.

Please ensure to include the following:

- a. Please provide a detailed description of each activity.
- b. The date, location, and content schedule of each event.
- c. Copies of materials distributed to the audience at each event.

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- d. Please fully describe what resources the organization uses to gather information for its activities.
 - e. Identify the educational materials that were used by presenters at each event.
 - f. The names and credentials of the instructors.
 - g. If speeches or forums were conducted in the event, provide detailed contents of the speeches or forums, names of the speakers or panels, and their credentials. If any speakers or panel members were paid, provide the amount paid for each person. If not, please indicate that they volunteered to conduct the event.
 - h. The names of persons from the organization and the amount of time they spent for each event. Indicate the name and amount of time they spent on the event. Indicate the name and amount of compensation that was paid to each person.
16. Form 1024 indicates that the organization will conduct get out to vote activities including registering, recruiting, educating, mobilizing and turning out voters in critical elections. Please provide the following:
- a. Please provide more details pertaining to each of these activities.
 - b. Please provide a list to show locations, date and time for each of the events.
 - c. Please fully explain who on the organization's behalf has conducted or will conduct the voter registration or get out to vote drives.
 - d. Provide copies of all materials published or distributed regarding the activities, including copies of any voter guides.
17. Form 1024 indicates that the organization will coordinate a voting rights project to monitor and promote public policy as well as play a watchdog role in election oversight and protection.
18. Please fully describe the activities that the organization conducts that influence legislation. Please ensure to give detailed examples on how the organization educates and/or will educate the public concerning key legislation and the positions of political candidates and elected officials on that legislation.
19. Please fully explain if the organization and/or its officers, directors and board members engaged and/or will engage in business dealings with any political candidates and/or elected officials or an organization that is associated with the candidates and/or elected officials (i.e. renting office space, providing access to a membership list, etc.). If so, describe the relationship in detail and copies of any contracts or other agreements documenting the business relationship.
20. Has the organization conducted or will it conduct candidate forums or other events at which candidates running for public offices are invited to speak? If so, provide the following details and nature of the forum including:
- a. The names of candidates invited to participate.

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- b. The names of the candidates who did participate.
 - c. The issues that were discussed.
 - d. The time and location of the event.
 - e. Copies of all materials provided and distributed at the forum, including any internet or advertising material discussed or used at the forum.
21. Describe in detail the organization's fundraising through mail solicitations, email solicitations, and personal solicitations. Please submit copies of all solicitation materials that the organization distributes.