

Federal Internal Revenue Service Synopsis of 501(c)6 Tax Exempt Organizations¹

Introduction

In February 2008, the author was doing some research regarding the 501(c)6 nonprofits in Michigan. According to Greg McClelland in his January, 2008 presentation at MAR Achieve, "We (McClelland's law firm) have checked. Every REALTOR® association formally incorporated under Michigan law is incorporated as a nonprofit corporation. Thus, any corporate questions to be resolved under Michigan law will be resolved under the Michigan Nonprofit Corporation Act (the "Act").

In addition to the Michigan Nonprofit Corporation Act, Michigan nonprofits incorporated under the C6 tax code are also subject to the laws, rules and court decisions incorporated in the Federal Tax Code.

The following information was taken from the IRS web site (www.irs.gov) on February 5, 2008. In some instances, content was deleted that did not pertain to C6 corporations. This document is not intended as a legal document, but rather, it should be used as a guideline for information that can then be verified or enhanced by the legal counsel of the Association.

Also, the reader may want to visit the web site to make sure the content contained in this document is still current.

The following information came from the Federal IRS web site.

Business Leagues

Section 501(c)(6) of the Internal Revenue Code provides for the exemption of business leagues, chambers of commerce, real estate boards, boards of trade, and professional football leagues, which are not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

A business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. Trade associations and professional associations are business leagues. To be exempt, a business league's activities must be devoted to improving business conditions of one or more lines of business as distinguished from performing particular services for individual persons. No part of a business league's net earnings may inure to the benefit of any private shareholder or individual and it may not be organized for profit to engage in an activity ordinarily carried on for profit (even if the business is operated on a cooperative basis or produces only enough income to be self-sustaining). The term line of business generally refers either to an entire industry or to all components of an industry within a geographic area.

It does not include a group composed of businesses that market a particular brand within an industry.

Chambers of commerce and boards of trade are organizations of the same general type as business leagues. They direct their efforts at promoting the common economic interests of all commercial enterprises in a trade or community, however.

Lobbying Activities - Business Leagues

Seeking legislation germane to the common business interest is a permissible means of attaining a business league's exempt purposes. Thus, an Internal Revenue Code (IRC) section 501(c)(6) business league may further its exempt purposes by lobbying as its sole activity without jeopardizing its exempt status. However, a section 501(c)(6) organization that engages in lobbying may be required either to notify its members about the percentage of dues that are used for lobbying activities or to pay a proxy tax. For more information, see Lobbying Issues. (Last update: November 3, 2006.)

Political Campaign Activities - Business Leagues

Participating directly or indirectly, or intervening, in political campaigns on behalf of or in opposition to any candidate for public office does not further exempt purposes under section 501(c)(6). However, an IRC Section 501(c)(6) business league may engage in some political activities, so long as that is not its primary activity. However, any expenditures it makes for political activities may be subject to tax under IRC Section 527(f). For further information regarding political and lobbying activities of IRC 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. (Last update: November 3, 2006).

Attempts to Influence Judicial Appointments by Exempt Organizations

Under the Internal Revenue Code, tax-exempt organizations are allowed to try to influence the nomination or confirmation of a potential justice to the federal court, including the Supreme Court. However, the rules on such lobbying vary, depending on the section of the Code under which the exempt organization operates.

Section 501(c)(4), (5) and (6) organizations (social welfare organizations, labor unions, business leagues, etc.) Unlimited lobbying in furtherance of their exempt purpose is generally permitted.

Social welfare organizations under section 501(c)(4), labor, agricultural, or horticultural organizations under section 501(c)(5), and business leagues under section 501(c)(6) may engage in unlimited lobbying in furtherance of their exempt purposes. Dues paid to such organizations are not deductible business expenses to the extent they are spent on lobbying. If members generally deduct dues as business expenses, the organization must notify them of the nondeductible amount or pay a proxy tax at corporate rates on its lobbying expenditures

Proxy Tax

The Internal Revenue Code (IRC), in section 6033(e), imposes reporting and notice requirements on certain tax-exempt organizations described in sections 501(c)(4), 501(c)(5), and 501(c)(6) that incur nondeductible lobbying and political expenses. Organizations that do not provide notices of amounts of membership dues allocable to nondeductible lobbying expenditures are subject to tax (commonly called a proxy tax) under IRC section 6033(e)(2) on the amount of the expenditures. An organization must report the tax on Form 990-T, Exempt Organization Business Income Tax Return (and proxy tax under section 6033(e)), at line 37. For information on computing the tax, please see the Instructions for Form 990-T.

Common Tax Law Restrictions on Activities of Exempt Organizations					
<i>The chart below compares seven federal tax law attributes of five common types of tax-exempt organizations.</i>					
	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	YES	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

Application for Recognition of Exemption

To apply for recognition by the IRS of exempt status under section 501(c) of the Internal Revenue Code, most organizations use Form 1023, Application for Recognition of Exemption and the related instructions. (Organizations applying for recognition of exemption under a provision other than section 501(c)(3) generally use Form 1024.) The application must be complete and accompanied by the appropriate user fee. See Application Process for a step-by-step review of what an organization needs to know and to do in order to apply for recognition by the IRS of tax-exempt status. Frequently asked questions about applying for exemption are also available.

The organization should also request an employer identification number, even if it does not have any employees. See Form SS-4, Application for Employer Identification Number, and its instructions to learn how to obtain an EIN. You may also obtain an EIN via telephone, by calling 1-800-829-4933, or by applying online.

A tax-exempt organization must make available for public inspection its approved application for recognition of exemption with all supporting documents available and its last three annual information returns. The organization must provide copies of these documents upon request without charge (other than a reasonable fee for reproduction and copying costs). Penalties are provided for failure to comply with these requirements. For more information, see our frequently asked questions, the final regulations published in Internal Revenue Bulletin 1999-17, or Disclosure Requirements.

Related Documents Submitted

Outline of McClelland Presentation of January, 2008 (14 pgs)
501(c)6 Tutorial by Reilly, Hull & Allen taken from IRS website (68 pgs)

Additional information:

IRS Publication 557, Tax-Exempt Status for Your Organization
IRS Publication 4573, Group Exemptions
IRS Publication 1635, Understanding Your EIN

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