



Department of the Treasury  
Internal Revenue Service  
P.O. Box 2508  
Cincinnati, OH 45201

Number: **201717046**  
Release Date: 4/28/2017

Date: February 2, 2017

Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

UIL: 501.08-00

Dear \_\_\_\_\_ :

This letter is our final determination that you don't qualify for tax-exempt status under Section 501(c)(8) of the Internal Revenue Code (the Code). Recently, we sent you a proposed adverse determination in response to your application. The proposed adverse determination explained the facts, law, and basis for our conclusion, and it gave you 30 days to file a protest. Because we didn't receive a protest within the required 30 days, the proposed determination is now final.

You must file federal income tax returns for the tax years listed at the top of this letter using the required form (also listed at the top of this letter) within 30 days of this letter unless you request an extension of time to file.

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection (as required under Section 6110 of the Code) after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Notice 437 on how to notify us. If you agree with our deletions, you don't need to take any further action.

If you have questions about this letter, you can contact the person listed at the top of this letter. If you have questions about your federal income tax status and responsibilities, call our customer service number at 1-800-829-1040 (TTY 1-800-829-4933 for deaf or hard of hearing) or customer service for businesses at 1-800-829-4933.

Sincerely,

Jeffrey I. Cooper  
Director, Exempt Organizations  
Rulings and Agreements

Enclosures:

Notice 437

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

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



**Department of the Treasury  
Internal Revenue Service**

P.O. Box 2508  
Cincinnati, OH 45201

Date: December 6, 2016

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

**Legend:**

X = State

Y = Date

**UIL:**

501.08-00

Dear \_\_\_\_\_ :

We considered your application for recognition of exemption from federal income tax under Section 501(a) of the Internal Revenue Code (the Code). Based on the information provided, we determined that you don't qualify for exemption under Section 501(c)(8) of the Code. This letter explains the basis for our conclusion. Please keep it for your records.

**Issue**

Do you qualify for exemption under section 501(c)(8) of the Code? No, for the reasons stated below.

**Facts**

You were incorporated under the nonprofit laws of the state of X on Y. Your stated purpose is to provide burial assistance to members. Your primary activity is to provide burial funds assistance for departed members. Upon the death of a member, the total membership will be called upon to make a set contribution which will be combined with funds from membership fees and fund raisers to assist with burial arrangements for the departed member.

Membership is open to all, however recent emigrants will be a focus of the membership drives. Membership rallies will be held monthly to explain the mutual assistance burial program. Details as to the membership benefits, costs, and responsibilities will be discussed by your officers. Members can then sign up at that time. The only qualification for membership is completion of a registration form and payment of membership fee. Upon dissolution, your assets are to be distributed equally to current members.

\_\_\_\_\_ percent ( \_\_\_\_\_ %) of your total activities will be holding classes on funeral costs, types and funeral planning as part of the membership meetings. Classes will be conducted by local funeral directors. Additional classes will be held to familiarize emigrants in the areas of credit and finance, job training, housing assistance and citizenship in general.

Schedule E to your application indicates you do not operate under the lodge system. Your application for exemption also states that you do not operate for the exclusive benefit of members of a fraternity itself operating under the lodge system.

## Law

Section 501(c)(8) of the Internal Revenue Code provides for the exemption from federal income tax of fraternal beneficiary societies, orders, or associations-

- (A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and
- (B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents.

Treasury Regulation Section 1.501(c)(8)-(a) states that a fraternal beneficiary society is exempt from tax only if operated under the "lodge system" or for the exclusive benefit of the members so operating. "Operating under the lodge system" means carrying on its activities under a form of organization that comprises local branches, chartered by a parent organization and largely self-governing, called lodges, chapters, or the like. In order to be exempt it is also necessary that the society have an established system for the payment to its members or their dependents of life, sick, accident, or other benefits.

Rev. Rul. 63-190, 1963-2 C.B. 212 describes a nonprofit organization (not operated under the lodge system), which maintains a social club for members and also provides sick and death benefits for members and their beneficiaries, does not qualify for exemption from federal income tax either as a social club under section 501(c)(7), a civic league under section 501(c)(4), or a fraternal beneficiary society under section 501(c)(8) of the Code.

The court in National Union v. Marlow 74 F. 775, 778-779 (8 Cir. 1896) stated that even if the member of an organization enjoys a common tie or goal, the organization does not serve a fraternal purpose unless its members engage in fraternal activities.

The court in Western Funeral Benefit Ass'n v. Hellmich, 2 F.2d 367 (E.D. Mo. 1924), stated that "by the 'lodge system' is generally understood as an organization which holds regular meetings at a designated place, adopts a representation form of government, and performs its work according to ritual."

In Philadelphia and Reading Relief Association v. Commissioner, 4 B.T.A. 713 (1926), the court held that an organization of railroad company employees that made payments to members who became disabled because of accident or sickness was not entitled to exemption because it was not "fraternal". The court cited rituals, ceremonies, and regalia as evidence of a fraternal purpose, and was unable to discover a single fraternal feature in its organization, being entirely without social features or fraternal object. The petitioner has neither lodges, rituals, ceremonial, nor regalia; and it owes no allegiance to any other authority or jurisdiction.

In Fraternal Order of Civitans of Am. V. Comm'r, 19 T.C. 240 (1952) it was held that the mere recitation of common ties and objectives in an organization's governing instrument is insufficient to be classified as fraternal. There must be specific activities in implementation of the appropriate purposes.

## Application of law

You do not meet the provisions of Section 501(c)(8) of the Code or Treas. Reg. Section 1.501(c)(8)-(a). You do not have specific activities that accomplish a fraternal purpose nor are you operating under the lodge system. You are similar to the organization described in Revenue Ruling 63-190. Although you provide benefits to your members, you do not operate under the lodge system as contemplated in section 501(c)(8). For example, you are not operating in such a manner that comprises local branches chartered by a parent organization and largely self-governing, called lodges, chapters, or the like.

You do not meet the definition of fraternal as provided in the National Union v. Marlow. You have not provided any evidence that you have rituals, ceremonies or regalia as described in the court case, Philadelphia and Reading Relief Association v. Commissioner. Even though your members may have a common tie, you do not engage in fraternal activities.

You are not operating under the lodge system as defined in the court case Western Funeral Benefit Ass'n v. Hellmich. You do not hold regular meetings at a designated place. You have not adopted a representative form of government, and you do not perform your work according to ritual.

You are similar to the organization in Fraternal Order of Civitans of Am. Although members may enjoy potential common ties as emigrants, you do not have specific activities to accomplish fraternal purposes. Therefore, you do not have the common characteristics of an organization described in section 501(c)(8).

## Conclusion

You do not qualify for exemption under Section 501(c)(8) of the Code because you are not a fraternal beneficiary society, order, or an association operating under the lodge system. You are providing burial assistance funds to members, however, you do not have any activities that accomplish fraternal purposes.

## If you don't agree

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

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

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

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

**For authorized representatives:**

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

Your representative (attorney, certified public accountant, or other individual enrolled to practice before the IRS) must file a Form 2848, *Power of Attorney and Declaration of Representative*, with us if he or she hasn't already done so. You can find more information about representation in Publication 947, *Practice Before the IRS and Power of Attorney*.

We'll review your protest statement and decide if you provided a basis for us to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't provided a basis for reconsideration, we'll forward your case to the Office of Appeals and notify you. You can find more information about the role of the Appeals Office in Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*.

If you don't file a protest within 30 days, you can't seek a declaratory judgment in court at a later date because the law requires that you use the IRS administrative process first (Section 7428(b)(2) of the Code).

**Where to send your protest**

Please send your protest statement, Form 2848, if needed, and any supporting documents to the applicable address:

U.S. mail:

Internal Revenue Service  
EO Determinations Quality Assurance  
Room 7-008  
P.O. Box 2508  
Cincinnati, OH 45201

Street address for delivery service:

Internal Revenue Service  
EO Determinations Quality Assurance  
550 Main Street, Room 7-008  
Cincinnati, OH 45202

You can also fax your statement and supporting documents to the fax number listed at the top of this letter. If you fax your statement, please contact the person listed at the top of this letter to confirm that he or she received it.

**If you agree**

If you agree with our proposed adverse determination, you don't need to do anything. If we don't hear from you within 30 days, we'll issue a final adverse determination letter. That letter will provide information on your income tax filing requirements.

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

Sincerely,

Jeffrey I. Cooper  
Director, Exempt Organizations  
Rulings and Agreements

Enclosure:  
Publication 892