

Internal Revenue Service

Appeals Office
2525 Capitol Street, Suite 201
Fresno, CA 93721

Department of the Treasury

Employer Identification Number:
B

Person to Contact:

Release Number: **201748011**

Release Date: 12/1/2017

Date: September 06, 2017

UIL Code: 150.01-04

Employee ID Number:

Tel:

Fax:

A

Certified Mail

Dear :

This is a final adverse determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code (the "Code"). It is determined that you do not qualify as exempt from Federal income tax under section 501(c)(3) of the Code effective as of the date of this letter.

Our adverse determination was made for the following reason(s):

The primary activity of **A** is the provision of funds to defray or pay for the funeral costs of its members. The aforementioned is not an exempt activity. Thus, the organization is not operated exclusively for one or more exempt purposes as set forth in section 501(c)(3) of the Code.

Contributions to your organization are not deductible under section 170 of the Code.

You are required to file Federal income tax returns on Forms 1120. File your return with the appropriate Internal Revenue Service Center per the instructions of the return. For further instructions, forms, and information please visit www.irs.gov.

Processing of income tax returns and assessments of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Code.

We will make this letter and the proposed adverse determination letter available for public inspection under Code section 6110 after deleting certain identifying information. We have provided to you, in a separate mailing, Notice 437, *Notice of Intention to Disclose*. Please review the Notice 437 and the documents attached that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437.

If you decide to contest this determination, you may file an action for declaratory judgment under the provisions of section 7428 of the Code in one of the following three venues: 1) United States Tax Court, 2) the United States Court of Federal Claims, or 3) the United States District Court for the District of Columbia. A petition or complaint in one of these three courts must be filed within 90 days from the date this determination letter was mailed to you. Please contact the clerk of the appropriate court for rules for filing petitions for declaratory judgment. To secure a petition form from the United States Tax Court, write to the United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217. See also Publication 892.

You also 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 matters that may not have been resolved through normal channels get prompt and proper handling. If you want Taxpayer Advocate assistance, please contact the Taxpayer Advocate for the IRS office that issued this letter. You may call toll-free, 1-877-777-4778, for the Taxpayer Advocate or visit www.irs.gov/advocate for more information.

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

Sincerely Yours,

Appeals Team Manager

Enclosure: Publication 892 and/or 556

Internal Revenue Service
Tax Exempt and Government Entities Division
Exempt Organizations: Examinations

Department of the Treasury

Date: NOV 4 2015

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Manager's name/ID number:

Manager's contact number:

Response due date:

Certified Mail – Return Receipt Requested

Dear :

Why you are receiving this letter

We propose to revoke your status as an organization described in section 501(c)(3) of the Internal Revenue Code (Code). Enclosed is our report of examination explaining the proposed action.

What you need to do if you agree

If you agree with our proposal, please sign the enclosed Form 6018, *Consent to Proposed Action – Section 7428*, and return it to the contact person at the address listed above (unless you have already provided us a signed Form 6018). We'll issue a final revocation letter determining that you aren't an organization described in section 501(c)(3).

After we issue the final revocation letter, we'll announce that your organization is no longer eligible for contributions deductible under section 170 of the Code.

If we don't hear from you

If you don't respond to this proposal within 30 calendar days from the date of this letter, we'll issue a final revocation letter. Failing to respond to this proposal will adversely impact your legal standing to seek a declaratory judgment because you failed to exhaust your administrative remedies.

Effect of revocation status

If you receive a final revocation letter, you'll be required to file federal income tax returns for the tax year(s) shown above as well as for subsequent tax years.

What you need to do if you disagree with the proposed revocation

If you disagree with our proposed revocation, you may request a meeting or telephone conference with the supervisor of the IRS contact identified in the heading of this letter. You also may file a protest with the IRS Appeals office by submitting a written request to the contact person at the address listed above within 30 calendar days from the date of this letter.

The Appeals office is independent of the Exempt Organizations division and resolves most disputes informally.

For your protest to be valid, it must contain certain specific information including a statement of the facts, the applicable law, and arguments in support of your position. For specific information needed for a valid protest, please refer to page one of the enclosed Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*, and page six of the enclosed Publication 3498, *The Examination Process*. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process. Please note that Fast Track Mediation referred to in Publication 3498 generally doesn't apply after we issue this letter.

You also may request that we refer this matter for technical advice as explained in Publication 892. Please contact the individual identified on the first page of this letter if you are considering requesting technical advice. If we issue a determination letter to you based on a technical advice memorandum issued by the Exempt Organizations Rulings and Agreements office, no further IRS administrative appeal will be available to you.

Contacting the Taxpayer Advocate Office is a taxpayer right

You have the right to contact the office of the Taxpayer Advocate. Their assistance isn't a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate can't reverse a legally correct tax determination or extend the time you have (fixed by law) to file a petition in a United States court. They can, however, see that a tax matter that hasn't 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:

Internal Revenue Service
Office of the Taxpayer Advocate

For additional information

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,

Margaret Von Lienen

Margaret Von Lienen
Director, EO Examinations

Enclosures:
Report of Examination
Form 6018
Publication 892
Publication 3498

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended 20

ISSUE:

Should the IRC 501(c)(3) tax exempt status of () be revoked because it is not operated exclusively for tax exempt purposes?

FACTS:

The information submitted discloses that . was incorporated in the State of on May 28, 19 .

The purposes as set forth in : Articles of Incorporation are:

- (a) To provide burial benefits and assistance to the surviving families of deceased,
- (b) To provide information to senior citizens in regard to their burial concerns and general welfare,
- (c) To provide organized activities for senior citizens to enhance their effective use of free time and friendship and,
- (d) To provide annual scholarships to needy promising students.

According to information submitted during the examination, purpose is to provide specific financial assistance to its members upon their death in order to ameliorate the expenses of funeral, burials, and related expenses. Upon the death of a member or a member of his/her immediate family, that is, a husband, wife or child, the surviving family members receive money toward funeral expenses.

There are only two criteria for a distribution. One is to be a member of the organization. The other is the death of a member or an immediate family member of a member. The officers have explained that the organization was formed to help members pay for funeral expenses. Financial hardship is not required nor are there any income restrictions or limitations to receiving the death benefits. Article III of the Bylaws provide that "membership shall be open to all seniors from age 55 to 90 years old, residing in the metropolitan : area...".

During the year under examination, the organization had total expenses of \$ of which \$ was expended on burial assistance to members.

Organization also, expends about % of its time and income providing free law consulting, social work services, helping registration for eligible voters (nonpartisan), street cleaning and home country visiting program.

Organization is supported by membership fees. The initial fee is \$ in addition, all members make a \$ donation to the deceased family at time of death of a member or immediate family member of a member. greatest expenses are the death benefits paid to the members and salaries of the office staff.

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LAW:

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, religious or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Regulations states that in order to qualify under *section 501(c)(3) of the Code*, an organization must be both organized and operated exclusively for one or more exempt purposes. If an organization fails to meet either the organizational or operational test, it is not exempt.

Section 1.501(c)(3)-1(a)(2) of the Regulations states that the term "exempt purpose or purposes", means any purpose or purposes specified in *section 501(c)(3) of the Code*.

Section 1.501(c)(3)-1(b)(1)(i) of the Regulations states that an organization is organized exclusively for one or more exempt purposes only if its articles of organization: (a)(a) Limit the purposes of such organization to one or more exempt purposes; and (b) Do not expressly empower the organization to engage otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

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

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

Revenue Ruling 67-367, 1967-2 C.B. 188, describes an organization whose sole activity was the operation of a scholarship plan for making payments to pre-selected, specifically named individuals. The organization established a plan whereby it entered into agreements with subscribers. The subscribers deposited a certain amount of money with a designated bank. The subscriber also named a specific child to be the recipient of the scholarship money. The recipient received the scholarship around the time he or she were to begin college. The organization did not qualify for exemption under *section 501(c)(3) of the Code* because it was serving the private interests of its subscribers rather than serve public charitable and educational interests.

Revenue Ruling 69-175, 1969-1 C.B. 149, describes an organization which was formed by parents of pupils attending a private school. The organization provided bus transportation to and from the school for those children whose parents belong to the organization. The organization did not

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
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qualify for exemption under *section 501(c)(3) of the Code* because it served a private rather than public interest.

Revenue Ruling 79-359, 1979-2 C.B. 226, describes an organization which provided religious burial services that directly support and maintain its basic tenets and beliefs of an religion regarding burial of its members. The organization was formed by religious and lay leaders of a

particular religion. In order to comply with the religious tenets, requirements regarding the preparation of the body must be followed and blessing, holding services over and interring the deceased were required. The organization qualified for exemption under *section 501(c)(3) of the Code* for exclusively religious purposes.

Government's Position:

is not organized exclusively for one or more exempt purposes. Articles of Incorporation states that their purpose is to provide burial benefits and assistance to the surviving families of deceased. The Articles expressly empowers to engage in activities which in themselves are not in furtherance of one or more exempt purposes. Therefore, does not meet the organizational test described in *Section 1.501(c)(3)-1(b)(1)(i) of the Regulations*.

is not operated exclusively for one or more exempt purposes because it is operated for the private benefit of its members rather than operating to provide a public benefit under *section 501(c)(3) of the Code*. In addition, the payment of death benefits is not a recognized exempt activity under *section 501(c)(3) of the Code*.

is similar to the organization described in *Revenue Ruling 67-367*. Like that organization, activities serve to benefit its members and their families rather than benefit the public. The organization in this revenue ruling made payments only to the designated individuals identified by the contributors. The death benefits pays are limited to its members and their families. The payment of benefits to pre-selected, specifically named individuals served a private interest rather than a public interest as contemplated under *section 501(c)(3) of the Code*.

is similar to the organization described in *Revenue Ruling 69-175*. likewise was formed to provide benefits to its members. The group of parents provided a cooperative service for themselves and thus served their own private interests. In case, it provides death benefits to members and their immediate families. The payment of these benefits serves private rather than a public interest.

is distinguished from the organization described in *Revenue Ruling 79-359*. That organization was formed to further its religious beliefs regarding the burial of members of a particular religion. It performed religious burial services. The information provided indicate that it was not formed to carry out any religious burial services with regards to the deceased members. purpose is to pay death benefits, that is, pay money, to members or to relatives of the members' immediate family upon the death of a member or an immediate family

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member. The money is to be used to pay for expenses related to the burial of the deceased.
 is not operated for religious purposes within the meaning of *section 501(c)(3) of the Code*.

CONCLUSION:

Based on the information submitted, we have concluded that
 is not an organization described in *section 501(c)(3) of the Code* because it is not
 operated exclusively for one or more exempt purposes set forth in *section 501(c)(3) of the Code*.
 The Organization's exempt status should be revoked effective May 1, 20