



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

Number: **201813017**
Release Date: 3/30/2018

Date: January 4, 2018

Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

UIL: **501.03-00**

Dear :

This letter is our final determination that you don't qualify for tax-exempt status under Section 501(c)(3) 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.

Because you don't qualify as a tax-exempt organization under Section 501(c)(3) of the Code, donors can't deduct contributions to you under Section 170 of the Code. 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.

We'll also notify the appropriate state officials of our determination by sending them a copy of this final letter and the proposed determination letter (under Section 6104(c) of the Code). You should contact your state officials if you have questions about how this determination will affect your state responsibilities and requirements.

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.

We sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosures:

Notice 437

Redacted Letter 4036, *Proposed Adverse Determination Under IRC Section 501(c)(3)*

Redacted Letter 4038, *Final Adverse Determination Under IRC Section 501(c)(3) - No Protest*



**Department of the Treasury
Internal Revenue Service**

P.O. Box 2508
Cincinnati, OH 45201

Date: September 14, 2017

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

B = Date
C = State
D = Name
H = Investment
J = Name
K = Name

UIL:

501.03-00

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)(3) of the Code. This letter explains the basis for our conclusion. Please keep it for your records.

Issues

Do you qualify for exemption under Section 501(c)(3) of the Code? No, for the reasons stated below.

Facts

You were incorporated on B in the State of C. The purpose clause on your Articles of Incorporation provides the following:

We are committed to 'Head-Start Career and College Saving's Fund's.' For the benefit of supporting higher education for area children from 1 year to 21 years Alumnis... We are Building D, Art's and Craft's, Three Car Garage for Automotive Detail Training and Automotive Rehab Training; Opening the doors to after school programs Mentoring and Tutoring Free Escorted Trips and Tours. Fund-raisers that support preparing area children for brighter futures.

You stated on Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code, that your organization's mission is "solely committed to educating, mentoring, tutoring and

nurturing our communities' children and families, as well as providing assistance with financial burdens of schooling, and preparing our youths for skilled job training and higher education. You will assist youths and families to prepare and save for college and get a head start on their careers. You will provide job skills training, transportation and utilities as well as mentoring. You plan to collaborate with other non-profits for youth sponsorship through church and school.

You submitted Schedule H from Form 1023 for organizations providing scholarships. You did indicate that you will maintain case histories showing the recipients of your scholarships and relatives of members of the selection committee, or of your officers, directors or substantial contributors are eligible for awards. You did not submit any of the required supplemental information to the Schedule H of the Form 1023.

You stated in your response to our request for additional information that you do not offer scholarships at the current time but may in the future. If you do offer scholarships, they will be based on merit, teacher recommendations and need. The scholarships will be in the form of H. You did not, however, provide any information, when we asked as part of our requested for additional information, on the measures you will take to ensure an unbiased selection of scholarship recipients.

You provided the following information as part of your response to our request for additional information: You stated that:

we are reaching out to the parents of children age 1 to 21 K. We encourage families to start saving early for their child successful futures. So, through opportunities to wash cars we get to send small group of children 15 at a time on free escorted trip and yours with \$ in their hands. We offer H in our efforts of connecting with families and children at risk and try to help parents purchase secure J. Utility Pool to share with all children members at age . Managed by an investment company.

You conduct weekly car washes to raise funds that are then used to provide various activities for youth whose parents cannot otherwise afford the activities. You do not charge any fees for this program. Other than the statement that you will provide funds for activities for youth whose parents cannot otherwise afford the activities, you have not indicated whether you will assess the needs of the recipients of aid or described the objective criteria you use to select recipients for your funding.

You accept donor advice as to the use of contributions that are maintained in a separate account. You maintain oversight of the funds in the donor advised accounts in that three people oversee all cash and resources and report to the accountant. Finally, the financial data you submitted indicate your income consists of donations and car washes services. Your expenses include fundraising, purchase of H, occupancy and professional fees.

Our second request for additional information, to which you did not respond, solicited detailed information regarding your proposed activities. Your President indicated in a telephone conversation with us that you would only be conducting two training programs: auto detailing and housing rehabilitation. The purpose clause of your Articles of Incorporation also mentioned your auto detailing and auto rehabilitation training programs. We requested detailed information regarding your proposed auto detailing training program including the curriculum/instructors of the program, where the program will be conducted, and the relationship between you and the facility owner.

We also requested additional information regarding your proposed housing rehabilitation training program. Detailed information regarding the curriculum, participants, classroom/offsite training, where the program is conducted, and tuition charged. You did not submit the requested information to demonstrate that the auto detailing and housing rehabilitation training programs are operated exclusively to further one or more tax-exempt purposes under section 501(c)(3) of the Code.

Law

Section 501(c)(3) of the Code provides for the recognition of exemption of organizations that are organized and operated exclusively for religious, charitable or other purposes as specified in the statute. No part of the net earnings may inure to the benefit of any private shareholder or individual.

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

Treas. Reg. Section 1.501(c)(3)-1(b)(1)(i) provides that an organization is organized exclusively for one or more exempt purposes only if its articles of organization:

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

Treas. Reg. Section 1.501(c)(3)-1(c)(1) provides 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.

Treas. Reg. Section 1.501(c)(3)-1(d)(2) defines the term charitable as including the relief of the poor and distressed or of the underprivileged, and the promotion of social welfare by organizations designed to lessen neighborhood tensions, to eliminate prejudice and discrimination, or to combat community deterioration. The term "charitable" also includes lessening of the burdens of government.

Treas. Reg. Section 1.501(c)(3)-1(d)(3)(i) defines the term educational as the instruction or training of the individual for the purpose of improving or developing his capabilities or the instruction of the public on subjects useful to the individual and beneficial to the community.

Revenue Procedure 2017-5, 2017-1 I.R.B. 2321, Section 6 (and its predecessors) provides that a favorable determination letter or ruling will be issued to an organization only if its application and supporting documents establish that it meets the particular requirements of the section under which exemption from federal income tax is claimed. Section 3 states that a determination letter or ruling on exempt status is issued based solely upon the facts and representations contained in the administrative record. The applicant is responsible for the accuracy of any factual representations contained in the application.

In Universal Life Church v. United States, 372 F. Supp. 770 (E.D. Cal. 1974), the court concluded that “one seeking a tax exemption has the burden of establishing his right to a tax-exempt status.”

Pius XII Academy v. Commissioner, T.C. Memo. 1982-97 provides that an organization must establish through the administrative record that it operates as an exempt organization. Denial of exemption may be based solely upon failure to provide information describing in adequate detail how the operational test will be met.

In La Verdad v. Commissioner, 82 T.C. 215 (1984), the administrative record did not demonstrate that the organization would operate exclusively in furtherance of an exempt purpose. Therefore, denial of organization’s request for tax-exempt status was reasonable.

New Dynamics Foundation v. United States, 70 Fed. Cl. 782 (2006), was an action for declaratory judgment that the petitioner brought to challenge the denial of his application for exempt status. The court, in finding that the actual purposes displayed in the administrative record supported the Service’s denial, stated “It is well-accepted that, in initial qualification cases such as this, gaps in the administrative record are resolved against the applicant.” The court noted that if the petitioner had evidence that contradicted these findings, it should have submitted it as part of the administrative process. The court also highlighted the principle that exemptions from income tax are matters of legislative grace.

Ohio Disability Association v. Commissioner, T.C. Memo 2009-261 states denial is justified because responses to requests for additional information failed to supplement the initial application or clarify purposes and activities, and generalizations did not provide sufficient detail to determine that the organization would be operated exclusively for exempt purposes.

Application of law

A ruling on exempt status is based solely on facts and representations in the administrative file. You have not provided an adequate, detailed description of activities to establish you meet the requirements of Section 501(c)(3) of the Code. Section 501(c)(3) sets forth two main tests for qualification for exempt status. As stated in Treas. Reg. 1.501(c)(3)-1(a)(1), an organization must be both organized and operated exclusively for purposes described in Section 501(c)(3).

Your Articles of Incorporation do not limit your purposes to one or more exempt purposes. As a result you have not satisfied the organizational test described in Treas. Reg. Section 1.501(c)(3)-1(b)(1)(i).

You do not meet the operational test under Section 501(c)(3) of the Code because you have not establish that you are operated exclusively for one or more exempt purposes under Section 501(c)(3) of the Code as required under Treas. Reg. Section 1.501(c)(3)-1(c)(1). You have not shown that you are operated exclusively for a charitable purpose as provided in Treas. Reg. Section 1.501(c)(3)-1(d)(2). You have not provided information to show that you assess the needs of your recipients of aid or on the criteria you use to select recipients for your aid. You have not shown that the assistance you provide is limited to charitable recipients including the poor and distressed or the underprivileged. Therefore, your assistance to relieve the financial burdens of schooling, offering of H and assisting to purchase J, are not described in sufficient detail to demonstrate that you are operated exclusively for charitable purposes.

Additionally, you have not established that you are operated exclusively for an educational purpose as stated in Treas. Reg. Section 1.501(c)(3)-1(d)(3)(i). You have not provided any specific details about educating, mentoring, tutoring and nurturing the communities' children and families. Although relatives of members of the selection committee, or of your officers, directors or substantial contributors are eligible for scholarship awards, you have not described the measures, if any, you will take to ensure an unbiased selection of scholarship recipients. You have also not provided an adequate description of your job skills training programs, including your auto detailing and housing rehabilitation training programs.

You have not provided sufficient information to demonstrate how your programs further exclusively one or more tax-exempt purposes under Section 501(c)(3) of the Code . Therefore, you have not provided a sufficient description of your activities to establish that you meet the requirements for recognition of tax exemption under of Section 501(c)(3) of the Code as required by Revenue Procedure 2017-5.

An organization must establish through the administrative record how it meets the operational test. (See Universal Life Church, , La Verdad, New Dynamics Foundation and Ohio Disability Association.) As in Universal, you have the burden of establishing that you qualify for tax exemption. In Pius XII Academy, La Verdad, and New Dynamics, it was provided that an organization must establish, through its administrative record, that it meets the requirements for exemption. Because you failed to provide sufficient details about your activities in your initial application and in your responses to our request for additional information, you have not shown that you meet the requirements for exemption under Section 501(c)(3) of the Code. As provided in New Dynamics, any gaps in the administrative record will be resolved against the applicant. Similarly, in Ohio Disability Association, the court found that even when additional information was provided, but it contained generalizations and failed to clarify purposes, denial is justified. You have not submitted sufficient information to meet your burden of establishing that your operations will be exclusively in furtherance of exempt purposes under Section 501(c)(3) of the Code.

Conclusion

Based on the information submitted, you have failed to establish that you are organized and operated exclusively for exempt purposes within the meaning of Section 501(c)(3) of the Code and the related Income Tax Regulations. Therefore, based on the administrative record, we hold that you do not qualify for exempt under Section 501(c)(3) of the Code.

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. If you have questions, you can contact the person listed at the top of this letter.

We sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosure:
Publication 892