



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

Number: **201831015**
Release Date: 8/3/2018

Date:
May 10, 2018
Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

UIL: 501.32-01, 501.33-00

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.

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:
February 22, 2018
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

B = Application date
C = Formation date
D = State of formation

UIL:

501.32-01
501.33-00

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 meet the operational test under Section 501(c)(3) of the Code? No, for the reasons stated below.

Facts

You submitted Form 1023-EZ *Streamline Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code* on B.

You attest that you were incorporated on C in D. You also attest that you have the necessary organizing document, that your organizing document limits your purposes to one or more exempt purposes within the meaning of Section 501(c)(3), that your organizing document does not expressly empower you to engage, otherwise than as an insubstantial part of your activities that in themselves are not in furtherance of one or more exempt purposes, that your organizing document contains the dissolution provision required under Section 501(c)(3), and that your organizing document contains the provisions required by Section 508(e) or that your organizing document does not need to include the provisions required by Section 508(e) because you rely on the operation of state law in your particular state to meet the requirements of Section 508(e).

You attest that you are organized and operated exclusively to further charitable purposes and that you have not conducted and will not conduct prohibited activities under Section 501(c)(3).

Specifically, attest you will:

- Refrain from supporting or opposing candidates in political campaigns in any way
- Ensure that your net earnings do not inure in whole or in part to the benefit of private shareholders or individuals

- Not further non-exempt purposes (such as purposes that benefit private interests) more than insubstantially
- Not be organized or operated for the primary purpose of conducting a trade or business that is not related to your exempt purpose(s)
- Not devote more than an insubstantial part of your activities attempting to influence legislation or, if you made a Section 501(h) election, not normally make expenditures in excess of expenditure limitations outlined in Section 501(h)
- Not provide commercial-type insurance as a substantial part of your activities

Your Form 1023-EZ was identified for technical review, and detailed information was requested supplemental to the above attestations.

You are a mutual aid organization. When a member or a one of his family has died, each of the other members contributes a fixed amount of money to help defray funeral expenses. The current contribution amount is set by agreement of the members at fourteen dollars per member, of which ten dollars is given to the family and the remainder kept for administrative expenses.

You also assist the survivors of the deceased by organizing the funeral service, the religious service, the reception after the funeral, and the novena for the departed soul.

None of the officers or members of the organization are compensated for their services.

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.

Treasury Regulation 1.501(c)(3)-1(c)(1) 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.

Treas. Reg. 1.501(c)(3)-1(d)(1)(ii) 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.

Rev. Rul. 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 qualify for exemption under Section 501(c)(3) of the Code because it served a private rather than public interest

Rev. Rul. 79-359, 1979-2 C.B. 226, describes organization whose purpose was to provide traditional burial services that directly support and maintain basic tenets and beliefs of a religion regarding burial of its members. Through the provision of burial services to members of a religion in compliance with the detailed requirements of religious laws, the described organization is preserving and perpetuating traditional religious customs and obligations. In this manner, the organization is accomplishing a charitable purpose by contributing to the advancement of religion.

In Better Business Bureau of Washington, D.C. v. United States, 326 U.S. 279 (1945), the Supreme Court determined that the presence of a single non-exempt purpose, if substantial in nature, will destroy exemption under Section 501(c)(3) regardless of the number or importance of any other exempt purposes.

Application of law

You conduct an activity that provides direct benefits to members that is more than insubstantial in nature. You are like the organization described in Rev. Rul. 67-175. There a group of parents provided a cooperative service for themselves and thus served their own private interests. You were also formed to provide on a cooperative basis death benefits to one another. The payment of these benefits thus serves your members' private interest, rather than the public interest.

You are like the organization described in Rev. Rul. 67-367. That organization made predetermined payments to a preselected beneficiary based on the occurrence of a specified event, the beneficiary's commencing post-secondary education. You also collect funds for specific named beneficiaries. You do not select beneficiaries from a pool of eligible persons based on charitable criteria. You also pay these benefits to member families based solely on the occurrence of a specific event, namely, the death of a family member. In so doing you also serve private rather than public interests.

You are distinguishable from the organization described in Rev. Rul. 79-359. Although you organize the funeral and religious service, the reception and the novena, you do not, like that organization, have a religious obligation to perform these services for the deceased. Furthermore, your services are exclusively reserved for subscribed members of your society, while the services of the organization in Rev. Rul. 79-359 were available to all adherents of a certain religion.

Even if there is a religious or charitable aspect to your activities, it is clear the primary purpose for which you have been formed is mutual assistance. This single nonexempt purpose would preclude exemption under Section 501(c)(3) for you no matter many or how important the other, truly exempt purposes for which you were also formed, as the Supreme Court held in Better Business Bureau of Washington, D.C. v. United States.

Because you are not operating exclusively for exempt purposes as Treas. Reg. 1.501(c)(3)-1(c)(1) requires, you do not satisfy the operational test requirement of Section 501(c)(3) of the Code, and consequently are not exempt under this Section of the Code.

Conclusion

Based on the above facts and analysis, you do not qualify for exemption under Section 501(c)(3) of the Code. You are not operated exclusively for a 501(c)(3) purpose. You further the interests of your members which serves private interests. Therefore, you do not qualify for exemption 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.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosure:
Publication 892