



**Department of the Treasury
Internal Revenue Service**

P.O. Box 2508
Cincinnati, OH 45201

Release Number: **201936010**
Release Date: 9/6/2019
UIL Number: 501.03-30, 501.33-00

Date:
June 12, 2019
Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

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:
April 23, 2019
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

B = Date
C = State
D = Ethnicity
E = Ethnicity
x dollars = Amount

UIL:

501.03-30
501.33-00

Dear :

We considered your application for recognition of exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a). We determined that you don't qualify for exemption under IRC Section 501(c)(3). This letter explains the reasons 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 formed as a corporation on B in the state of C. Your Articles of Incorporation indicate that you were formed exclusively for charitable, religious, and educational purposes. Your Articles further state that your specific purpose is "Community services for D communities."

You provide financial assistance to members of the D community in the event of financial hardship arising from serious physical injury, medical emergency, terminal illness or physical detention by authorities.

You believe that you have an obligation to step in and provide financial and/or material assistance for your members, as well as sharing knowledge and information on health-related topics and promoting healthy lifestyle choices. You also disseminate frequent and relevant health information via social media regarding your medical emergency fund for those of E origin in America as a way of promoting health knowledge towards positive lifestyles choices, including regular "question and answer" sessions on health-related topics.

You wish to provide a pool of funds for - people of E origin across the United States which will serve as a safety net. Your members can request assistance for serious physical injury, serious chronic illness, medical emergencies, terminal illness, or physical detention by authorities for non-criminal offenses. If a child is affected, the assistance goes to the parent or guardian.

You invite the public to register for a membership. The annual membership dues are x dollars. To be eligible for benefits, the whole amount of x dollars must be paid by December 31. You informed the public that even if they have access to life insurance or health insurance they can still subscribe and use the benefit payment as supplemental income during a financial hardship.

The financial data you provided indicates that all of your revenue is from membership fees. However, you indicated that you also plan to have an annual fundraiser. Other than some fundraising expenses, your only other expenses are disbursements for the benefit of your members.

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 Section 1.501(c)(3)-1(a)(1) 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.

Treas. Reg. Section 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. Section 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.

Rev. Rul. 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. 81-58, 1981-1 C.B. 331, describes an organization formed to provide retirement payments to its members or death benefits to the beneficiaries of the members. Its income is used to provide direct economic benefits to members. Although the class of employees benefited by the organization consists of police officers engaged in the performance of essential and hazardous public services and there is an incidental benefit provided by the organization to the larger community, the fact remains that the primary benefits from the organization are limited to its members. The organization which is primarily engaged in providing retirement benefits to members and death benefits to the beneficiaries of members, does not qualify for exemption from federal income tax under Section 501(c)(4) of the Code as a social welfare organization.

In Better Business Bureau 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) of the Code regardless of the number or importance of any other exempt purposes.

In Police Benevolent Association v. United States, 661 F. Supp. 765 (1987), the U.S. District Court held that as a matter of law, the association could not establish that it was organized and operated for a charitable purpose under Section 501(c)(3). Because a substantial purpose of the association and its activities were intended to serve the pecuniary interests of its members, a non-exempt purpose, the court held that the association could not qualify as an organization operated exclusively for the promotion of social welfare under Section 501(c)(4), either.

Application of law

In order to qualify for exemption under Section 501(c)(3) of the Code you must be both organized and operated exclusively for exempt purposes as described in Treas. Reg. Section 1.501(c)(3)-1(a)(1). You fail the operational test as described in Treas. Reg. Section 1.501(c)(3)-1(c)(i) because you are primarily operated for the non-exempt, private benefit of your members and not exclusively for exempt purposes.

In order to qualify for exemption under Section 501(c)(3) of the Code you must serve a public, rather than a private, interest as described in Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii). You are similar to the organizations described in Rev. Rul. 67-367 and Rev. Rul. 69-175 because your activities serve to benefit the private interests of your members rather than the public. Therefore, you do not qualify for exemption under Section 501(c)(3).

The Supreme Court held in Better Business Bureau that a single nonexempt purpose, if substantial in nature, precludes an organization from qualifying under Section 501(c)(3) no matter the number or importance of truly exempt purposes. Despite any other qualifying charitable activities that you may conduct, your activity of providing benefits to your members in the event of financial hardships is substantial and serves private, non-exempt purposes.

Similar to the organization in Rev. Rul. 81-58, your income is used to provide direct economic benefits to your members. This ruling stated that an organization which is primarily engaged in providing benefits to members does not qualify for exemption under Section 501(c)(4) of the Code as a social welfare organization. If providing payments to members is too much private benefit under Section 501(c)(4), it is logical to conclude that it is also too much private benefit to qualify under Section 501(c)(3). This was confirmed in Police Benevolent Association, where the court determined that an organization providing retirement and death benefits to members could not qualify for exemption under Section 501(c)(3) or 501(c)(4) due to the private benefit to members. You are similar to these associations because your substantial activity of providing benefits

to your members is serving private interests, which is a non-exempt purpose and precludes you from exemption under Section 501(c)(3).

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 Section 501(c)(3) purposes because your activities serve a substantial non-exempt purpose which more than incidentally benefits your members. Therefore, you do not qualify for exemption under Section 501(c)(3).

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.

If you don't agree

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

- Your name, address, employer identification number (EIN), and a daytime phone number
- A statement of the facts, law, and arguments supporting your position
- A statement indicating whether you are requesting an Appeals Office conference
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization or your authorized representative
- The following declaration:

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

Under penalties of perjury, I declare that I have examined this request, or this modification to the request, including accompanying documents, and to the best of my knowledge and belief, the request or the modification contains all relevant facts relating to the request, 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 they haven'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 gave us a basis to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't given us a basis for reconsideration, we'll send your case to the Appeals Office and notify you. You can find more information 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 later because the law requires that you use the IRC administrative process first (IRC Section 7428(b)(2)).

Where to send your protest

Send your protest, Form 2848, if applicable, and any supporting documents to the applicable address:

U.S. mail:

Internal Revenue Service
EO Determinations Quality Assurance
Mail Stop 6403
P.O. Box 2508
Cincinnati, OH 45201

Street address for delivery service:

Internal Revenue Service
EO Determinations Quality Assurance
550 Main Street, Mail Stop 6403
Cincinnati, OH 45202

You can also fax your protest 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 they received it.

You can get the forms and publications mentioned in this letter by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676). If you have questions, you can contact the person listed at the top of this letter.

Contacting the Taxpayer Advocate Service

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or if you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 877-777-4778.

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