



**Department of the Treasury
Internal Revenue Service**

P.O. Box 2508
Cincinnati, OH 45201

Number: **201951012**
Release Date: 12/20/2019

Date:
September 25, 2019
Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

UIL: 501.03-09, 501.03-30, 501.07-00, 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,

Stephen A. Martin
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:
July 25, 2019
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

X = State of incorporation

Y = Incorporation date

UIL:

501.07-00, 501.03-09

501.08-00, 501.03-30

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)(8). This letter explains the reasons for our conclusion. Please keep it for your records.

Issues

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

Facts

You were incorporated in X on Y to provide sick and death benefits to active members. Your organization also provides social activities for members and provides rental facilities for events such as banquets, weddings and funeral fellowship. Your organization provides two types of memberships. Active members may receive sick and death benefit payments if they have fallen sick or to assist with funeral expenses. Social members enjoy all the benefits of membership that active members do except sick and death benefits. Your membership is open to any individual who is interested in joining.

Your organization originally applied for exemption under Section 501(c)(7) of the Code but during the application process withdrew its request for exemption under that subsection and requested exemption under Section 501(c)(8) instead. This determination is exclusively concerned with your qualification as an organization exempt under Section 501(c)(8) of the Code.

You do not operate under the lodge system, and do not conduct activities of a fraternal as opposed to a merely social character, such as rituals, ceremonial, nor regalia .

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.

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.

Furthermore, like National Union, Philadelphia and Reading Relief Association and Fraternal Order of Civitans, you do not carry on any fraternal activities. You have not provided any evidence that you have rituals, ceremonies or regalia.

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 sick and death benefit funds to members; however, you do not have any activities that accomplish fraternal purposes.

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.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements