



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

Release Number: **201523022**
Release Date: 6/5/2015
UIL Code: 501.03-20
501.33-00

Date: 1/27/2015

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.

Sincerely,

Director, Exempt Organizations

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: 12/1/2014

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

C = State of incorporation
D = Date of incorporation
E = Church denomination
F = Pastor and board chairman
G = Governing body of the E Church
H = Corporate name
J = Website URL

UIL:

501.03-20
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 ("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 explained below.

Facts

You are a corporation formed on D under the laws of the state of C. Your Articles of Incorporation indicates the purposes for which you were formed are charitable, religious, educational, and scientific purposes under section 501(c)(3) of the Code.

Your past, current, and future activities include preaching engagements, revivals, Bible Studies, worship services, and mission outreach trips. The activities are primarily conducted at E denomination churches throughout the United States. You receive and send requests for F, who is your Director/Chairman and a pastor at a local E church, to preach, teach, or exhort the Word of God. F was instrumental in your formation. Your Committees, which consist of licensed preachers and members of the E Church, are responsible for

coordinating, planning, and fundraising for your activities. The five committees are Public Relations, Communications, Social Media, Marketing and Strategy, and Fundraising.

You also support F's candidacy for the bishop of the E Church. The E Church does not appoint its bishops. Instead, delegates are elected to the church's quadrennial conference by its grassroots clergy and lay members, and the delegates in turn vote on candidates for the bishop. The office of bishop is the highest office within the E Church; the bishops together comprise the G, which is the governing body of the church. Candidates for the office of bishop are normally required to pay for their campaign expenses by seeking donations and organizing fundraisers while preaching, teaching, and exhorting the Word of God. The E Church does not assist candidates with such expenses.

The office may also entail a higher compensation than that which is typically earned by local pastors such as F. However, we are unclear on this matter since you did not respond to our question on this point.

You arrange for F to travel to various E churches to preach, teach, and exhort the word of God, where after the event you may conduct activities to make audience members aware of the fact that F is running for bishop. You have printed advertisements and distributed campaign materials (postcards, bookmarks, ink pens, and buttons) in support of F's candidacy. Your corporate name, H, and your website URL, J, each consists of a short phrase unambiguously communicating the candidacy of F and support for such candidacy. Your website solicits donations for the F's election campaign. You conduct an annual dinner dance fundraiser where attendees are advised that the proceeds benefit H.

Your revenues come from online donations, other contributions, and the annual fundraising gala. Funds are used to pay for administrative expenses, public relations, print/written communications, social media, marketing and strategy, fundraising, and travel.

Law

Section 501(c)(3) of the Code provides for exemption from federal income tax for organizations that are organized and operated exclusively for charitable, educational, religious, or scientific purposes, no part of the income of which inures to the benefit of private individuals.

Section 1.501(a)-1(c) of the Income Tax Regulations, hereafter "Regulations," defines "private shareholder or individual" to mean persons having a personal and private interest in the activities of the organization.

Section 1.501(c)(3)-1(a)(1) of the Regulations 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.

Section 1.501(c)(3)-1(c)(1) of the Regulations 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.

Section 1.501(c)(3)-1(c)(2) of the Regulations provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations states that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279, (1945), the Supreme Court held that the presence of a single nonexempt purpose, if substantial in nature, will destroy a claim for exemption regardless of the number or importance of truly exempt purposes. The court found that a trade association had an "underlying commercial motive" that distinguished its educational program from those carried out by entities such as universities, and therefore the association did not qualify for exemption.

In Old Dominion Box Co. v. United States, 477 F. 2d 340 (4th Cir. 1973), cert. denied 413 U.S. 910 (1973), the Fourth Circuit held that operating for the benefit of private parties constitutes a substantial nonexempt purpose.

In American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), the court held that an organization that operated a school to train individuals for careers as political campaign professionals, but that could not establish that it operated on a nonpartisan basis, did not exclusively serve purposes described in section 501(c)(3) of the Code because it also served private interests more than incidentally. The court found that the organization was created and funded by persons affiliated with Republican Party entities and that most of the organization's graduates worked in campaigns for Republican candidates. Consequently, the court concluded that the organization conducted its educational activities with the objective of benefiting Republican candidates and entities and was therefore operated for the substantial nonexempt purpose of benefiting private interests.

In Westward Ho v. Commissioner, T.C.M. 1992-192, an organization was created by three individuals to provide funds to indigent and antisocial persons. The court concluded that the organization's true purpose was to provide the three founders, who owned businesses in the local area, with a more desirable business environment by removing disruptive homeless persons from the locality.

Application of law

To be exempt under Section 501(c)(3) of the Code, you must be organized and operated exclusively for exempt purposes within the meaning of that section. An organization is "operated exclusively" for one or more exempt purposes only if it engages primarily in activities that accomplish one or more of such exempt purposes specified in Section 501(c)(3). See Section 1.501(c)(3)-1(c)(1) of the Regulations. In addition, your activities must serve the public interest and may not benefit private interests more than incidentally, as described in Section 501(c)(3)-1(c)(2) of the Regulations. Your Director/Chairman, F, is a private individual, as defined in Section 501(a)-1(c) of the Regulations, as she has a personal and private interest in your activities. Your support of F's candidacy inures to her benefit by being designed to help advance her career from pastor to bishop, with all the additional power and presumably higher compensation that the higher office entails. You have failed the operational test, as described in Section 1.501(c)(3)-1(a)(1) of the Regulations, causing you to fail to qualify for exemption.

Additionally, while F's speaking engagements may otherwise serve exempt religious purposes, they would appear to also serve a secondary, nonexempt purpose of promoting F's candidacy when viewed in combination with your other campaign activities. See American Campaign Academy, supra, and Westward Ho, supra.

Operating for the benefit of private parties such as F constitutes a substantial nonexempt purpose. Old Dominion Box Co., supra. The presence of a single nonexempt purpose, if substantial in nature, will destroy a claim for exemption regardless of the number or importance of truly exempt purposes. Better Business Bureau of Washington, D.C., Inc. v. United States, supra. See also Regs. Section 1.501(c)(3)-1(d)(1)(ii), supra. Therefore, because your activities inure to the benefit of F and do not serve exclusively exempt purposes, you do not meet the requirements for exemption under section 501(c)(3) of the Code.

Your position

You contend that support of F's candidacy for the office of bishop furthers exclusively charitable or religious purposes by providing opportunities for preaching, teaching, and exhorting the word of God. F is the vehicle by which your vision and mission of transforming lives through relevant preaching and teaching of God's Word are accomplished. You state that, "Upon the prayerful election of F as a bishop of the E Church, the members of H would be able to continue the vision and mission as set forth and adopted by the organization."

Our response to your position

As explained above, your support of F's candidacy confers a substantial, direct material benefit on F by helping to advance F's career and thus serves a substantial nonexempt purpose. Your activities inure to the benefit of F, disqualifying you from exemption under section 501(c)(3) of the Code.

Conclusion

Because your earnings inure to F's benefit and do not serve exclusively exempt purposes, 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,

Director, Exempt Organizations

Enclosure:
Publication 892