



Date:  
01/29/2024  
Employer ID number:

Person to contact:

Release Number: 202417024  
Release Date: 4/26/2024  
UIL Code: 501.03-00,  
501.33-00, 501.35-00

Dear :

This letter is our final determination that you don't qualify for exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a) as an organization described in IRC Section 501(c)(3). 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 IRC Section 501(c)(3), donors generally can't deduct contributions to you under IRC Section 170.

We may notify the appropriate state officials of our determination, as required by IRC Section 6104(c), by sending them a copy of this final letter along with the proposed determination letter.

You must file the federal income tax forms for the tax years shown above within **30 days** from the date of this letter unless you request an extension of time to file. For further instructions, forms, and information, visit [www.irs.gov](http://www.irs.gov).

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection after deleting certain identifying information, as required by IRC Section 6110. Read the enclosed Letter 437, Notice of Intention to Disclose - Rulings, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Letter 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 call the contact person shown above. If you have questions about your federal income tax status and responsibilities, call our customer service number at 800-829-1040 (TTY 800-829-4933 for deaf or hard of hearing) or customer service for businesses at 800-829-4933.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements

Enclosures:

Letter 437

Redacted Letter 4034

Redacted Letter 4038



Department of the Treasury  
Internal Revenue Service  
PO Box 2508  
Cincinnati, OH 45201

Date: 12/04/2023

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

**Legend:**

X = Date

Y = State

u dollars = dollar amount

v dollars = dollar amount

**UIL:**

501.03-00

501.33-00

501.35-00

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 IRC Section 501(c)(3). No, for the reason stated below.

**Facts**

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

You incorporated in the state of Y on X. Your Articles of Incorporation state that you would have one or more classes of members with such designations, qualifications, and rights as set forth in your bylaws.

You 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 the IRC Section 501(c)(3), that your organizing document does not expressly empower you to engage in activities, other than an insubstantial part, that are not in furtherance of one or more exempt purposes, and that your organizing document contains the dissolution provision required under Section 501(c)(3).

You attest that you are organized and operated exclusively to further charitable purposes. You attest that you have not conducted and will not conduct prohibited activities under IRC Section 501(c)(3). Specifically, you 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 more than expenditure limitations outlined in Section 501(h)
- Not provide commercial-type insurance as a substantial part of your activities

Your Form 1023-EZ states you provide financial support to your members when their family loses a loved one. The financial support is used for burial cost. Additionally, you provide emotional support to your members.

During review of your Form 1023-EZ, additional information was requested.

You state that your primary activity is to provide financial support to your members when their family loses a loved one. Most of your time and resources are spent on this activity. When a member's family loses a loved one, they complete the beneficiary claim forms with all the information needed. Then, your president signs the form and the predetermined amount of u dollars is paid directly to the member's family by money order or check.

Your only source of income is from member dues and registration fees for new members. Currently, each member of the organization contributes v dollars per month. Your board of directors determine the amount of membership dues a member must pay.

#### **Law**

IRC Section 501(c)(3) 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) provides that to be exempt under IRC Section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the exempt purposes specified in that section. If an organization fails to meet either the organizational test or the operational test, it does not qualify for exemption.

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 that accomplish one or more of such exempt purposes specified in IRC Section 501(c)(3). 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) provides that an organization is not organized or operated exclusively for exempt purposes unless it serves a public rather than a private interest. To meet this requirement, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests.

Revenue Ruling 67-367 1967-2 C.B. 188, held that an organization formed to award scholarships to pre-selected, specifically named individuals doesn't qualify for exemption under IRC Section 501(c)(3) because it was serving the private interests of its subscribers rather than public or charitable interests.

Rev. Rul. 69-175, 1969-1 C.B. 149, described an organization formed by parents of pupils attending a private school. The organization provided school bus transportation for its members' children. The organization's income approximately equaled the expenses involved in its operations. The ruling stated that when a group of individuals associate to provide a cooperative service for themselves, they are serving a private interest. By providing bus transportation for school children, the organization enabled the participating parents to fulfill their individual responsibility of transporting their children to school. Thus, the organization served a private rather than a public interest. Accordingly, it was not exempt from federal income tax under IRC Section 501(c)(3).

In Benedict Ginsberg and Adele W. Ginsberg v. Commissioner, 46 T.C. 47 (1966), exemption was retroactively revoked from a corporation to conduct the dredging of certain waterways. It was held that the corporation was organized and operated primarily for the benefit of those persons owning property adjacent to the waterways dredged rather than for public or charitable purposes. Therefore, the corporation didn't qualify for exemption under IRC Section 501(c)(3).

In Wendy L. Parker Rehabilitation Foundation v. C.I.R., T.C. Memo. 1986-348, the court found inurement to exist and denied exemption to the applicant organization. The court stated that the distributions of funds for the benefit of Wendy Parker assist the Parker family in providing for her care. These funds will be used to pay for the medical and rehabilitative care of Wendy Parker. This relieves the Parker family of the economic burden of providing such care. Consequently, there is a prohibitive benefit from the petitioner's funds that inures to the benefit of private individuals. An organization formed by a coma patient's family that provides 30% of its income to benefit the coma patient is not exempt under IRC Section 501(c)(3) because it is operating for the private benefit of a single individual who is related to the board of directors.

#### **Application of law**

You spend most of your time and resources on providing financial support to your members when their family loses a loved one. You are not operated exclusively for religious, charitable, or other purposes as specified in the statute. See IRC Section 501(c)(3), Treas. Reg. Section 1.501(c)(3)-1(a)(1), and Treas. Reg. Section 1.501(c)(3)-1(c)(1). Moreover, your activities serve private rather than public interests. See Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii).

You are like the organizations described in Rev. Rul. 67-367, Rev. Rul. 69-175, Benedict Ginsberg and Adele W. Ginsberg, and Wendy L. Parker Rehabilitation Foundation because your activities serve primarily the private interests of your members rather than the interests of the public.

#### **Conclusion**

Based on the facts and circumstances, since you do not exclusively operate for an exempt purpose within the meaning of IRC Section 501(c)(3) and you serve the private interests of your members instead of the interests of the public, you do not qualify for 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 Determination 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  
PO 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](http://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](http://www.taxpayeradvocate.irs.gov) or call 877-777-4778.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements