



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

Number: **201314048**
Release Date: 4/5/2013

Date: January 10, 2013

UIL: 501.32-00; 501.32-01; 501.33-00

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

Dear

This is our final determination that you do not qualify for exemption from federal income tax as an organization described in Internal Revenue Code section 501(c)(3). Recently, we sent you a letter in response to your application that proposed an adverse determination. The letter explained the facts, law and rationale, and gave you 30 days to file a protest. Since we did not receive a protest within the requisite 30 days, the proposed adverse determination is now final.

Since you do not qualify for exemption as an organization described in Code section 501(c)(3), donors may not deduct contributions to you under Code section 170. You must file federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, 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, you should follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

Letter 4038 (CG) (11-2005)
Catalog Number 47632S

In accordance with Code section 6104(c), we will notify the appropriate State officials of our determination by sending them a copy of this final letter and the proposed adverse letter. You should contact your State officials if you have any questions about how this determination may affect your State responsibilities and requirements.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your federal income tax status and responsibilities, please contact IRS Customer Service at 1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Holly O. Paz
Director, Exempt Organizations
Rulings and Agreements

Enclosure
Notice 437
Redacted Proposed Adverse Determination Letter
Redacted Final Adverse Determination Letter



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: November 9, 2012

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

LEGEND:

B = date
C = state
D = individual
e = dollar amount
f = dollar amount
G = business

UIL:

501.32-00
501-32-01
501.33-00

Dear

We have considered your application for recognition of exemption from federal income tax under Internal Revenue Code section 501(a). Based on the information provided, we have concluded that you do not qualify for exemption under Code section 501(c)(3). The basis for our conclusion is set forth below.

Issues

- Do you meet the organizational test under section 501(c)(3) of the Code? No, for the reasons described below.
- Do you meet the operational test under section 501(c)(3) of the Code? No, for the reasons described below.
- Do you meet the requirements under section 501(q) of the Code? No, for the reasons below.

Facts

You are a non-profit corporation formed on B under the laws of the State of C. Your Articles of Incorporation state in Article Three that your purpose is:

to provide full service credit restoration, which may involve credit analysis, dispute of erroneous information, identity theft protection, and a personal consultant on call. The quasi-public objective is to benefit the public by increasing the public's credit health and improve the proper functioning of the credit system.

Your Board of Directors is composed of four individuals, none of whom are compensated. D is compensated as your executive officer, however, he is not a member of the Board of Directors.

Your activities include full service credit restoration, identity theft protection and group education seminars on credit related topics. Approximately % of your time is spent on presenting group seminars and % of your time is spent on providing credit restoration/identity theft services. Your website allows a potential client to chat live with a consultant or to request services. In addition, a section on credit education includes a glossary of credit terms, credit laws, financial calculators, sample credit reports and access to educational videos on credit related topics.

You have entered into a licensing agreement with G, an unrelated 3rd party. The licensing agreement covers the software and technology used to provide your services to members. The agreement provides for an initial payment to the developer as well as a royalty per user that enters into an agreement for your identity theft or credit restoration services. You do not pay a royalty to G for members receiving only the 90-day free membership. You selected G because of their ability to modify their software to meet your needs.

You partner with various city business development groups to present seminars to inform their members and prospective members on the importance of credit. A free 90-day credit restoration membership is provided to attendees of the seminars, if desired. In addition, free 90-day membership service cards are provided to businesses that regularly encounter individuals applying for credit such as car dealerships and mortgage companies. You work with these businesses to provide information regarding your services to applicants who are denied credit. At the expiration of the 90-day free membership, members can apply for a yearly membership providing credit restoration and identity theft protection services. The standard membership fee is e dollars per year for both credit restoration and identity theft protection services for four members of the same household. You also offer individual credit restoration services for a membership fee of f dollars per year. A payment plan is available upon a showing of financial hardship, which is determined on a case-by-case basis. You have a minimum charge of f dollars. You do not waive your fees for those individuals who cannot afford to pay for your services.

You have held 50-60 seminars to date. You have held seminars at least three times a month for smaller venues through various companies such as banks, insurance companies, tax preparation services, automotive dealerships and mortgage companies. The number of attendees varies from 15-50+ depending upon the venue and location. All seminars are currently hosted by D.

Your credit restoration service includes a full credit analysis as well as a break down of the client's credit report. The credit analysis/breakdown of the credit report is done over the phone or in person, however, it is not provided in a written format. A certified credit consultant is assigned to each member. The service also includes mediation for collection of past due accounts; customized letters for inaccurate or erroneous credit report items; follow-up/correspondence with credit bureaus; assistance in re-establishing valid credit lines; and an e-book on obtaining financial freedom.

Identity theft protection includes preventative measures; staggered copies of credit report; review for suspicious accounts; removal from pre-approved/junk mail lists; ebook on how to prevent identity theft at home; removal of all inaccurate items from credit report; and a full service restoration in the event of an identity theft. You have assisted over 8,500 clients, and serviced over 1,400 members through your 90-day free program. The free service includes the full credit analysis, education materials and support. Typically, within the 90-day free period, you are able to remove most errors appearing on the credit reports and provide the client with a clear cut idea of what they need to do to re-establish their credit and optimize their current score. About % of your members come through the seminars, % from referrals, % from auto dealerships, % from mortgage companies and % from your website.

The mediation component of your credit restoration service involves working with the member to pay a fair amount to each creditor. You try to help your members save money by assisting with negotiation of reduced payments. You assist clients in re-establishing valid credit and placing fraud alerts on all three major credit bureaus if desired. In the event identity theft occurs you guide the member through filling out the appropriate fraud affidavits and police reports as well as forwarding the completed information to the credit bureaus. Follow-up to verify removal of the disputed items is also provided.

Your promotional materials provide comparisons of your services/prices to for-profit providers of similar services. You state that you provide all of the various services for a fraction of the cost of the listed for-profit providers.

You employ six credit consultants. The consultants are responsible for educating and walking clients through the credit restoration and optimization process. All new employees undergo two weeks of classroom training, followed by two weeks of on-the-

job training with an experienced consultant. Your employee manual provides detailed instructions for consultants to follow regarding client interactions. Your consultants are required to present all of your services every time they contact a client. In addition, consultants must strive to have at least one item removed on the first set of letters even if it is as simple as an address variation to get "customer engaged in the process."

Your budgets indicate that all of your income is expected from membership fees (fees for your services). Finally, you do not plan to solicit grants or donations nor do you have a fundraising plan.

Law

Section 501(c)(3) of the Code provides that corporations may be exempted from tax if they are organized and operated exclusively for charitable or educational purposes and no part of their net earnings inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations ("regulations") provides 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(b)(1)(i) of the regulations provides that an organization is organized exclusively for one or more exempt purposes only if its articles of organization:

- (a) Limit the purposes of such organization to one or more exempt purposes; and
- (b) Do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities that in themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(b)(4) of the regulations provides that an organization's assets must be dedicated to an exempt purpose, either by an express provision in its governing instrument or by operation of law.

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 that 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(a)-1(c) of the regulations defines the words "private shareholder or individual" in section 501 of the Code to refer to persons having a personal and private interest in the activities of the organization.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an applicant organization must show that it serves a public rather than a private interest and specifically 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.

Section 1.501(c)(3)-1(d)(2) of the regulations provides that the term "charitable," is used in section 501(c)(3) in its generally accepted legal sense and includes the relief of the poor and distressed or of the underprivileged.

Section 1.501(c)(3)-1(d)(3)(i) of the regulations provides that the term "educational," as used in section 501(c)(3) of the Code, relates to:

- (a) The instruction or training of the individual for the purpose of improving or developing his capabilities; or
- (b) The instruction of the public on subjects useful to the individual and beneficial to the community.

In Rev. Rul. 69-441, 1969-2 C.B. 115, the Service found that a nonprofit organization formed to help reduce personal bankruptcy by informing the public on personal money management and aiding low-income individuals and families with financial problems was exempt under section 501(c)(3) of the Code. Its board of directors was comprised of representatives from religious organizations, civic groups, labor unions, business groups, and educational institutions. The organization provided information to the public on budgeting, buying practices, and the sound use of consumer credit through the use of films, speakers, and publications. It aided low-income individuals and families who have financial problems by providing them with individual counseling, and if necessary, by establishing budget plans. The organization did not charge fees for counseling services or proration services. Finally, the organization relied upon contributions, primarily from the creditors participating in the organization's budget plans, for its support. The Service found that, by aiding low-income individuals and families who have financial problems and by providing, without charge, counseling and a means for the orderly discharge of indebtedness, the organization was relieving the poor and distressed. Moreover, by providing the public with information on budgeting, buying practices, and the sound use of consumer credit, the organization was instructing the

public on subjects useful to the individual and beneficial to the community. Thus, the organization was exempt from federal income tax under section 501(c)(3) of the Code.

Rev. Proc. 86-43, 1986-2 C.B. 729, describes the methodology test the Internal Revenue Service uses to determine when the advocacy of a particular viewpoint or position is educational under sections 501(c)(3) of the Code and 1.501(c)(3)-1(d)(3) of the regulations. The revenue procedure states that the focus of section 1.501(c)(3)-1(d)(3) is on the method the organization uses to communicate to others, not the content of its communication. The method of communication is not educational "if it fails to provide a development from the relevant facts that would materially aid a listener or reader in a learning process." One factor indicating the method is not educational is as follows: "[t]he approach used in the organization's presentations is not aimed at developing an understanding on the part of the intended audience or readership because it does not consider their background or training in the subject matter." The remaining factors relate specifically to advocacy organizations and the "full and fair exposition" part of the regulation.

In Better Business Bureau of Washington, D.C. v. U.S., 326 U.S. 279, 283, 66 S. Ct. 112, 90 L. Ed. 67 (1945), the Supreme Court held that the "presence of a single . . . [nonexempt] purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly . . . [exempt] purposes."

In B.S.W. Group, Inc. v. Commissioner, 70 T.C. 352 (1978), the court found that a corporation formed to provide consulting services did not satisfy the operational test under section 501(c)(3) of the Code because its activities constituted the conduct of a trade or business that is ordinarily carried on by commercial ventures organized for profit. Its primary purpose was not charitable, educational, or scientific, but rather commercial. In addition, the court found that the organization's financing did not resemble that of the typical section 501(c)(3) organizations. It had not solicited, nor had it received, voluntary contributions from the public. Its only source of income was from fees from services, and those fees were set high enough to recoup all projected costs and to produce a profit. Moreover, it did not appear that the corporation ever planned to charge a fee less than "cost." And finally, the corporation did not limit its clientele to organizations that were section 501(c)(3) exempt organizations.

In Consumer Credit Counseling Service of Alabama, Inc. v. United States, 78-2 U.S.T.C. 9660 (D.D.C. 1978), the court held that an organization that provided free information on budgeting, buying practices, and the sound use of consumer credit qualified for exemption from income tax because its activities were charitable and educational.

The Consumer Credit Counseling Service of Alabama is an umbrella organization made up of numerous credit counseling service agencies. These agencies provided information to the general public through the use of speakers, films, and publications on the subjects of budgeting, buying practices, and the sound use of consumer credit. They also provided counseling on budgeting and the appropriate use of consumer credit to debt-distressed individuals and families. They did not limit these services to low-income individuals and families, but they did provide such services free of charge. As an adjunct to the counseling function, they offered a debt management plan. Approximately 12 percent of a professional counselor's time was applied to the debt management plan as opposed to education. The agencies charged a nominal fee of up to \$10 per month for the debt management plan. This fee was waived in instances when payment of the fee would work a financial hardship.

The professional counselors employed by the organizations spent about 88 percent of their time in activities such as information dissemination and counseling assistance rather than those connected with the debt management programs. The primary sources of revenue for these organizations were provided by government and private foundation grants, contributions, and assistance from labor agencies and United Way. An incidental amount of their revenue was from service fees. Thus, the court concluded that "each of the plaintiff consumer credit counseling agencies was an organization described in section 501(c)(3) as a charitable and educational organization." See also, Credit Counseling Centers of Oklahoma, Inc. v. United States, 79-2 U.S. Tax Case. 9468 (D.D.C. 1979), in which the facts were virtually identical and the law was identical to those in Consumer Credit Counseling Service of Alabama, Inc. v. United States, discussed immediately above.

In Easter House v. U.S., 12 Cl. Ct. 476, 486 (1987), aff'd, 846 F. 2d 78 (Fed. Cir.) cert. denied, 488 U.S. 907, 109 S. Ct. 257, 102 L. Ed. 2d 246 (1988), the court found an organization that operated an adoption agency was not exempt under section 501(c)(3) of the Code because a substantial purpose of the agency was a nonexempt commercial purpose. The court concluded that the organization did not qualify for exemption under section 501(c)(3) because its primary activity was placing children for adoption in a manner indistinguishable from that of a commercial adoption agency. The court rejected the organization's argument that the adoption services merely complemented the health related services to unwed mothers and their children. Rather, the court found that the health-related services were merely incident to the organization's operation of an adoption service, which, in and of itself, did not serve an exempt purpose. The organization's sole source of support was the fees it charged adoptive parents, rather than contributions from the public. The court also found that the organization competed with for-profit adoption agencies, engaged in substantial advertising, and accumulated substantial profits. Accordingly, the court found that the "business purpose, and not the advancement of educational and charitable activities purpose, of plaintiff's adoption

service is its primary goal" and held that the organization was not operated exclusively for purposes described in section 501(c)(3). Easter House, 12 Cl. Ct. at 485-486.

In Living Faith, Inc. v. Commissioner, 950 F.2d 365 (1991), the Court of Appeals upheld a Tax Court decision that an organization operating restaurants and health food stores in a manner consistent with the doctrines of the Seventh Day Adventist Church did not qualify for exemption under section 501(c)(3) of the Code because the organization was operated for a substantial nonexempt commercial purpose. The court found that the organization's activities were "presumptively commercial" because the organization was in competition with other restaurants, engaged in marketing, and generally operated in a manner similar to commercial businesses.

In Airlie Foundation v. Commissioner, 283 F. Supp. 2d 58 (D.D.C., 2003), the court relied on the "commerciality" doctrine in applying the operational test. Because of the commercial manner in which this organization conducted its activities, the court found that it was operated for a non-exempt commercial purpose, rather than for a tax exempt purpose. As the court stated:

Among the major factors courts have considered in assessing commerciality are competition with for profit commercial entities; extent and degree of below cost services provided; pricing policies; and reasonableness of financial reserves. Additional factors include, inter alia, whether the organization uses commercial promotional methods (e.g. advertising) and the extent to which the organization receives charitable donations.

In Solution Plus, Inc. v. Commissioner, T.C. Memo. 2008-21, the Tax Court held that a credit counseling organization was not exempt under section 501(c)(3) because it was not organized and operated exclusively for educational or charitable purposes and impermissibly served private interests. The organization was formed by an individual with experience selling debt management plans. The founder and his spouse were the only members of the organization's board of directors. The organization did not have any meaningful educational program or materials for providing to people who contacted the organization, and its financial education seminars for students constituted an insignificant part of the organization's overall activities.

The Court held that the organization's purposes were not educational because its "activities are primarily structured to market, determine eligibility for, and enroll individuals in DMPs." Its purposes are not to inform consumers "about understanding the cause of, and devising personal solutions to, consumers' financial problems," or "to consider the particular knowledge of individual callers about managing their personal finances." The Tax Court also held that the organization's purposes were not charitable

because "its potential customers are not members of a [charitable] class that are benefited in a 'non-select manner * * * because they will be turned away unless they meet the criteria of the participating creditors."

The Tax Court further held the organization would operate for the private interests of its founder because the founder and spouse were the only directors, the founder was the only officer and employee, and his compensation was based in part on the organization's DMP sales activity levels. The organization was "a family-controlled business that he personally would run for financial gain, using his past professional experience marketing DMPs and managing a DMP call center." The Court further held that the organization's principal activity of providing DMP services, which were only provided if approved by a caller's creditors, furthered the benefit of private interests.

Finally, the Tax Court held that the facts in Credit Counseling Services of Alabama v. United States, 78-2 U.S.T.C. 9660 (D.D.C. 1978) "stand in stark contrast" because "the sale of DMPs is the primary reason for [Solution Plus's] existence, and its charitable and educational purposes are, at best, minimal."

Application of Law

Section 501(c)(3) of the Code sets forth two main tests for an organization to be recognized as exempt. An organization must be both organized and operated exclusively for purposes described in section 501(c)(3). Section 1.501(c)(3)-1(a)(1). You fail both tests.

Organizational Test

To demonstrate that it is organized exclusively for exempt purposes an organization must have a valid purpose clause and a valid dissolution provision in its organizing document. Sections 1.501(c)(3)-1(b)(1)(i) and 1.501(c)(3)-1(b)(4) of the regulations. Your Articles provide that your specific purpose is to provide full service credit restoration, which may involve credit analysis, dispute of erroneous information, identity theft protection, and a personal consultant on call. Your Articles do not limit your purposes to one or more exempt purposes. Specifically, providing credit restoration and identity theft protection can serve a nonexempt purpose. As you do not have a valid purpose clause, you do not meet the organizational test. Section 1.501(c)(3)-1(b)(1)(i) of the regulations.

Operational Test

To satisfy the 501(c)(3) operational test, an organization must establish that it is operated exclusively for one or more exempt purposes. Section 1.501(c)(3)-1(c)(1) of the regulations. You failed to establish that you are operated exclusively for one or more exempt purposes.

The presence of a single non-exempt purpose precludes exemption regardless of any valid exempt purposes. Better Business Bureau of Washington, D.C. v. U.S You failed to establish that you are operated exclusively for one or more exempt purposes.

Your Activities Are Not Exclusively Educational

You are distinguishable from the organizations in Consumer Credit Counseling Service of Alabama, *supra*, and Rev. Rul. 69-441 by the methodology you use to conduct your counseling activities. Your services include appointments, negotiation with creditors, correspondence with credit bureaus, information regarding certain lenders, preventative measures to identify and prevent identity theft and restoration in case of actual identity theft. Only one meeting with the client is required before you begin providing credit restoration and/or identity theft services. Unlike the organizations in Consumer Credit Counseling Service of Alabama, *supra*, and Rev. Rul. 69-441, *supra*, you do not offer counseling sessions that are structured primarily to improve your clients' understanding of their financial problems or their skills in solving them. You provided no evidence that your employees do anything more than review a client's credit report and send letters to the credit bureaus regarding removing specific items from the report. Repairing or communicating with a client on their credit report is not an educational activity because it does not provide a development from the relevant facts that would materially aid a listener or reader in a learning process. Rev. Proc. 86-43, *supra*.

Although your website contains some educational content and you distribute some educational literature at your seminars, these educational components are incidental to the provision of credit restoration and/or identity theft protections services. Furthermore, you did not indicate who provides any educational aspect of your program and your employees do not have education, instruction, or training as a responsibility. Therefore, you failed to establish that your interactions with clients provide instruction or training "useful to the individual and beneficial to the community" within the meaning of section 1.501(c)(3)-1(d)(3)(i) of the regulations.

You do not operate a substantive on-going educational program; % of your time is spent on the provision of services. While you do provide training to your employees, the training is related to the provision of services for a fee. Like the organization in Solution Plus, *supra*, you did not provide evidence that you help clients develop an understanding of the cause of their financial problems or a plan to address their financial problems. You provided no evidence that you intend to establish long-term counseling relationships with your clients.

Your operational focus is on generating revenue in the form of fees from your credit restoration and identity theft protection services. Your only source of revenue is fees from members. Fees charged to the member include the following: e dollars – credit restoration and identity theft for one year and f dollars – individual credit restoration.

Your efforts are focused on repairing the bad credit of clients in exchange for a fee. Similar to the organization in Solution Plus, *supra*, your efforts are focused on informing potential clients about the range of services available and signing them up for either your credit restoration service or identity theft protection service. Like the organizations described in Solution Plus, *supra*, Better Business Bureau, *supra*, and Easter House, *supra*, your activities have an underlying commercial motive. Thus, your activities are not exclusively educational within the meaning of section 501(c)(3).

Your Activities Are Not Charitable

Most of your time and resources are devoted to providing services for a fee. Credit restoration and identity theft protection services that you provide to members do not further charitable purposes. Helping members improve their credit and prevent identity theft does not provide relief to the poor and distressed within the meaning of section 1.501(c)(3)-1(d)(2) of the regulations or serve any other purpose recognized as charitable.

The credit restoration and identity theft protection services you provide to individuals do not further charitable purposes. You indicated that the services are open to anyone. You charge fees for the all of your services. You do not waive your fees for those clients who cannot afford to pay for your services, therefore, your services are not directed exclusively to low-income individuals. Accordingly, you are unlike the organizations described in Consumer Credit Counseling Service of Alabama, *supra* and Rev. Rul. 69-441, *supra*, which aided low-income individuals and families who have financial problems, thereby relieving the poor and distressed. Primarily providing services for a fee ordinarily does not further charitable purposes. Solution Plus, *supra*. Thus, you failed to establish that your activities are charitable within the meaning of section 501(c)(3) of the Code.

You Have a Substantial Nonexempt Commercial Purpose

The courts have developed guidelines intended to help discern whether an organization has a substantial nonexempt commercial purpose. See e.g., B.S.W. Group, *supra*; Easter House, *supra*; Airlie, *supra*; Living Faith, *supra*. Generally, the factors proffered by courts focus on the nature of the activities and how an organization conducts its business.

Your activities consist exclusively of providing services to clients for a fee to anyone who can afford to pay your fee. Your activities do not further an exempt purpose, but rather a substantial nonexempt commercial purpose. The fees do not entitle your clients to any educational programs or services beyond an e-book and some literature regarding credit-related topics. Helping members remove bad/negative credit, outdated credit, inaccurate credit, obsolete credit, erroneous credit, or incomplete credit from the client's credit report or otherwise upgrade the credit report under the law serves a

commercial purpose. This is evidenced by the fact that your literature compares your services/fees to those of similar for-profit service providers. Providing the same services as those provided by a for-profit also demonstrates that you are operating like a commercial organization seeking to maximize profits, rather than a charitable or educational organization seeking to serve the public. Thus, similar to the organization in Easter House, *supra*, the profit-making fee structure of your consulting services overshadows any of your other purposes.

Your finance structure further demonstrates that you operate for a substantial nonexempt commercial purpose. You indicated that you will operate solely based upon the receipt of fees for services. You do not fundraise or solicit donations and grants. You do not have a substantive plan to solicit grants or donations in the future. Accordingly, you are unlike the organizations described in Consumer Credit Counseling Service of Alabama, *supra*, that received the bulk of their support from government and private foundation grants, contributions, and assistance from labor agencies and the United Way (only an incidental amount of their revenue was from fees). Your operations are financed entirely by fees earned from providing services to clients. Receiving support primarily from fees for services is indicative of a commercial purpose. Easter House, *supra*.

Like the organizations in Easter House, *supra*, Airlie, *supra*, and Living Faith, *supra*, you are in direct competition with commercial businesses because you conduct activities generally conducted for a profit. In fact, you conduct the same activities as a commercial firm as indicated in your promotional materials. You conduct many of your activities in the same manner as commercial enterprises. Accordingly, your activities evidence a substantial commercial purpose.

More than an insubstantial part of your activities are in furtherance of a nonexempt purpose, in contravention of section 1.501(c)(3)-1(c)(1) of the regulations and Better Business Bureau of Washington, D.C., *supra*. Therefore, you are not operated for an exempt purpose.

Private Benefit

An organization is not organized or operated exclusively for exempt purposes unless it serves a public rather than a private interest. See section 1.501(c)(3)-1(d)(1)(ii) of the regulations. The credit restoration services you provide to clients substantially benefit the for-profit corporations referring clients to you. Providing credit restoration services to individuals who have been denied credit when attempting to purchase a car or a home facilitates new clients for the companies making the referrals. Therefore, you have not demonstrated that your operations serve a public rather than a private interest as required by section 1.501(c)(3)-1(d)(1)(ii).

Conclusion

Based on the facts and information provided, you do not meet the organizational or operational tests, as your activities are neither educational or charitable. You are organized and operated for commercial purposes. Any public purposes for which you may operate are only incidental to this primary nonexempt purpose. You have not demonstrated that you are serving public, rather than private purposes. Therefore, you are not described in section 501(c)(3).

Accordingly, you do not qualify for exemption as an organization described in section 501(c)(3) of the Code and you must file federal income tax returns. Contributions to you are not deductible under section 170.

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter.

We will consider your statement and decide if that information affects our determination. If your statement does not provide a basis to reconsider our determination, we will forward your case to our Appeals Office. You can find more information about the role of the Appeals Office in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*.

Types of information that should be included in your appeal can be found on page 2 of Publication 892, under the heading "Regional Office Appeal". The statement of facts (item 4) must be declared true under penalties of perjury. This may be done by adding to the appeal the following signed declaration:

"Under penalties of perjury, I declare that I have examined the statement of facts presented in this appeal and in any accompanying schedules and statements and, to the best of my knowledge and belief, they are true, correct, and complete."

Your appeal will be considered incomplete without this statement.

If an organization's representative submits the appeal, a substitute declaration must be included stating that the representative prepared the appeal and accompanying documents; and whether the representative knows personally that the statements of facts contained in the appeal and accompanying documents are true and correct.

An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you during the appeal process. To be represented during the appeal process, you must file a proper power of attorney, Form

2848, *Power of Attorney and Declaration of Representative*, if you have not already done so. For more information about representation, see Publication 947, *Practice Before the IRS and Power of Attorney*. All forms and publications mentioned in this letter can be found at www.irs.gov, Forms and Publications.

If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter to you. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848 and any supporting documents to the applicable address:

Mail to:

Internal Revenue Service
EO Determinations Quality Assurance
Room 7-008
P.O. Box 2508
Cincinnati, OH 45201

Deliver to:

Internal Revenue Service
EO Determinations Quality Assurance
550 Main Street, Room 7-008
Cincinnati, OH 45202

You may also fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Holly O. Paz
Director, Exempt Organizations
Rulings and Agreements

Enclosure, Publication 892