



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Number: **201340021**
Release Date: 10/4/2013

Date: July 10, 2013

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

UIL: 501.03-19; 501.03-25; 501.03-30; 501.35-00

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.

Because 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. File the returns in accordance with their instructions, and do not send them to this office. Failure to file the returns timely may result in a penalty.

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, follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

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,

Kenneth Corbin
Acting Director, Exempt Organizations

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: May 15, 2013

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

LEGEND:

B = Date
C = State
D = Place

UIL:

501.03-19
501.03-25
501.03-30
501.35-00

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 pass the organizational test for exemption? No, for the reasons described below.
- Do you pass the operational test for exemption? No, for the reasons described below.
- Does your lack of adequate and detailed responses to our inquiries cause you to fail the operational test, precluding you from qualifying for exemption under section 501(c)(3) of the Code? Yes, for the reasons stated below.

Letter 4036(CG) (11-2011)
Catalog Number 47630W

Facts

You were incorporated on B as a non-profit corporation under C law. Article 4 of your Articles of Incorporation states the purposes for which you are organized are "Charitable, educational, social, literary, and athletic. Any purpose permitted to be exempt from taxable under IRC 501(c) or 501(d). Any purpose that would qualify for tax-deductible gifts under the section 170(c) ."

We requested you to amend your Articles of Incorporation to remove the words "social" and "athletic" and the phrases providing you are organized "for any purpose permitted to be exempt from taxation under Section 501(c) or 501(d) of the United States Internal Revenue Code" and "any purpose that would qualify for tax-deductible gifts under the Section 170(c) of the United States Internal Revenue Code." You simply said the words and phrases are true and correct statements to substantiate your "athletic" purpose and there is no need for you to amend your Articles of Incorporation.

Your Articles of Organization state, in Article II, the purpose of this corporation is to engage in all charitable, educational, and civic activities within the meaning of IRC 501(c)(3), including without limitation: a) to provide educational, charitable and outreach services to the community; b) in general to do and perform such acts and transact such business in connection with the foregoing not consistent with the general laws of the state of Illinois and section 501(c)(3) of the Code.

You educate and plan to educate the community about homeownerships, create a rental property owner's network and family services' network, beautification program, safe neighborhood program, physical fitness, good nutrition, sharing of information and networking, and establish a farmer' market

Your current activity is described as a running ministry and only accounted for percent of the total time. You organize and encourage running and walking for a healthier lifestyle.

Your planned activities are:

1. Jump-start the housing market by creating a rental property "owner's network" and a "family services network"; help renters to become homeowners; develop housing support-services program; and establish a housing resource center to provide technical and financial assistance to homeowners, home buyers, and renters.
2. Promote healthy lifestyles by establishing D walking club and running club; expand availability of healthy food options at small grocery stores; attract full-

service produce stores, produce market or grocer with a large produce selection; establish a farmers' market and local produce stands; and use of signs, community events and health fairs. .

3. Improve safety and security throughout the community by re-establishing a D gang-intervention task force and increase the capacity of block organizations to organize clean-up and beautification projects and increase public involvement on safety issues.
4. Create a D community network to spread information, resources and expertise within D and beyond:
5. Bring new resources to schools to expand health and social serves that help improve academic performance; develop mental health clinics and family counseling services at elementary and high schools; create partnerships between struggling schools and high-achievement schools and strengthen faith-based partnerships to establish teen mentoring program.

We requested additional information about your role in attracting "produce stores, produce markets or grocers." You simply said you plan to attract them to your neighborhood through your "Eat to Live" classes and exercise techniques..

We asked you to provide more detailed explanation on your purchase of land to grow fruits and vegetable and the operation of a farmers' market. You simply stated that the farmers market is your future plan. You stated your community is a food desert that has miles of undeveloped land and you endeavor to use your non-profit status to acquire the land and teach community residents how to grow fruits and vegetable on the land and sell then to other community residents. You state that this activity would further your purposes by helping to organize and/or participate in educational and other activities that promote the use of fresh produce and horticultural products and provide healthy, fresh food and horticultural products to D and surrounding communities. You stated you plan to devote about % of your time to this activity.

We requested additional information regarding your financial and technical assistance to homebuyers and others. You state that you will be partnering with the United States Department of Housing and Urban Development (HUD) and with C Department of Housing Authority to become a housing counseling organization. You will adhere to the guidelines and follow strict policies of HUD and C's Department of Housing Authority.

In addition, you stated that there will be six services you plan to offer: homebuyer education programs (HEP), loss mitigation (LM), money debt management (MDM), pre-purchase counseling (PC), post-purchase counseling (PPC), and renters assistance (RC).

You will not offer credit repair, debt management plans, debt repayment, debt consolidation, debt negotiation services or similar type services to the participants. You stated you will not charge for your programs. Classes will be offered once you secure your non-profit status and approval from HUD Housing Counseling Agency after 7 PM weekdays and on Saturdays.

You did not have any materials or brochures of your own and submitted materials and brochures that are used by a similar agency for our review.

You help homeowners by providing financial and mortgage counseling, assistance negotiating repayment with lenders and providing loans.

Your rental property network is a free service to all involved and is a listing of rental properties in the area for individuals or families seeking housing. You specialize in connecting people with community services. You devote % of your time and resources to this activity.

Your mortgage foreclosure counseling and loss mitigation is a future project. Once you are approved for the 501(c)(3) status, you will apply to HUD program for certification as an approved HUD counseling agency. You cannot apply to the program unless you have been granted 501(c)(3) status. You do not want to conduct any of the housing programs unless you have HUD guidance and assistance.

Regarding the courses, services, and counseling activities that you will conduct to qualify for and retain HUD certification and what courses you have taken or will take to fulfill the HUD certification requirements you will offer, under the direction of HUD, the following services: financial management/budget counseling, mortgage delinquency and default resolution counseling, non-delinquency and default resolution counseling, pre-purchase counseling, predatory lending education workshops, and rental housing. You have not taken any courses to fulfill the HUD certification requirement because you are waiting for 501(c)(3) status prior to applying for this program.

Regarding how you will conduct your housing counseling and foreclosure program you are not doing anything new. You stated that you wanted to initiate your own neighborhood stabilization program in D area and in order to complete your mission; you first need 501(c)(3) status.

Regarding your counseling and education programs you did not include copies or samples of any documents as evidence of these programs. You will not offer debt management plans.

You are a non-profit all volunteer organization. However your financial statements show salaries and wages. You spend % of your time on your running and walking program. However you provided no details on the running/walking program.

You provided very little information regarding your foreclosure counseling, loss mitigation and educational programs. You continually stated that the activities will be conducted as soon as you receive 501(c)(3) tax exempt status.

You did not submit any educational materials or other written materials you will use during your counseling program or your homebuyer education workshops because you do not currently conduct this activity.

You did not provide the actual financial information for your first completed tax year as we requested.

Your projected budgets show the anticipated revenue from gifts, grants and contributions. Projected expenditures show salaries, wages and occupancy costs as your largest expenses.

Law

Section 501(c)(3) of the Code requires an organization to be organized and operated exclusively for charitable, educational and/or religious purposes.

Section 501(q) of the Code provides that organizations which provide "credit counseling services" as a substantial purpose shall not be exempt from taxation under section 501(a) unless they are described in sections 501(c)(3) or 501(c)(4) and they are organized and operated in accordance with the following requirements:

- (A) The organization--
 - (i) provides credit counseling services tailored to the specific needs and circumstances of consumers,
 - (ii) makes no loans to debtors (other than loans with no fees or interest) and does not negotiate the making of loans on behalf of debtors,
 - (iii) provides services for the purpose of improving a consumer's credit record, credit history, or credit rating only to the extent that such services are incidental to providing credit counseling services, and

- (iv) does not charge any separately stated fee for services for the purpose of improving any consumer's credit record, credit history, or credit rating.
- (B) The organization does not refuse to provide credit counseling services to a consumer due to the inability of the consumer to pay, the ineligibility of the consumer for debt management plan enrollment, or the unwillingness of the consumer to enroll in a debt management plan.
- (C) The organization establishes and implements a fee policy which--
 - (i) requires that any fees charged to a consumer for services are reasonable,
 - (ii) allows for the waiver of fees if the consumer is unable to pay, and
 - (iii) except to the extent allowed by State law, prohibits charging any fee based in whole or in part on a percentage of the consumer's debt, the consumer's payments to be made pursuant to a debt management plan, or the projected or actual savings to the consumer resulting from enrolling in a debt management plan.
- (D) At all times the organization has a board of directors or other governing body--
 - (i) which is controlled by persons who represent the broad interests of the public, such as public officials acting in their capacities as such, persons having special knowledge or expertise in credit or financial education, and community leaders,
 - (ii) not more than 20 percent of the voting power of which is vested in persons who are employed by the organization or who will benefit financially, directly or indirectly, from the organization's activities (other than through the receipt of reasonable directors' fees or the repayment of consumer debt to creditors other than the credit counseling organization or its affiliates), and
 - (iii) not more than 49 percent of the voting power of which is vested in persons who are employed by the organization or who will benefit financially, directly or indirectly, from the organization's activities (other than through the receipt of reasonable directors' fees).
- (F) The organization receives no amount for providing referrals to others for

debt management plan services, and pays no amount to others for obtaining referrals of consumers.

Section 501(q)(4)(A) defines, for purposes of section 501(q), the term "credit counseling services" to mean (i) the providing of educational information to the general public on budgeting, personal finance, financial literacy, saving and spending practices, and the sound use of consumer credit; (ii) the assisting of individuals and families with financial problems by providing them with counseling; or (iii) a combination of the activities described above.

Section 1.501(a)-1(a)(3) of the regulations states that an organization claiming exemption under section 501(a) and described in any paragraph of section 501(c) (other than section 501(c)(1)) shall file the form of application prescribed by the Commissioner and shall include thereon such information as required by such form and the instructions issued thereto.

Section 1.501(c)(3)-1(a)(1) of the regulations provides that, in order to be exempt as an organization described in section 501(c)(3), 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 that accomplish one or more of such exempt purposes specified in section 501(c)(3).

Section 1.501(c)(3)-1(d)(2) of the regulations defines the word "charitable" as including 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.

Section 4.03 of Rev. Proc. 2012-9, 2012-1 C.B. 283, updated annually, provides that exempt status may be recognized in advance of an organization's operations if the proposed activities are described in sufficient detail to permit a conclusion that the organization will clearly meet the particular requirements for exemption pursuant to the section of the Internal Revenue Code under which exemption is claimed. An

organization must fully describe all of the activities in which it expects to engage, including the standards, criteria, procedures or other means adopted or planned for carrying out the activities, the anticipated sources of receipts, and the nature of contemplated expenditures. A mere restatement of exempt purposes or a statement that proposed activities will be in furtherance of such purposes will not satisfy this requirement.

In American Science Foundation v. Commissioner, 52 T.C.M. (CCH) 1049 (1986) the Court determined that an organization was not eligible for recognition of tax exemption because it failed to provide sufficient information to permit the conclusion that its activities will be exclusively in furtherance of exempt purposes.

In Bubbling Well Church of Universal Love v. Commissioner, 74 T.C. 531, 534-535 (1980) aff'd, 670 F.2d 104 (9th Cir. 1980), the Tax Court explained that an organization that is closely-controlled by related individuals must clearly demonstrate that private interests will not be served and that net earnings will not inure to the benefit of insiders. Given the control over the petitioner organization by related individuals, the court could not conclude "from the information in the administrative record that part of the net earnings did not inure to the benefit of the [controlling] family or, stated another way, that petitioner was not operated for the [family's] private benefit." In reaching this conclusion, the court noted that the situation:

... calls for open and candid disclosure of all facts bearing upon petitioner's organization, operations, and finances so that the Court, should it uphold the claimed exemption, can be assured that it is not sanctioning an abuse of the revenue laws. If such disclosure is not made, the logical inference is that the facts, if disclosed, would show that petitioner fails to meet the requirements of section 501(c)(3).

Church in Boston v. Commissioner, 71 T.C. 102, 1978 U.S., an organization made grants to various individuals, including officers of the church. The grants carried no legal obligation to repay any interest or principal. Although the church contended that the grants were made to assist the poor who were in need of food, clothing, shelter, and medical attention, the church failed to provide any documented criteria demonstrating the selection process of recipients and the reasons for the specific amounts given. The court affirmed the determination that the church failed to establish that its grant program constituted an activity in furtherance of an exempt purpose.

La Verdad v. Commissioner, 82 T.C. 215 (1984), an organization was organized to provide education and charity, but failed to provide sufficient details regarding its proposed operations. The court held that it failed to prove that it would operate exclusively for exempt purposes under section 501(c)(3) of the Code.

Peoples Prize v. Commissioner, T.C. Memo 2004-12 (2004); Petitioner has, for the most part, provided only generalizations in response to repeated requests by respondent for more detail on prospective activities. Such generalizations do not satisfy us that petitioner qualifies for the exemption.

Application of Law

The information you submitted is insufficient for us to conclude that you are organized and operated exclusively for charitable purposes as specified in section 501(c)(3) of the Code. To be exempt, an organization must provide a substantially complete application. Section 1.501-1(a)(3). In addition, an exempt organization must show that it is both organized and operated exclusively for one or more of the purposes described in section 501(c)(3) of the Code. See section 1.501(c)(3)-1(a)(1) of the regulations.

Exemption from federal income tax is not a right; it is a strictly interpreted matter of legislative grace and the burden rests with the applicant to prove that it is entitled to exempt status, see Rev. Proc. 2012-9, 2012-1 C.B. 283. You did include some information required by the form and its instructions such as copies of your bylaws, organizing document and an activity description. However, the activity description did not include detailed information regarding your activities.

You did not describe and provide detailed information regarding your plan to develop projects and programs such as property owners network, family services network, help renters become homeowners and provide financial and technical assistance to homeowners, home buyers and renters. In addition, the activity description did not include detailed information regarding your financial and mortgage counseling, negotiating repayment plans with lenders, and granting stabilization loans which you are to begin as soon as you receive 501(c)(3) status. You did not provide information about how any of your programs will be operated. Your application does not satisfy the requirements of sections 1.501(a)-1(a)(3) of the regulations and Rev. Proc. 2012-9..

An organization must also satisfy the organizational and operational tests described in the Code and regulations to qualify for recognition as an organization exempt from federal taxation. In order to meet the organizational test, you must have a valid purpose clause that limits the organization's purposes to one or more exempt purposes and does 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.

Your Articles do not limit your purposes to one or more exempt purposes. Your Articles of Incorporation provide that you are organized for several purposes including "social" and "athletic" and the phrases providing you are organized "for any purpose permitted to

be exempt from taxation under Section 501(c) or 501(d) of the United States Internal Revenue Code” and “any purpose that would qualify for tax-deductible gifts under the Section 170(c) of the United States Internal Revenue Code.” Your articles also lack a proper dissolution clause. You have not provided enough information to demonstrate that you operate exclusively for charitable or educational purposes. You have not shown that you operate primarily to accomplish an exempt purpose(s) described in section 501(c)(3) and section 501(q) of the Code.

You have not adequately described your activities other than that you promote and encourage running, walking and other related activities. All your other activities including foreclosure prevention, housing counseling and homeowner educational activities will not commence until you are recognized as an exempt organization. The Service may recognize exempt status in advance of operations if an applicant describes its proposed operations in sufficient detail to permit a conclusion that it will clearly meet the requirements for exemption in accordance with section 501 (c)(3) of the Code. However, a mere restatement of exempt purposes or a statement that proposed activities will be in furtherance of such purposes will not satisfy this requirement. La Verdad v. Commissioner, supra.

Based on the information you provided, you have failed to establish that your operations will be charitable through relief of the poor and distressed. Section 1.501(c)(3)-1(d)(2) of the regulations. Neither have you established that your operations will be educational within the meaning of Section 1.501(c)(3)-1(d)(3)(i). Your homeowner educational activities have not commenced and you provided no details.. You are also unable to provide sufficient documentation showing that the homeowner educational activities will be conducted in furtherance of charitable or educational purpose. Similar to the church described in Bubbling Well Church of Universal Love v. Commissioner, supra; you did not provide information about how clients are made aware of your services, how you determine if clients are indeed low income or how you provide assistance. You have not demonstrated that the services will be made in an objective and nondiscriminatory manner and that the services will be made in furtherance of an exempt purpose.

Additionally, you are not operated for exclusively exempt purposes. An applicant is required to submit sufficient information during the application process for the Service to conclude that the organization is in compliance with the organizational and operational requirements of section 501(c)(3) before a ruling is issued. Rev. Proc. 2012-9, supra. The organization has the burden of establishing through the administrative record that it operates as a section 501(c)(3) organization. American Science Foundation, 52 T.C.M. 1049. Denial of exemption may be based solely upon failure to provide information describing in adequate detail how the operational test will be met.

Additional information was requested multiple times regarding your proposed activities; however, you failed to provide the requested information similar to the organization in

Letter 4036(CG) (11-2011)

Catalog Number 47630W

Peoples Prize v. Commissioner, supra. You simply stated that you will not offer debt management plans or credit repair. Your counseling and educational activities will be commenced as soon as you are granted 501(c)(3) status which was needed for you to apply for becoming HUD certified counseling agency. You have not held any educational seminars/workshops/classes nor have you provided information regarding your counselor training/supervision/compensation. You provided no details about the time spent by your counselors speaking with each client, the manner in which you conduct your outreach and advertising, the details regarding your anticipated funding sources and provided no board meeting minutes or details of board members' duties/compensation. You have not submitted copies of any educational materials, agendas, curriculums, schedule of classes or instructor information. You failed to demonstrate that your activities are or will be conducted in a charitable or educational manner as required.

Conclusion

An organization that fails to provide a substantially completed application and meet the organizational and operational tests described in the regulations is not exempt. You have not provided sufficient evidence to demonstrate that you are organized and operated for exempt purposes within the meaning of section 501 (c)(3) of the Code. You have not established that you will operate for charitable purposes nor have you established that your programs are educational. Accordingly, you do not qualify for exemption under section 501(c)(3).

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of why you disagree. Your protest statement must be filed within 30 days of the date of this letter and should include:

- Your organization's name, address, EIN number and a daytime phone number.
- A statement that the organization wants to protest the proposed determination.
- A copy of this letter showing the findings that you disagree with (or the date and IRS office symbols from the letter.
- An explanation of your reasons for disagreeing including any supporting documents.
- The law or authority if any, on which you are relying.

The protest statement may be signed by one of your officers or your representative,. We will consider your statement and decide if the 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, *How to Appeal an IRS Decision on Tax-Exempt Status*.

The protest statement should also include the following declaration.

"Under penalties of perjury, I declare that I have examined this protest 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."

The declaration must be signed by an officer or trustee of the organization who has personal knowledge of the facts.

Your protest will be considered incomplete without this statement.

If an organization's representative signs and submits the protest, a substitute declaration must be included stating that the representative prepared the protest and any accompanying documents; and whether the representative personally knows (or does not know) that the statement of facts in the protest and any accompanying documents are true, correct..

An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you. In that case you must file a Form 2848, *Power of Attorney and Declaration of Representative*, if you have not already done so. You can find more information about representation in 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 file a protest within 30 days, you will not be able to seek a declaratory judgment in court at a later date because the court requires that you first exhaust administrative remedies. At the IRS. Code section 7428(b)(2) provides, in part, that a declaratory judgment or decree shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted all of the administrative remedies available to it within the IRS.

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. 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 Group**

Deliver to:

**Internal Revenue Service
EO Determinations Group**

You may 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.

We sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,

**Holly O. Paz
Director, Exempt Organizations
Rulings and Agreements**

Enclosure: Publication 892