



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

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

Release Number: **201415007**

Release Date: 4/11/2014

Date: January 15, 2014

UIL Code: 501.03-25

501.35-00

501.38-00

501.38-01

501.38-02

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.

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.

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

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  
Director, Exempt Organizations

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



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

Date: **November 6, 2013**

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

**LEGEND:**

B = Board Member  
L = Project  
N = Related Organization  
P = Sate  
Q = Date

**UIL:**

501.03-25  
501.35-00  
501.38-01  
501.38-00  
501.38-02

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 qualify for exemption under section 501(c)(3) of the Code?

No, for the reasons stated below.

**Facts**

You were incorporated in the state of P on date Q.

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

Your Articles of Incorporation and Bylaws list your mission as follows:

- Support community organization formed particularly to work in and assist low and moderate-income communities and communities of color as well as those organizations that work on climate justice;
- Foster best practices in community organizing and work to develop new organizing techniques and methodologies;
- Be a hub of innovative ideas, including supporting research and developing public policy recommendations and disseminating those results with the hope of influencing policy makers;
- Provide fundraising, media, policy and other technical assistance to community organizations, including raising funds and re-granting those funds to community organizations that are described in Section 501(c)(3) and exempt from taxation under Section 501(a) or that will use those funds only for purposes consistent with Section 501(c)(3);
- Provide leadership training and support as well as organizer (*sic*) training to individuals and organizations with an emphasis on organizing for power rather than consensus.

Your application initially listed the above as your activities, plus assisting organizations that work on women's and LGBT equality and providing a range of requested technical and organizational support to the organizations with a special emphasis on those serving low and moderate income neighborhoods. You later summarize your purpose as "providing training, leadership development, technical assistance and other kinds of support to community organizing as a field in general and to specific organizations engaged in community organizing."

You are currently housed within another charitable organization where a variety of other nonprofit, social justice organizations are housed. You will work with these organizations. You have a close relationship with N. At the time your application was submitted, N had submitted a 1024 application requesting exemption under section 501(c)(4) of the Code as a social welfare organization. You will provide leadership training, funds, and technical assistance to N. You have a contract with N to share resources, such as staff, office supplies, and office space to maximize both organizations' ability to achieve their missions with available resources. This contract states you and N will have a common mission and that this agreement will allow you to share the above resources to allow activities to be conducted in the most economical fashion. You will provide for the accurate allocation of resource costs based on each party's (you and N) use of those resources. You subsequently state that although you and N sometimes work in alliance, you are very different organizations. While N is a community organizing organization, you will conduct charitable activities in the form of education, debate, and training. When you collaborate with N, you will only conduct the work permitted under section 501(c)(3).

Your Bylaws state that you shall have at least 5 directors. Your Bylaws also state that two of your directors shall be named by your related organization, N. Also, if you have a cost sharing agreement with any other organization, they will also have the right, if they chose, to seat two representatives of their organization on your board. The remaining board members will be selected from members of the community interested in advancing your mission. B, your executive director, is also the executive director of N. B works around 10 hours a week for you,

and between 20 and 60 hours at N. B has worked in community organizing for almost 20 years, and has trained hundreds of entry-level and management level community organizers. You state the rest of your board will be separate from the board of N, although a separately submitted list of board members indicates 2 of 6 additional board members also are involved with N.

You will help community organizations to be established, trained, and properly administered, but state you will not do any of their work for them if it does not comply with your tax exempt status. You indicated the community organizations, such as N, need assistance with leadership development and raising resources to help achieve their goals. You state, "There needs to be an organization which is spending its resources and energy figuring out leadership development and messaging strategies for groups that are spending most of their resources involved in community organizing." Aside from N, you have also considered providing support to other organizations, which have held a conference that combines racial, economic, and climate justice activists. In the future, you would consider providing charitable infrastructure to similar organizations and conferences.

You explain that this is a unique time for community organizing, and "while you will not likely be the organization that engages in multiple types of community organizing efforts, you will seek to be a hub to develop, and share new ideas and provide education." An example of this is that you may provide education and training on methodologies to other organizations that conduct community organizing by knocking on doors in neighborhoods. You may also undertake efforts to teach interested residents how to talk to the media about issues that interest them and how to knock on doors in the neighborhood to bring neighbors together to discuss issues of community interest and concern. In effect, you will provide training in methods of organizing and lobbying that other organizations can use. You will also have forums for key stakeholders to have conversations about how to improve neighborhoods, allowing individuals to share ideas and hear the ideas of others. Lastly, you may provide assistance to immigrant parents with students in public schools, training them to participate in ways to improve their schools, such as a PTA.

Another example of how you might use organizing techniques is a collaborative of six unnamed section 501(c)(3) organizations currently engaged in a volunteer signature gathering effort. You would like to provide ideas to the collaborative on what organizing methodologies would best suit their efforts now and in the future. You have a line item in your budgets for a grant proposal, which results from work you may contract with other organizations to conduct on their behalf, so long as it is educational or charitable in nature. You describe this as a potential project where you could raise funds from other organizations in return for gathering signatures for various ballot initiatives. However, a subsequent response indicated you were not asked to be part of this particular project.

You completed Form 5768, electing to have your legislative activities measured by expenditures as defined by section 501(h) of the Code. You will primarily be a service organization and leadership training organization, but you may conduct some lobbying activities, both direct and grassroots. You will not engage in partisan political advocacy, and if you give funds to an organization which does engage in political advocacy, you will carefully distinguish between your work and the work of the organization that does conduct political advocacy. You will keep clear records so that you can identify lobbying expenditures consistent with section 501(h). You

have no plans to engage in ballot initiative work of your own, but that may change in the future. However, you will "remain aware of IRS' limitations on section 501(c)(3) charities involved in lobbying activities, and would at all times remain strictly nonpartisan, and within the expenditure limitations." You indicate that to ensure activities are exclusively charitable and educational; you confer with your knowledgeable and experienced board and outside counsel before beginning projects.

Your funds come primarily from gifts, grants, and contributions. A substantial amount of your expenses relate to salaries, compensation, and professional fees. Other expenses include equipment, facility, and administrative costs. Your ability to implement your vision has been hampered by a poor fundraising environment. However, you provided several examples of fundraising letters requesting funds from other organizations to support your mission. The letters discuss both your and N's activities. You indicate because these letters of inquiry are meant to be brief, you cannot include the details and processes by which you and N will work together on projects for which funds are sought.

One such letter describes a project, L. L, as described in the request, "will be managed, administered and supported by L's Leadership Team, a group of dues-paying low-and moderate-income N members who devote significant time to the development organization and to the project." It then clarifies that you support organizations, such as N. The grant proposal contains project budgets, which list revenue sources as foundations, donors, union contributions, contracted federal and local issue work, and other sources.

Another fundraising letter lists several approaches to fulfilling your mission, including "building a solid core of leaders, preferably among those who come out of labor unions." Also, it states that as you organize individuals, you will have a strategy on job creation, such as freeing up local and state resources and creating jobs from the resources. Third, it states another approach will focus on aspirational legislation because "ballot measures can be a tool for moving ideas and starting a debate about what might be possible at the local level."

A third fundraising letter indicates you are submitting a letter of inquiry for support in your attempts to organize unemployed and underemployed workers. You subsequently explain that organizing workers means that you will contact individuals with low wage jobs to gather feelings and thoughts about workplaces and tell them how others in similar situations are coming together to talk about how to improve lives and workplaces.

You will make grants and re-grants of funds to other community organizations. This is necessary because it is almost impossible to find financial help for office operations and general advice. Currently, N is the organization that you plan to provide assistance to, but you plan to expand as soon as funding permits.

You will grant funds to N or another organization where the funds would be restricted to the purposes of the grant proposal. N, or other recipients, will be required to submit a proposal with budgets, interim and final grant reports, and a clear explanation of how it intends to use funds for charitable and educational purposes. If you believe that funds will not be used to fulfill the purposes of the grant, you will not give the funds. You also will receive funds from other foundations that wish to support the charitable and educational programs of N. You would then

provide the funds to N, so long as you felt N could carry out the purposes of the grant. You have not provided much support to date because you lack funding and staff. You estimate that you will spend less than 10% of your time on raising funds for N or any other organization.

## Law

Section 501(c)(3) of the Internal Revenue Code provides, in part, for the exemption from federal income tax of organizations organized and operated exclusively for charitable, religious or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations states that in order to qualify under section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more exempt purposes. If an organization fails to meet either the organizational or the operational test, it is not exempt.

Section 1.501(c)(3)-1(c)(1) provides that an organization operates exclusively for 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)(3)(ii) provides that an organization is not operated exclusively for one or more exempt purposes if it is an "action" organization as described therein. An organization is an action organization if a substantial part of its activities is attempting to influence legislation by propaganda or otherwise. For this purpose, an organization will be regarded as attempting to influence legislation if the organization (a) Contacts, or urges the public to contact, members of a legislative body for the purpose of proposing, supporting, or opposing legislation or (b) Advocates the adoption or rejection of legislation.

Section 1.501(c)(3)-1(d)(2) provides a definition of the term "charitable" used in section 501(c)(3) of the Code that includes relief of the poor and distressed or of the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments or works; lessening the burdens of government and promotion of social welfare by organizations designed to accomplish any of the above purposes. The fact that an organization in carrying out its primary purpose, advocates social or civic changes or presents opinion on controversial issues with the intention of molding public opinion or creating public sentiment to an acceptance of its views does not preclude such organization from qualifying under section 501(c)(3) so long as it is not an "action" organization.

Section 1.501(c)(3)-1(d)(3)(i) describes the meaning of "educational" to include a) the instruction or training of the individual for the purpose of improving or developing the individual's capabilities; or b) the instruction of the public on subjects useful to the individual and beneficial to the community. It also provides, in part, that an organization may be educational even though it advocates a particular position or viewpoint so long as it presents a sufficiently full and fair exposition of the pertinent facts as to permit an individual or the public to form an independent opinion or conclusion. On the other hand, an organization is not educational if its principle

function is the mere presentation of unsupported opinion.

Section 1.501(h)-1(a)(4) provides, in part, that a public charity that elects the expenditure test may nevertheless lose its tax exempt status if it is an action organization under section 1.501(c)(3)-1(c)(3)(ii), (iii) or (iv). A public charity that does not elect the expenditure test remains subject to the substantial part test. The substantial part test is applied without regard to the provisions of Code sections 501(h) and 4911 and the related regulations.

Rev. Rul. 60-193, 1960-1 C.B. 195. An organization is not operated exclusively for educational purposes where its activities are primarily directed toward encouraging business men and women to become more active in politics and government, and in promoting business, social, or civic action, as distinguished from the cultivation, development, or improvement of the capabilities of the individual through instruction or training. The ancillary gathering and/or disseminating of information through publications, workshops or other media as a means of accomplishing such an objective does not of itself give it an educational character for exemption purposes.

Rev. Rul. 71-530, 1971-2 C.B. 237. A nonprofit organization formed to represent the public interest at legislative and administrative hearings on tax matters qualifies for exemption under section 501(c)(4) of the Code. Through presentations by qualified witnesses on pending or proposed tax legislation, the organization is promoting the common good and general welfare of the community by assisting legislators and administrators concerned with tax policy.

Rev. Rul. 78-305, 1978-2 C.B. 172, The presentation of seminars, forums, and discussion groups is a recognized method of educating the public. See section 1.501(c)(3)-1(d)(3)(ii) of the regulations. By disseminating information relating to the role of homosexuals in society, the organization is furthering educational purposes by instructing the public on subjects useful to the individual and beneficial to the community. The method used by the organization in disseminating materials is designed to present a full and fair exposition of the facts to enable the public to form an independent opinion or conclusion. The fact that the organization's materials concern possibly controversial topics relating to homosexuality does not bar exemption under section 501(c)(3) of the Code, so long as the organization adheres to the educational methodology guidelines of section 1.501(c)(3)-1(d)(3) of the regulations.

Rev. Rul. 80-278, 1980-2 C.B. 175, In making the determination of whether an organization's activities are consistent with exemption under section 501(c)(3) of the Code, the organization's activities will be considered permissible if: (1) The purpose of the organization is charitable; (2) the activities are not illegal, contrary to a clearly defined and established public policy, or in conflict with express statutory restrictions; and (3) the activities are in furtherance of the organization's exempt purpose and are reasonably related to the accomplishment of that purpose. The organization's program of litigation as party plaintiff under state and federal environmental statutes furthers the organization's exempt purposes and is reasonably related to the accomplishment of the charitable purposes for which the organization was formed, to preserve and protect the natural environment for the benefit of the public.



Rev. Proc. 86-43, 1986-2, C.B. 729, section 501(c)(3) of the Code provides for exemption from federal income tax for organizations that are organized and operated exclusively for purposes specified in that section, including educational purposes. Section 1.501(c)(3)-1(d)(3) of the regulations provides that the term "educational" 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. Under this regulation, an organization may be educational even though it advocates a particular position or viewpoint, so long as it presents a sufficiently full and fair exposition of the pertinent facts as to permit an individual or the public to form an independent opinion or conclusion. However, an organization is not educational if its principal function is the mere presentation of unsupported opinion.

Rev. Proc. 2013-9, 2013-2 I.R.B. 283, in section 4.03 provides that exempt status may be recognized in advance of the organization's operations if its proposed operations are described in sufficient detail to permit a conclusion that it will clearly meet the particular requirements for exemption pursuant to the section of the Code under which exemption is claimed. Section 4.03(2) states that the organization must fully describe all of its activities.

In Better Business Bureau v. United States, 326 U.S. 279 (1945), the Supreme Court stated that the presence of a single nonexempt purpose, if substantial in nature, will preclude exemption under section 501(c)(3) of the Code, regardless of the number or importance of statutorily exempt purposes. Thus, the operational test standard prohibiting a substantial non-exempt purpose is broad enough to include inurement, private benefit, and operations that further nonprofit goals outside the scope of section 501(c)(3).

Christian Echoes National Ministry, Inc. v. United States, 470 F.2d 849 (10<sup>th</sup> Cir. 1972); cert denied, 414 U.S. 864 (1973), ruled that Christian Echoes National Ministry was engaged in attempting to influence legislation, even if there is no legislation pending at that time, when the organization urged individuals to become involved in politics and require their representatives in Congress to support prayer in public schools and to oppose foreign aid.

Regan v. Taxation With Representation of Washington, 461 U.S. 540 (1983) A nonprofit corporation organized to promote its view of the "public interest" in the area of federal taxation was formed to take over the operations of two other nonprofit organizations, one exempt under section 501(c)(3) of the Code and the other under section 501(c)(4). The Service denied section 501 (c)(3) status for the newly formed organization, concluding that a substantial part of its operation involved lobbying.

American Science Foundation v. Commissioner of Internal Revenue, T.C. Memo 1886-556; In order to gain exempt status, petitioner must develop an administrative record that permits the reasonable conclusion, based on facts in the record, that the organization will meet the necessary operational requirements of the exemption.

Ohio Disability Association v. Commissioner of Internal Revenue, T.C. Memo 2009-261; Denial is justified because responses to requests for additional information failed to supplement the initial application or clarify purposes and activities, and generalizations did not provide sufficient detail to determine that the organization would be operated exclusively for exempt purposes.

## **Application of Law**

### *Purpose to benefit other organizations – not exclusively exempt*

Internal Revenue Code section 501(c)(3) provides federal income tax exemption for organizations organized and operated exclusively for charitable, religious, educational, scientific or literary purposes. You are not as described in Code section 501(c)(3) because you are not operated exclusively for charitable and/or educational purposes. The purposes listed in your Articles of Incorporation include developing organizing techniques, disseminating research to influence policy makers, and providing fundraising, media, and other assistance to community organizations, which are not exclusively educational and charitable. With these purposes you are similar to the organization described in Revenue Ruling 71-530, which is exempt under Section 501(c)(4). Just as this organization was formed to promote the common good and general welfare of the community, you promote the social welfare of the community by providing training, support and technical assistance to community organizing organizations. You explain you are needed because it is nearly impossible for community organizing groups to find fiscal support, office operation assistance, and general advice, all of which you will do. You are furthering the social welfare purposes of the community organizing groups by helping them to become established, trained and properly administered.

You summarize your purposes as providing support to community organizing as a field, and to specific organizations engaged in community organizing. More than an insubstantial part of your activities is devoted to the non-exempt purpose of promoting social welfare by supporting community organizing organizations engaged in social welfare. Therefore, you are not as described in section 1.501(c)(3)-1(c)(1) of the regulations because you do not operate exclusively for one or more exempt purposes.

Although you understand the need to differentiate yourself, your purposes and activities from N, your related organization, you have not established a clear and definite differentiation between your activities and purpose and the activities and purposes of your related organization, N. You appear to be operating for the benefit of N in order to confer the benefits of tax exemption under section 501(c)(3). For example, you share resources with N, including staff, supplies, and office space. In addition, your executive director, B, is also the executive director of N, and N has the power to appoint two representatives of your board. N is described by you as a community organizing organization, and you describe your purposes as providing training, development, and support to community organizations and community organizing groups. You will also act as a financial supporter for N. You do not adequately separate the activities of the two organizations. Your fundraising letters show you solicit grants for specific projects of N, such as L, or that further purposes of N that are not clearly within the scope of exempt activities under section 501(c)(3). You have acknowledged the need to establish a clear differentiation between N as a section 501(c)(4) organization and you as an organization operating under section 501(c)(3). You have stated several times that you are different organizations and that you only further the charitable and educational purposes of N. However, creating community organizing models, training leaders for community organizing groups, providing training on mobilization techniques, and providing fundraising and technical support to community organizing groups serves to substantially further N's social welfare purposes, rather than serve exclusively educational purposes. Your close relationship with N makes it difficult to distinguish your activities from those of N. The information you submitted fails to dispel the conclusion that you

are operated for the benefit of N. Therefore, you are like the organization in Better Business Bureau v. Commissioner, as the presence of these substantial non-exempt purposes precludes exemption under section 501(c)(3).

*Exclusive section 501(c)(3) exempt purpose not demonstrated*

You do not meet the provisions of section 1.501(c)(3)-1(a)(1) of the regulations because you fail the operational test by substantially promoting social welfare purposes rather than exclusively charitable or educational purposes.

As noted in American Science Foundation v. Commissioner exempt status can be recognized in advance of operations if proposed operations can be described in sufficient detail to permit a conclusion that the organization will clearly meet the requirements of section 501(c)(3). Sufficient information has not been submitted during the application process to lead to the conclusion that you are in compliance with the organizational and operational requirements of IRC section 501(c)(3). Your application and subsequent submissions fail to adequately describe your intended activities as required by Rev. Proc. 2013-9. Although you were specifically asked for such details, you failed to submit an adequate explanation of how you would carry out your various plans. Instead, you stated that it would depend on funding and need, and provided generalizations that did not clarify your purposes and activities. The decision in Ohio Disability Association v. Commissioner of Internal Revenue found such generalizations insufficient to support a determination of operation for exclusively exempt purposes. Some of your responses conflicted with each other. For example, at different times you stated that you would perform fundraising for N (and another non-charitable organization); you also stated that although you and N will work in alliance, you will only conduct work permitted under section 501(c)(3). However, fundraising for non-charitable organizations is not a charitable activity. You submitted no supporting documentation, business plan, contracts, grant applications, or other materials that explain how you will implement your planned activities. Furthermore, you provide a range of support to organizations with special emphasis on those serving low and moderate income neighborhoods. These organizations may or may not be charitable. Also, the provision of support to moderate income persons generally does not benefit a charitable class.

You have not demonstrated an exclusively educational purpose, and you do not meet the provisions of section 1.501(c)(3)-1(d)(3)(i) of the regulations because, in your educational efforts, your emphasis and focus is not on the presentation of an exposition of pertinent facts in order to permit the formation of an independent opinion or conclusion. Rather, you seek to educate individuals to enable them to be more active and effective in influencing public policy makers. For example, you will provide assistance to community organizations such as N, which spend most of their resources involved in community organizing. The assistance you will provide includes leadership development and raising resources to further the goals of the community organizing groups. Thus, your purpose is to further the social welfare purposes of the community organizing groups, rather than exclusively educational purposes. You are like the organization in Regan vs. Taxation with Representation of Washington, because you are operating to promote your view of social justice through encouraging individuals and organizations to mobilize in order to cause change. A substantial amount of your information is gathered through meetings of individuals of similar backgrounds and situations. Your

educational activities advocate for a specific position, which, combined with supporting community organizing groups, serves to influence the public, rather than educate them. Through your promotion of community organizing and social justice, you cannot be considered to be operated for an exclusively educational purpose.

You have not submitted copies of educational materials or shown that you have performed educational activities (training, seminars, conferences) to educate the public. You have provided no evidence that you have conducted educational activities as defined in the regulations (section 1.501(c)(3)-1(d)(3)(i)). You have failed to provide a sufficient basis to determine that you are operated exclusively for exempt purposes.

*Advocacy – “Action” organization*

As noted in Rev. Rul. 60-193 an organization is not operated exclusively for educational purposes where its activities are primarily directed toward encouraging greater involvement in politics and government and in promoting civic action. Examples given of your educational programs include teaching individuals and other organizations how to knock on doors to bring individuals together to discuss community issues and how to talk to the media about issues. In addition, a potential educational program, will only begin after research on different community organizing models is conducted. Potential topics to be taught also include public speaking, how to build community relationships, and writing to give a voice to the community. Thus, your programs are similar to those of the organization in Revenue Ruling 60-193, and are promoting civic action by developing community organizing techniques.

Advocacy can be considered educational under the criteria stated in Revenue Procedure 86-43, so long as it presents a sufficiently full and fair exposition of the pertinent facts as to permit an individual to form an independent opinion or conclusion. Your purposes include developing public policy recommendations to influence policy makers. Examples of this purpose are seen in your fundraising letters. One letter of inquiry explains you will organize unemployed and low wage workers to gather ideas and discuss how to improve their workplaces. Another promotes your goals as wanting to build a core of leaders, preferably those who come from labor unions. You also explain you will have a strategy on job creation and how to create jobs, and will focus on ballot initiatives as a tool to start debates.

Although you have completed Form 5768 to make the expenditure test election, as provided in section 1.501(h)-1(a)(4) of the regulations, election of the expenditure test will not preclude disqualification of tax exemption of an “action” organization.

Your fundraising letters indicate that you plan to focus on aspirational legislation, because ballot initiatives are a useful tool. Another potential project you described was participating in a signature collecting effort to further ballot initiatives. Your purposes also include disseminating information to influence policy makers, which is demonstrated when you provide training in methods of organizing and lobbying that other organizations can use in developing public policy recommendations. You are distinguishable from the organization involved in Revenue Ruling 78-305 which disseminated materials in a manner designed to present a full and fair exposition of facts to enable the public to form an independent opinion or conclusion. In your projects you plan to bring individuals together to talk about labor needs, personal employment needs, standards for work and pay, etc. With the results of the conversations, you hope to develop

public policy recommendations. The intention of developing public policy recommendations shows your program has the overall purpose of integrating participant ideas into one specific legislative opinion, rather than presenting the full and fair exposition of facts to promote the formation of independent opinions.

These efforts represent more than insubstantial attempts to influence legislation. In addition to providing training, leadership development, technical assistance and other kinds of support to community organizing organizations, you will also teach the public and community organizing organizations how to speak to the media when addressing their interests. You are similar to the organization in Christian Echoes National Ministry v. United States, where the court held that when an organization encourages members of the public to support specific issues and urges them to contact their legislative representative(s) to vote to support or oppose specified positions, the organization is attempting to influence legislation. This same decision also found that an organization that attempts to influence public opinion promoting legislation on a particular issue may still be attempting to influence legislation, even if there is no legislation pending on that particular issue at that time. More than an insubstantial portion of your activities consists of indirect attempts to influence legislation. These are the characteristics of an "action" organization as described in section 1.501(c)(3)-1(c)(3)(ii) of the regulations. Such an organization is not operated exclusively for exempt purposes under section 501(c)(3) of the Code and does not qualify for tax-exempt status as provided in section 1.501(h)-1(a)(4) of the regulations.

### **Applicant's Position**

Your position is that you are formed for exclusively educational and charitable activities, which you support with several citations. You cite Section 1.501(c)(3)-1(d)(3)(i)(a) of the regulations, stating that your activities are for the instruction or training of the individual for the purpose of improving or developing his or her capabilities or the instruction of the public on subjects beneficial to the community. You also cite Section 1.501(c)(3)-1(d)(2) of the regulations, stating that the fact that an organization in carrying out its primary purpose, advocates social or civic changes or presents opinion on controversial issues with the intention of molding public opinion or creating public sentiment to an acceptance of its views does not preclude such organization from qualifying under section 501(c)(3). You cite Revenue Procedure 86-43, stating that consistent with this Procedure, an organization may be educational even though it advocates a particular position or viewpoint. You also cite Revenue Ruling 80-278, noting that an activity is permissible under section 501(c)(3) if it is charitable, not illegal, is in furtherance of your exempt purposes and is reasonably related. In support of your position an excerpt from a 1979 Exempt Organizations Continuing Professional Education (CPE) text was submitted. This excerpt presented references to other Internal Revenue Code sections not directly related to the current review, as well as discussion of a Private Letter Ruling by the Internal Revenue Service which expressed a formal determination on the subject under review.

### **Service Response to Applicant's Position**

As described above in Revenue Ruling 60-193, an organization is not operated exclusively for

educational purposes (as described in 1.501(c)(3)-1(d)(3)(i)(a), which defines the term "educational" as "the instruction or training of the individual for the purpose of improving or developing his capabilities") where the primary purposes are encouraging activism in government and politics and promoting business, social, and civic action. Similarly, advocacy does not always preclude exemption under section 501(c)(3), as described in Section 1.501(c)(3)-1(d)(2) of the Regulations (where the term "charitable" is defined). However, as discussed in Revenue Procedure 86-43, a full and fair exposition of the facts must be presented to allow an independent decision to be reached. Your method of gathering and presenting information includes gathering individuals from similar backgrounds or in similar positions to discuss ideas and needs to improve their situations, often with the ultimate goal of public policy recommendations and influencing policy makers. In addition, a substantial number of your educational programs are to train leaders in community organizing, which furthers the social welfare of the community organizing groups. Generally, community organizing, mobilization, and influencing public policy and policy makers are typically social welfare purposes not described under Section 501(c)(3). Thus, while your programs may have educational elements, you have the substantial non-exempt purposes of mobilizing individuals for change and promoting the social welfare purposes of community organizing groups. These purposes cannot be regarded as "charitable". Consequently, your activities are not consistent with what can be considered permissible under Revenue Ruling 80-278. Although the CPE article is helpful in enhancing understanding of Exempt Organization law, in this context it cannot be regarded as authoritative precedent. Likewise, the findings expressed in a Private Letter Ruling have relevance only to the case for which it was rendered and cannot be cited as precedent in other, even similar, cases.

## **Conclusion**

You do not qualify for exemption under section 501(c)(3) of the Code. Although some of your activities could be considered to be educational or charitable, the facts described show that you have the substantial non-exempt purpose of serving the social welfare purposes of the community by supporting the actions of community organizing groups (particularly your related organization, N) and by training individuals how to be mobilization leaders in the community. You have failed to prove that your activities are exclusively educational or charitable within the meaning of section 501(c)(3) of the Code.

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 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*.

Types of information that should be included in your protest can be found on page 1 of Publication 892, under the heading "Filing a Protest".

The statement of facts must be accompanied by the following declaration:

*"Under penalties of perjury, I declare that I have examined the statement of facts presented in this protest and in any accompanying schedules and statements and, to the best of my knowledge and belief, they 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 submits the protest, a substitute declaration must be included stating that the representative prepared the protest and accompanying documents; and whether the representative knows personally that the statements of facts contained in the protest 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. If you want representation 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. 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](http://www.irs.gov), Forms and Publications.

If you do not file a protest within 30 days, you will not be able to file a suit for declaratory judgment in court because the Internal Revenue Service (IRS) will consider the failure to appeal as a failure to exhaust available administrative remedies. 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 Quality Assurance

Deliver to:

Internal Revenue Service  
EO Determinations Quality Assurance

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.

Sincerely,

Kenneth Corbin  
Acting Director, Exempt Organizations  
Rulings and Agreements

Enclosure, Publication 892