



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Release Number: **201417017**
Release Date: 4/25/2014
Date: January 31, 2014

Contact Person:

Uniform Issue List:

Identification Number:

501.00-00
501.03-00
501.03-08
501.03-20
501.32-00
501.33-00

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.

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.

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,

Karen Schiller
Acting Director, Exempt Organizations
Rulings and Agreements

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: December 12, 2013

Contact Person:

Uniform Issue List:

Identification Number:

- 501.00-00
- 501.03-00
- 501.03-08
- 501.03-20
- 501.32-00
- 501.33-00

Contact Number:

FAX Number:

Employer Identification Number:

LEGEND:

- State 1 =
- State 2 =
- State 3 =
- Founder =
- Founder's Daughter =
- Community =
- Church =
- X1 =
- Date 1 =

Dear :

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

FACTS

You were incorporated under the State 1 Nonprofit Public Benefit Corporation Law for the specific purpose of operating for charitable purposes within the meaning of § 501(c)(3). Your incorporators are Founder, daughter of Founder, and spouse of Founder. Your Articles of Incorporation ("Articles") state that you are organized for religious purposes, specifically "to meet and study about God and what Metaphysic teachings relate to each other." You have been organized since Date 1. You state that since Date 1, your attendance at your services has ranged from three to twenty-two persons. You state that your activities will include Community and a school. You plan "to build retreats of worship and find better ways toward health and healing and practicing a healthy lifestyle...[you plan to build] schools where spiritual learning and right behavior is taught along with school subjects...[and you plan] on developing a community that lives in harmony with Nature and God and teaches others to do the same

["Community"].” Your activities consist of running a school, operating Community, and operating a church. In a supplemental document, you state that you planned to operate a private school “sometime in the future but that is not definite yet and will be a secondary activity.” You state that the school is a future project that is not currently in existence. In subsequent documentation, you state that your primary activity is operation of Community.

You state that you will operate a church. Your principal form of worship is Christian; you worship God and study the teachings of Jesus. You currently operate out of the home of Founder. You have a religious service once every week on Sunday. The service is conducted by Founder, an ordained minister through Church. You have a group of attendees at your Sunday services who are “somewhat consistent” and regularly attend. When your Founder moved from State 2 to State 3 and again to State 1, the congregation moved with Founder. Your current membership consists of up to 14 persons who are related to Founder by birth and marriage and up to 8 additional persons who are unrelated to Founder. You do not create your own literature; you use excerpts from a variety of religious texts during your services. You do not have a formal code of ecclesiastical discipline, but you provide open discussion similar to counseling. You intend to perform religious ceremonies but you have not done one for more than 5 years. You state that since inception, you have only performed two religious ceremonies - one marriage and one baptism. You do not have a process for ordaining ministers. You do not have a Sunday school for religious instruction of the young but your Founder talks to the youth members of the Sunday service, Founder's grandchildren, after the Sunday service.

When asked about what efforts you take or will take to expand your congregation, you responded that your Founder “made two Facebook [sic.] [web]sites to promote and increase [your] congregation size and on each site [you] have hundreds of members that [you] feel are members of [your] online congregation and [the Community]. On a local level [you] use word of mouth and personal invitation. [You] feel that God will send new members as God wishes and that to advertise turns a church into a business just likes [sic.] any other business that advertises which [you] find wrong.” You are uncertain whether the people who attend Sunday's services consider you to be their primary church.

Your primary activity is operation of Community. You are “[building] a community that lives in harmony with nature and God and is self-sufficient.” The Community's bylaws state that it seeks to improve the health and spiritual well-being of its residents and non-residents by operating a community based on principles of self-sustainability and harmony with nature. You anticipate that many of your future members will live and work on the Community land. You will operate the church and hold Sunday services on the Community land, but Community members are not required to be members of your religion or practice religion. Community will engage in the following specific activities:

- providing space for residents to build homes and live and work on the land;
- building sustainable buildings, such as a multi-purpose facility for a school and recreation/communal space;
- educating the Community's youth on traditional and non-traditional subjects by operating a school;
- maintaining a vegetable garden, fruit grove, and well, which will be used by the residents; and

- providing a forum for residents to earn personal income by selling goods and services as well as hosting meditation and yoga retreats; and by having places of meditation and worship around the land.

Community is open to all who apply. Interested members “are allowed to stay there and make sure it is what they like.” If the new member decides he or she wants to be part of Community, your current members will meet and determine whether to accept the new member. Members may live there full-time or part-time. Members may work outside the community and are not required to pledge their income to the Community. Community members are not required to take a vow of poverty. Members are responsible for their own living expenses, food, and shelter. Community expects to earn income from the sale of goods and services, donations, grants, and tuition from non-resident students. Founder alone makes financial decisions, although other members may express their opinions. The Community residents will not pool their income and assets into a community fund. The residents are not required, nor will they likely voluntarily transfer their assets and liabilities or pledge their income to Community. Presently you earn no income from the land and development of the land comes from Founder only. In the future, members have the option to earn personal income on the land and you will engage in fundraising to improve the Community.

You state that your Founder already purchased the Community land and you have begun improvements on the land. Founder has not and will not donate the land to you or transfer title to you. Founder has spent significant amounts of their own money in making improvements to the land. The land is located in State 1, near Founder's home. You state that at present “there are 5 people living full time on the property and 3 people part time and 5 people who come there occasionally but there are not lots of places as of yet for people to stay due to expense, etc. so in the future there are plans for more people” once you have the money to do so.

On Community's Facebook page, you stated that your primary motivation in applying for federal tax exemption as a church is to gain donations and grants in order to build up the Founder's Community land and improve it. You state Founder has been granted the right to operate a church by Church. You state you are applying for § 501(c)(3) ruling as a church because you say it “is a lot easier to prove than any other way.” You state “The whole point of doing all this is to get a ruling is because you need it to go after the large grants and donations available. Whew! I hope it pays off!!! I need that money” to develop Founder's land.

LAW

I.R.C. § 170(b)(1)(A)(i) describes a church or convention or association of churches.

I.R.C. § 501(a) provides that an organization described in §§ 501(c) or (d) or § 401(a) shall be exempt from taxation under this subtitle unless such exemption is denied under §§ 502 or 503.

I.R.C. § 501(c)(3) exempts from federal income tax corporations organized and operated exclusively for religious and charitable purposes, provided that no part of the net earnings inure to the benefit of any private shareholder or individual. Furthermore, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

I.R.C. § 501(d) exempts religious and apostolic organizations from federal income tax under § 501(a). Such religious or apostolic associations or corporations must have a common treasury or community treasury, but may engage in business for the common benefit of the members if the members thereof include (at the time of filing their returns) in their gross income their entire pro rata shares, whether distributed or not, of the taxable income of the association or corporation for such year. Any amount so included in the gross income of a member shall be treated as a dividend received.

Treas. Reg. § 1.501(c)(3)-1(a) provides that in order to be exempt as an organization described in § 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.

Treas. Reg. § 1.501(c)(3)-1(c)(1) provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish, one or more of such exempt purposes specified in § 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Treas. Reg. § 1.501(c)(3)-1(c)(2) provides that the operational test is not satisfied where any part of the organization's earnings inure to the benefit of private shareholders or individuals, and where the organization serves a private benefit rather than public interests. Treas. Reg. § 1.501(a)-1(c) defines the words "private shareholder or individual" in § 501 to refer to persons having a personal and private interest in the activities of the organization.

Treas. Reg. § 1.501(c)(3)-1(d)(ii) provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than private interest. Thus, it is necessary for an organization to establish that 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.

Treas. Reg. § 1.501(c)(3)-1(d)(1)(iii), Example 2, shows an art museum's principle activity is to exhibit art created by unknown artists. Each artist whose work is exhibited has a consignment arrangement with the art museum. Under this arrangement, when art is sold, the museum retains 10 percent of the selling price to cover the costs of operating the museum and gives the artist 90 percent. The court determined that because the art museum gives 90 percent of the proceeds from its sole activity to the individual artists, the direct benefits to the artists are substantial and the art museum's provision of these benefits to the artists is more than incidental to its other purposes and activities. The art museum is not operated exclusively for exempt purposes and, therefore, is not described in § 501(c)(3).

Treas. Reg. § 1.501(c)(3)-1(d)(2) provides that the term "charitable" is used in § 501(c)(3) in its generally accepted legal sense and is not limited by the separate enumeration in § 501(c)(3) of other tax-exempt purposes which may fall within the broad outlines of "charity" as developed by judicial decisions.

Treas. Reg. § 1.501(c)(3)-1(d)(2) provides examples of charitable purposes, including: (1) relief of the poor, distressed or underprivileged; (2) advancement of religion; (3) advancement of education or science; (4) erection or maintenance of public buildings, monuments or works; (5) lessening the burdens of government; (6) lessening neighborhood tensions; (7) eliminating prejudice and discrimination; (8) defending human and civil rights; (9) combating community deterioration and juvenile delinquency; (10) promoting health; and (11) preserving the environment.

Treas. Reg. § 1.501(c)(3)-1(d)(3) defines "educational" as providing instruction or training to an individual for the purpose of improving or developing the individual's capabilities or as providing instruction or training to the public on subject matter that is useful and beneficial to the community.

Treas. Reg. § 1.501(c)(3)-1(d)(3)(ii) provides several examples of organization that are considered educational. The first example is an organization, such as a primary or secondary school, a college, or a professional or trade school, which has a regularly scheduled curriculum, a regular faculty, and a regularly enrolled body of students in attendance at a place where educational activities are regularly carried on.

Rev. Proc. 2013-9, 2013-2 I.R.B. 261 (IRS RPR Jan 07, 2013), § 4.01 provides that the Internal Revenue Service will recognize the tax-exempt status of an organization only if its application and supporting documents establish that it meets the particular requirements of the section under which exemption from federal income tax is claimed. 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 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.

Rev. Rul. 56-262, 1956-1 C.B. 131 provides that in order to be recognized as a church under the Code, an organization must have as its principal purpose or function that of a church.

Rev. Rul. 64-175, 1964-1 C.B. 185 illustrates that incidental private benefit will not destroy the qualification of an otherwise educational organization; however, where an organization is serving both public and private interests the private benefit must be clearly incidental to the overriding public interest. A contrary finding will indicate that the organization is serving a private interest.

Rev. Rul. 66-178, 1966-1 C.B. 138, provides that an organization created to foster and develop the arts by sponsoring an annual public exhibit at which art works of unknown but promising artists are selected by a panel of expert judges and gratuitously displayed is exempt from Federal income tax under § 501(c)(3).

Rev. Rul. 68-71, 1968-1 C.B. 249 held that an organization that helped people in planning their careers and achieving occupational adjustment by distributing educational publications at a nominal charge and providing free vocational counseling services was exempt.

Rev. Rul. 70-186, 1970-1 C.B. 128, describes an organization that preserved and improved a lake for public recreation. Lake front property owners and members of the community adjacent to the lake and municipalities bordering the lake financed the organization with contributions. The ruling held that since the organization ensured the continued use of the lake for public recreational purposes, it was performing a charitable activity and was exempt under § 501(c)(3). The benefits derived from the organization's activities flowed principally to the public through the maintenance and improvement of public recreational facilities, and any private benefits derived by the lake front property owners did not lessen the public benefits flowing from the organization's operations.

Rev. Rul. 71-395, 1971-2 C.B. 228, held that a cooperative gallery that was engaged in showing and selling only the works of its own members was a vehicle for advancing their careers and promoting the sale of their work. The ruling held that even though the exhibition and sale of paintings is an educational activity, the gallery in this instance served the private interests of its members.

Rev. Rul. 76-152, 1976-1 C.B. 151 held that a nonprofit organization formed by art patrons to promote community understanding of modern art trends by selecting for exhibit, exhibiting, and selling art works of local artists, retaining a commission on sales less than customary commercial charges and not sufficient to cover the cost of operating the gallery, did not qualify for exemption under § 501(c)(3).

Rev. Rul. 78-100, 1978-1 C.B. 162, *affirmed by* Rev. Rul. 80-332, 1980-2 C.B. 34 provides that a communal religious organization that was formed to promote the tenets and practices of a particular church, does not conduct any business activities, and is supported by the wages earned by some of its members from outside employment does not qualify for exemption under section 501(d) of the Code.

In Better Business Bureau of Washington, D.C. v. United States, 326 U.S. 279, 283 (1945), holds that the presence of a single nonexempt purpose, if substantial in nature, will preclude exemption, regardless of the number or importance of statutorily exempt purposes.

In De La Salle Institute v. United States, 195 F. Supp. 891 (N.D. Cal. 1961), the court held that a nonprofit corporation composed of non-clerical members of a religious order that operated schools, a winery, and a chapel among other activities, was not a church. Although the corporation was closely affiliated with the Roman Catholic Church, it was separate and distinct from that church for federal tax purposes. The organization's operation of a chapel did not convert it into a church, as this activity was incidental to the corporation's primary activities of operating a school and a winery. The court noted, "the tail cannot be permitted to wag the dog." The incidental religious activities of the corporation cannot make the corporation a church.

In Church by Mail, Inc. v. Commissioner, 765 F.2d 1387, 1391-1392 (9th Cir. 1985) the court upheld denial of exemption to a church that was operated for the substantial nonexempt purpose of providing a market for a for-profit company where the majority of the church's income and time went to the for-profit company that was owned and controlled by two of the church's reverends. The court ruled that the organization was operated for private rather than public purposes and part of its earnings inured to the benefit of private individuals.

In Hofer v. United States, 64 Cl. Ct. 672 (1928), the organization's income was used to support its members and their families, to purchase implements, facilities, and to maintain its land and buildings, and the balance of its funds was invested in the purchase of additional lands. The court determined that since the religious community's income was used to support its members and deceased members, it operated for the benefit of its members resulting in inurement of its net earnings to the benefit of private shareholders or individuals. The organization was not operated exclusively for exempt purposes under § 501(c)(3).

In Twin Oaks Community v. Commissioner, 87 T.C. 1233 (1986) discussed the legislative history and purpose of section 501(d) to provide tax relief by eliminating the corporate level of taxation and leaving a single tier of individual tax. The Tax Court quoted an opinion of the Ninth Circuit that the only requirements for the exemption are that there be a common treasury, that the members of the organization include pro rata shares of organization income when reporting taxable income and, implicitly, that the organization have a religious or apostolic character. *Also see*, Kleinsasser v. United States, 707 F.2d 1024, 1029 (9th Cir 1983).

In American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), the organization operated for the benefit of private interests, a nonexempt purpose. Because more than an insubstantial part of the organization's activities furthered this nonexempt purpose, the organization failed to establish that it operated exclusively for exempt purposes within the meaning of § 501(c)(3). When an organization operates for the benefit of private interests, such as designated individuals, the creator or his family, or persons directly or indirectly controlled by such private interests, the organization by definition does not operate exclusively for exempt purposes.

ANALYSIS

Based on the facts presented in your application, we conclude that you are not operated for exempt purposes. Accordingly, you do not qualify for exemption as an organization described in section 501(c)(3) of the Internal Revenue Code.

You have applied for exemption under § 501(a) as an organization described in § 501(c)(3) and seek public charity classification as a church described in §§ 509(a)(1) and 170(b)(1)(A)(i). Your application and supporting documentation must demonstrate that your organization meets the operational test under section 1.501(c)(3)-1(a)(1) of the Treasury Regulations. Exempt organizations must operate exclusively for exempt purposes. I.R.C. § 501(c)(3). The term exclusively has been interpreted to mean primarily. Treas. Reg. § 1.501(c)(3)-1(c)(1). A single substantial nonexempt purpose is sufficient to prevent exemption. Better Business Bureau, 326 U.S. at 283. If an organization fails the operational test, it cannot qualify as an exempt organization under § 501(c)(3).

An organization will qualify as a church, exempt from taxation, if it is organized and operated as a religious organization under § 501(c)(3) and meets the additional requirements under §§ 509(a)(1) and 170(b)(1)(A)(i). In order to be recognized as a church, an organization must have as its principal purpose or function that of a church. Rev. Rul. 56-262. While you seek exemption as a church, you state that you will operate a church for an insubstantial amount of your total time and activities. Similar to the organization in De La Salle Inst. v. U.S., you operate a church only as an incidental activity. You do not meet the requirements for public charity classification as a church.

Alternatively, you have not shown that you operate primarily for religious purposes under § 501(c)(3). You hold religious services only an hour or few hours a week. While you may engage in some religious practice, such as developing places of worship and mediation around the land, you state that your primary purpose in operating Community is to provide a place of residence for your members, provide a forum for members to earn personal income, and to use your funds to improve Founder's land. Your primary activity is operation of Community for the benefit of your members, similar to the organizations described in Church by Mail, Inc. v. CIR and American Campaign Academy v. Commissioner. Like the organization in Church by Mail, Inc. v. CIR, you operate for a substantial nonexempt purpose benefiting the interests of private individuals. Also see, Hofer v. United States and Treas. Reg. § 1.501(c)(3)-1(d)(1)(iii), Example 2. You are therefore not operated exclusively for exempt purposes.

Additionally, your application and supporting documents do not establish that you meet the particular requirements for recognition of exemption for educational purposes under § 501(c)(3) and classification as a public charity under §§ 509(a)(1) and 170(b)(1)(A)(ii). Rev. Proc. 2013-9 § 4.01. Section 509(a)(1) and 170(b)(1)(A)(ii) provides that an organization organized and operated for educational purposes may qualify for exemption. Treas. Reg. § 1.501(c)(3)-1(d)(3)(ii)(1) describes a school as an organization with a regular faculty, regular curriculum, and regular student body who engage in educational activities at an established facility. While you may engage in some educational activity, you state that operating a school is a future goal and have not provided any evidence showing you are organized and operated for the primary purpose of delivering formal instruction. You have not shown that you will have a regular faculty, regular curriculum, regular student body, or building in which you will provide instruction. While you apply in advance of operations, you have not described your operations in sufficient detail to permit a conclusion that you will clearly meet the particular requirements of sections 501(c)(3) and 170(b)(1)(A)(ii). Rev. Proc. 2013-9 § 4.03. Therefore, you have not presented evidence that you meet the particular requirements of the section under which exemption is claimed and thus have not met your burden under Rev. Proc. 2013-9, 2013-2 I.R.B. 258, §§ 4.01 and 4.03.

An organization that does not meet the organizational and operational requirements of § 501(c)(3) may qualify as a religious or apostolic community under § 501(d). To be described in § 501(d), an organization must be created and operated for religious or apostolic purposes, and must have a common treasury, and if it engages in business for the common benefit of the members, the members must include in their individual tax returns their pro-rata share, whether distributed or not, of the taxable income of the association or corporation. The requirement that the organization be religious or apostolic is implicit, created by the title of § 501(d) and supported by legislative history. See, Twin Oaks Cmty. v. CIR and Kleinsasser v. U.S.. Further, a religious or apostolic organization that is substantially dependent on wages earned by members from outside employment is not an organization described in § 501(d). See Rev. Rul. 78-100 and Rev. Rul. 80-332. You do not maintain a common treasury. You do not provide pro rata distribution of income earned on the community. You are supported wholly by outside income. Your Founder owns the land on which the community sits. Your community property is not held in equal, undivided interests in the common fund with no right to claim title to any part thereof, similar to the organization described in Twin Oaks Cmty. v. CIR. Twin Oaks Cmty v. CIR, at 1254. Because you do not meet the requirements of § 501(d) and operate primarily for the benefit of Founder, you cannot be recognized as a religious or apostolic association under § 501(d).

Further, you are not operated for exempt purposes because part of your earnings inure to the benefit of shareholders or individuals. An organization has the burden of proof to show that it serves the public rather than the private interests of designated individuals, the creator, or person controlled, directly or indirectly by private interests. Treas. Reg. § 1.501(c)(3)-(d)(1)(ii). If an organization's net earnings inure in whole or in part to the benefit of a private individual, then that organization is not operated exclusively for exempt purposes. Treas. Reg. § 1.501(c)(3)-1(c)(2). A private shareholder or individual is defined as person or persons having a personal and private interest in the activities of the organization. Treas. Reg. § 1.501(a)-1(c). You state that your primary objective in seeking exemption is to obtain funding to develop the land owned by Founder, who will continue to exclusively own the land and will not transfer or sell it to you. As you intend to use organizational funds to make substantial capital improvements to the land owned by Founder, your earnings will inure to an insider similar to the organization in American Campaign Academy v. CIR. Since a portion of your earnings inure to an insider, you are not operated for exempt purposes. Treas. Reg. § 1.501(c)(3)-1(c)(2).

Finally, you are not operated for exempt purposes because you provide more than an incidental amount of private benefit to your members. Treas. Reg. § 1.501(c)(3)-1(d)(1)(ii). You primarily operate a residential, recreational, and retreat community for your members. You provide a benefit to the members of your Community, including Founder and Founder's family, by offering a place for residency and a channel to earn personal income. Unlike the organization described in Rev. Rul. 70-186 that operated to preserve a publicly accessible lake, you operate to improve and enhance Community on Founder's personal land that is inhabited by your members. In contrast to the private benefit provided to the lakefront property owners in Rev. Rul. 70-186, the benefit you provide your members and Founder is more than incidental to the benefit you provide the public. Further, as any artwork sold or services performed on Community will not go to you but rather will go to the private benefit of the individual community members in their personal capacity, you are like the organization described in Rev. Rul. 71-395, which was operated for the private interests of its members. You are like the nonexempt organization described in Rev. Rul. 76-152 rather than the exempt organizations in Rev. Rul. 68-71 and 66-178, as you provide a platform to provide individual artists with direct monetary benefits and enhance their personal careers. As you operate for the benefit of private interests, you by definition do not operate exclusively for exempt purposes. See American Campaign Academy v. CIR, at 1065-1066. Because your operation of Community provides a substantial private benefit to your members that is not incidental to furthering any exempt purpose, you have a substantial nonexempt purpose which destroys the exemption regardless of the number or importance of truly exempt purposes. See Better Business Bureau v. U.S.

A portion of your net earnings inure to the benefit of your Founder and Founder's family. In addition, more than an insubstantial part of your activities further the nonexempt interests of your members, resulting in a private benefit to your members. Accordingly, you are not operated exclusively for exempt purposes and therefore are not an organization described in § 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 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.

Your protest statement should be accompanied by the following declaration:

Under penalties of perjury, I declare that I have examined this protest statement, including accompanying documents, and, to the best of my knowledge and belief, the statement contains all the relevant facts, and such facts are true, correct, and complete.

You also have a right to request a conference to discuss your protest. This request should be made when you file your protest statement. An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you. If you want representation during the conference procedures, 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 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 will consider the failure to protest as a failure to exhaust available administrative remedies. I.R.C. § 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 this address:

Internal Revenue Service
TEGE
1111 Constitution Ave., N.W.
Washington, D.C. 20224

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,

Karen Schiller
Acting Director, EO Rulings and
Agreements