



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Number: **201430014**
Release Date: 7/25/2014

Date: 4/30/14

UIL: 501.03-30; 501.33-00; 501.38-01

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,

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: 1/29/14

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

LEGEND:

C=
D=
E=
F=
G=
H=
J=
M=

UIL:

501.03-30
501.33-00
501.38-01

Dear :

We have considered your application for recognition of exemption from federal income tax under Internal Revenue Code (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 your activities further an exempt purpose consistent with exemption under section 501(c)(3) of the Code? No, for the reasons stated below.
- Do your net earnings inure to the benefit of insiders thus precluding 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 formed by E because he and many other people are victims of M attacks. According to your Articles of Incorporation, your purpose is the "... protection of the human rights of defenseless victims from involuntary microwave and M attack, organized stalking, or direct mind control attack of its various forms, and to compensate such targets from (SIC) the associated damage or death resulting from such sightings."

You operate in G state, but you chose to incorporate in D state on C date. You explained that you incorporated in D, "due to their advantageous tax strategies for business owners and entrepreneurs and also corporate veil protection for business."

Prior to your incorporation, your founder, E, exhausted his personal investments paying expenses for equipment, supplies, consulting services and start up costs. The same year you were formed E contacted F for services. F is a for profit consulting company in D state. The services provided by F include access to a consultant for marketing, an asset protection planner and a nonprofit specialist. These consultants:

- Serve as your registered agent in D state,
- Registered you to operate in G state,
- Prepared your business plan and Form 1023, and
- Agreed to find grant funds and compile a list of possible donors who would be sympathetic to your cause.

You also, "...contracted with them (F) through H to build a business line of credit." The plan included a list of vendors that were described as companies that help supply new corporations.

Your website and exempt application describe M attacks as electronic radio or microwave transmissions from governmental agencies and others who are working on projects that manipulate or control human behavior.

You state,

- The use of M weapons and supporting structures implement torture to humans, mostly to the brain, have been also used on the heart and genital area. These acts are perpetrated by intelligence agencies, individuals, defense contractors, mental health agencies, and clandestine crime watch organizations who also work with organized crime syndicates;
- These weapons are used on unwilling targets based upon surveillance that skips all privacy laws; and

- Involuntary continuous exposure to directed-energy systems, electronic radiation and complex manipulation and scanning of the human mind are damaging, dangerous and a public hazard.

To combat M weapons, you will,

- Educate the public about involuntary mind control, especially within the area related to M weapons;
- Develop anti-M weapons that "cancel attacks" against human targets by electronic jamming methods; and
- Implement counter M attacks for particular victims on a case-by-case basis.

Your website is described as, "...an open effort for the protection of the human rights of defenseless victims from involuntary microwave and M attack, organized stalking or direct mind control attack of its various forms and to compensate such targets from the associated damage."

The website solicits donations for the specific purpose of influencing proposed legislation known as J. J is legislation written by E. If adopted, J would prohibit or regulate the use of M weapons on the public. Among the provisions of J:

- Violators are subject to fines and imprisonment; and
- Additional restitution may be ordered for the victims of M attacks.

The full text of J and a letter written to a US Senator advocating its consideration is provide on your website, and the public is urged to contact members of the US Congress to express support of J's enactment. You will resubmit J legislation to the House and Senate weekly until it passes.

You will operate a trust fund that will provide additional compensation to the victims of M attacks. The victim trust fund "will be posted (added to J) as a Proposed Amendment." The courts can refer a victim to you as an adjunct to the law for additional compensation.

The victim trust fund has not been established or funded since it depends on J becoming law. You did not provide a detailed description of the proposed operations of the trust or describe the process by which you will verify claims or insure unbiased selection of eligible victims. You have, however, identified E as one of the victims of M attacks who would be eligible for additional compensation mandated by J.

Your balance sheet reports more than \$40,000 in liabilities. Since these liabilities are expenses paid by E prior to your formation, you plan is to reimburse approximately \$35,000 of those expenses to E after F has successfully procured grants for you.

Grants and contributions you receive will be used in the following priority order:

1. To buy necessary test equipment, tools and accessories;
2. Support business expenses, and
3. Repay expenses paid by E prior to your formation.

You also stated "anonymous donations, contributions, gifts, or benevolence not so specified can be used for a private inurement refund up to but not over \$50,000." Any income left over will be used to make expenditures to influence legislation.

Law

Section 501(c)(3) of the Internal Revenue Code (Code) exempts from federal income tax: corporations, and any community chest, fund, or foundation, organized and operated exclusively for:

- religious,
- charitable,
- scientific,
- testing for public safety,
- literary, or
- educational purposes, or
- to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or
- for the prevention of cruelty to children or animals,

no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided in subsection (i)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.."

Section 501(c)(4) of the Code provides, in part, for the exemption of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 501(c)(4)(B) states exemption shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

Section 1.501(a)-1(c) of the Income Tax Regulations states that the words "private shareholder or individual" mean an individual having a personal and private interest in the activities of the organization.

Section 1.501(c)(3)-1(a)(1) states in order to be exempt as an organization described in section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more of the purposes specified in that 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) provides an organization is operated exclusively for exempt purposes only if it engages primarily in activities which accomplish one or more exempt purposes specified in section 501(c)(3). It is not so operated if more than an insubstantial part of its activities do not further those purposes.

Section 1.501(c)(3)-1(c)(2) provides an organization is not operated exclusively for exempt purposes if its net earnings inure to the benefit of private individuals.

Section 1.501(c)(3)-1(c)(3)(1) provides an organization is not operated "exclusively" for one or more exempt purposes if it is an "action" organization as defined in subdivisions (ii), (iii), or (iv) of this subparagraph.

Section 1.501(c)(3)-1(c)(3)(ii) identifies an organization as 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(c)(3)(iv) states an organization is an *action* organization if it has the following two characteristics:

- a) Its main or primary objective or objectives (as distinguished from its incidental or secondary objectives) may be attained only by legislation or a defeat of proposed legislation; and
- b) It advocates, or campaigns for, the attainment of such main or primary objective or objectives as distinguished from engaging in nonpartisan analysis, study, or research and making the results thereof available to the public. In determining whether an organization has such characteristics, all the surrounding facts and circumstances, including the articles and all activities of the organization, are to be considered.

Section 1.501(h)-1(4) states a public charity that elects the expenditure test may nevertheless lose its tax exempt status if it is an action organization under § 1.501(c)(3)-1(c)(3)(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 section 501(h) and 4911 and the related regulations.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations states that to be charitable, an organization must serve a public rather than a private interest. The organization must demonstrate that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled directly or indirectly by such private interests. The private benefit restriction is not limited to benefits provided to insiders. Rather, the restriction applies to benefits provided to any individual, whether or not the individual is in a position to control or influence the organization. The private benefit restriction operates against all parties who receive a benefit not accorded the public as a whole.

Rev. Rul. 62-71, 1962-1 C.B. 85 found an organization which, as its primary objective, advocates the adoption of a doctrine or theory which can become effective only by the enactment of legislation is not entitled to exemption from federal income tax under section 501(a) of the Internal Revenue Code of 1954, since it is an 'action' organization and thus is not operated exclusively for educational purposes within the meaning of section 501(c)(3) of the Code.

Revenue Ruling 67-293 1967-2 C.B. 185 held an organization substantially engaged in promoting legislation to protect or otherwise benefit animals is not exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954, even though the legislation it advocates may be beneficial to the community.

In Rev. Rul. 70-79, 1970-1 C.B. 127, an organization was created to assist local governments of a metropolitan region by studying and recommending regional policies directed at the solution of mutual problems that transcend the local jurisdictions, but affect all of them. Although some of the plans and policies formulated by the organization could only be carried out through legislative enactments, the organization did not direct its efforts or expend funds in making any legislative recommendations, preparing prospective legislation, or contacting legislators for the purpose of influencing legislation. The ruling concluded that because the organization did not advocate the adoption of any legislation or legislative action to implement these findings, it was not an "action" organization. Therefore, the organization qualified for exemption under *section 501(c)(3) of the Code*.

Revenue Procedure 86-43; 1986-2 C.B. identifies the factors which are indicative that the method used by the organization to advocate its viewpoints or positions is not educational.

- Viewpoints or positions unsupported by facts are a significant portion of the organization's communications.
- Facts that purport to support the viewpoints or positions are distorted.
- The organization's presentations make substantial use of inflammatory and disparaging terms and express conclusions more on the basis of strong emotional feelings than of objective evaluations.
- The approach used in the organization's presentations is not aimed at developing an understanding on the part of the intended audience or readership because it does not consider their background or training in the subject matter.

In Families Against Government Slavery v. Commissioner, the court concluded that the IRS was right to decide that the organization did not further educational purposes within the meaning of the relevant regulations because petitioner's materials, when evaluated by the standards in § 3.03 of Rev. Proc. 86-43, 1986-2 C.B. at 730, were full of unsupported opinions and distorted facts. Thus, because the organization's activities did not further "educational" purposes, the denial of tax-exempt status was proper.

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279, (1945), the Supreme Court held that the presence of a single non-exempt purpose, if substantial in nature, will destroy a claim for exemption regardless of the number or importance of truly exempt purposes.

In Old Dominion Box Co. v. United States, 477 F2d 344 (4th Cir. 1973) cert. Denied 413 U.S. 910 (1973) the court held that operating for the benefit of private parties constitutes a substantial non-exempt purpose.

Application of Law

Our review of your application and additional information provides has led us to conclude you do not qualify for exemption because:

1. You failed to establish you operate exclusively for charitable or educational purposes;¹
2. You operate for the benefit of private interests²; and
3. You are an "action" organization.³

¹ Section 1.501(c)(3)-1(c)(1)

² Section 1.501(c)(3)-1(c)(2);

³ Section 1.501(c)(3)-1(c)(3)

No Charitable or Educational Purpose

You have failed to establish your fund for victims will be operated in a charitable manner. The fund has not been established. You have no application form, defined selection criteria, selection committee or other information which demonstrates an unbiased selection. However, you have determined that E would be eligible for compensation. You have also failed to establish the development and use of anti M weapons or the implementation of counter attacks accomplishes charitable purposes as defined in section 501(c)(3) of the Code and 1.501(c)(3)-1(a)(1) of the regulations as you provided no specific information on how either activity will be accomplished.

You also failed to establish activities as educational. You educate by posting information on your web site. Your web pages state in pertinent part: "This website is an open effort for the protection of the human rights of defenseless victims from involuntary microwave and M attack, organized stalking or direct mind control attack of its various forms and to compensate such targets from the associated damage." Your website requests readers to contact their representatives and senators to recommend legislative change, includes a blog page and solicits contributions for acquisition or leasing of test equipment. You failed to establish these activities as educational.⁴

Inurement and Private Benefit

Your activities will provide significant benefit to E. E through a consulting company has obtained the services of a nonprofit specialist, marketing and asset protection planner to help establish you and apply for tax exemption. The consulting company has promised pending grants that are intended for charitable purposes. These grants along with donations of cash and equipment will be used to reimburse E's personal expenses incurred prior to your formation. Thus, you were formed to provide a source of funding to E.

You also benefit E by working to introduce his legislation which provides a legal avenue for the collection of financial damages to victims of M attacks. Those financial damages are to be put into a victim's trust fund that you will manage and distribute to victims that includes E. Your funds will flow through your victim trust fund to E resulting in inurement to E.

Like the organization in Better Business Bureau of Washington, a substantial part of your activities benefit the private interests of E and thus you serve a substantial

⁴ Sec. 1.501(c)(3) -1(d)(3)(i), Income Tax Regs.

nonexempt purpose. Further you have failed to establish that E or others will not privately benefit from your development and use of anti M weapons.

Action Organization

You are similar to the organization in *Rev. Rul. 62-71*, supra, because you too have a primary objective, the enactment of legislation, and are thus an "action" organization.

You also fail to meet the operational test because of your lobbying activities are more than insubstantial. You advocate and campaign for the adoption of proposed legislation regarding M attacks and have characteristics of an "action" organization as defined in section 1.501(c)(3)-1(c)(3)(iv) of the regulations.

- You encourage the public to contact members of Congress for the purpose of the proposed adoption of J;
- Your objective to manage the victim trust fund can only be attained by the adoption of J legislation;
- Like the organization described in Revenue Ruling 67-293 you intend to protect humans by urging the public to support J legislation; and
- You are not similar to the organization subject to Revenue Ruling 70-79. You were not formed to assist local government, and you do not refrain from advocating adoption of legislation.

Further, you do not meet the requirements for an organization exempt under § 501(c)(3) because you will make direct solicitation to legislators and submit proposed legislation as a primary objective. Your entire operation is dependent on the passage of J legislation.

You also fail to meet the requirements of Section 501(c)(4) of the Code because you are not operated exclusively for the promotion of social welfare. The payment of E's personal expenses as well as payments to E through your victim trust fund result in inurement to E which likewise bars exemption under section 501(c)(4).

Finally, like the organization described in Old Dominion Box Co. v. United States, supra, you are operating for the substantial non exempt purpose of benefiting your founder, E.

Your Position

You protect the human rights of defenseless victims from M attacks. You also claim that your legislative activities are insubstantial and you have submitted Form 5768 for organizations making an election under Section 501(h) of the Internal Revenue Code.

Service Response to Your Position

As noted above you have failed to establish that your activities are exclusively charitable or educational. You also advance the private interests of your founder E, allowing for inurement of your earnings to flow to E.

You have the specific characteristics of an "action" organization as defined in the regulations. Advocating for the adoption of J legislation is your primary objective. Accordingly, the completion of Form 5768 does not overcome the fact that you have failed to establish your operations are exclusively charitable or educational, your operations result in inurement to E and you are an action organization.

Conclusion

You do not qualify for exemption under Section 501(c)(3) of the Code because:

1. You have failed to establish your operations are exclusively charitable or educational,
2. You operate for the private interests of E, and
3. Your primary objective is accomplished as an action organization.

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

We will consider your statement and decide if that information affects our determination. If your statement does not provide a basis to reconsider our determination, we will forward your case to our Appeals Office. You can find more information about the role of the Appeals Office in Publication 892, *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 declared true under penalties of perjury. This may be done by adding to the protest the following signed declaration:

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

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, 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
Room 7-008
P.O. Box 2508
Cincinnati, OH 45201

Deliver to:

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

You may 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

Enclosure: Publication 892