



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Release Number: **201433017**
Release Date: 8/15/2014
Date: May 20, 2014
UIL 501.00-00, 501.30-00

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

Dear _____ :

This is our final determination that you do not qualify for exemption from federal income tax as an organization described in Internal Revenue Code § 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 § 501(c)(3), donors may not deduct contributions to you under § 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 § 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,

Tamera Ripperda
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: March 11, 2014

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

Legend

Date = *****
State = *****
Director = *****
Letter1 = *****
Advisor = *****
Shelter = *****
Clinic = *****
Center = *****
Service = *****

Dear :

We have considered your application for recognition of exemption from federal income tax under § 501(c)(3) of the Internal Revenue Code (the Code). Based on the written information exchanged, we have determined that you failed to establish your qualification for exemption under that section. Our reasons for this conclusion and the facts on which it is based are explained below.

Facts

You were incorporated on Date, in State. Your Articles of Incorporation provide that you were formed for charitable, religious, educational, scientific, and literary purposes, and to prevent cruelty to animals or children. Your Articles contain a prohibition on inurement and provide that upon dissolution, all of your remaining assets shall be distributed for exempt purposes within the meaning of § 501(c)(3).

Your Bylaws state that you will educate, empower, and engage others in every day life skills through the media, written and oral communications, public speaking, seminars, classes, and other means of distributing information. Such topics shall include, but are not limited to, health and nutrition, healthy relationships, money management skills, effective parenting, prevention of teen pregnancy, family violence prevention, effective coping skills, anger management/behavior

therapy, gang prevention and troubled youth, individual/group counseling, career objectives and goals, and being financially sound.

You stated that you will serve families and individuals in the upstate counties of State. You stated that your activities (as listed below) will be presented by trained volunteers and will be conducted as needed. You stated that you will spend resources on the following activities, which will be conducted by the people or organizations listed:

- Trauma recovery and empowerment: 20%
 - Director
- Effective money management skills: 20%
 - Advisor
- Domestic Violence: 15%
 - Shelter speakers & victims: provides referrals to agency to protect women and children who are living in abusive homes and relationships a safe haven; its mission is to empower survivors of sexual and domestic violence to transform their lives and promotes healthy relationships for all.
- Post-Traumatic Stress Disorder: 15%
 - Clinic: provides referrals for client who has severe mental health issues to agency so that they can assist clients with mental health disorders to improve the quality of their lives.
- Future Activities: 30%
 - Parenting Resources: Center: provides referrals to agency which is a rape crisis and child abuse center that provides services and resources to support survivors of sexual assault, incest, child abuse, and neglect; mission to end sexual violence and child abuse and the impact of those crimes through prevention, collaboration, investigation, treatment, and advocacy.
 - Learn Personal Stressors: Director
 - Credit Counseling: Service

You stated that all your activities will take place at "Offices/Campus". In Letter1, we asked you to provide or describe the agreement you have to use this office space and include whether you pay any occupancy fees. You failed to respond to the request.

In Letter1, we asked you to provide a breakdown of the time you would spend on your three future activities. You failed to provide that breakdown. Additionally, we requested that you submit a sample of materials that you distribute or use in conjunction with each of your present and future activities. You failed to submit any such materials or provide an explanation.

In Letter1, we asked you to describe your relationship with the individuals and organizations listed with each respective activity you listed, including any compensation arrangements. You stated that you have informal relationships with Advisor, Shelter, Clinic, and Center. You stated

that these agencies provide services to the public that also includes your program participants. You failed to provide a description of Director and Service.

You anticipate revenue solely from gifts, grants, and contributions. You will solicit personal contributions and foundation grants. You anticipate expenses from supplies, food, transportation, and equipment.

Your Bylaws provide that the number of directors on your governing board shall be not less than three and no greater than ten. You listed seven individuals on your governing board, none of whom receive compensation. You indicated that none of the individuals are related to each other through family or business relationships. However, you failed to provide qualifications, average hours worked, and duties for the individuals on the governing board.

Law

Section 501(c)(3) provides, in part, for 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 § 501(c)(3), 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 operational test, it is not exempt.

Section 1.501(c)(3)-1(b)(1) provides that an organization is organized exclusively for one or more exempt purposes only if its articles of organization (a) limit the purposes of such organization to one or more exempt purposes and (b) do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(b)(4) provides that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, for example, if upon dissolution, such assets would, by reason of a provision in the organization's articles or by operation of law, be distributed for one or more exempt purposes, or to the federal government, or to a state or local government, for a public purpose, or would be distributed by a court to another organization to be used in such manner as in the judgment of the court will best accomplish the general purposes for which the dissolved organization was organized.

Section 1.501(c)(3)-1(c)(1) states 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.

Section 1.501(c)(3)-1(d)(1)(ii) states that an organization is not operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. It must not be operated for the benefit of designated individuals or the persons who created it.

Tax exemption is a matter of legislative grace and taxpayers have the burden of establishing their entitlement to exemptions. Holt v. Comm'r, 364 F.2d 38, 40 (1966). See also, Universal Life Church v. United States, 372 F. Supp. 770, 775 (E.D. Cal. 1974) (concluding that "one seeking a tax exemption has the burden of establishing his right to a tax-exempt status."). For an organization claiming the benefits of § 501(c)(3), "exemption is a privilege, a matter of grace rather than right . . ." Christian Echoes Nat'l Ministry, Inc. v. United States, 470 F.2d 849, 857 (10th Cir. 1972), cert. denied, 414 U.S. 864 (1973). The applicant for tax exempt status under § 501(c)(3) has the burden of showing it "comes squarely within the terms of the law conferring the benefit sought." Nelson v. Comm'r, 30 T.C. 1151, 1154 (1958).

The Tax Court has stated that an application for tax-exempt status "calls for open and candid disclosure of all facts bearing upon [an applicant's] organization, operations, and finances" to assure that there is no abuse of the revenue laws. Bubbling Well Church of Universal Love, Inc. v. Comm'r, 74 T.C. 531, 535 (1980). "If such disclosure is not made, the logical inference is that the facts, if disclosed, would show that [Applicant] fails to meet the requirements of section 501(c)(3)." Id. The organization has the burden of providing sufficient documentation or other substantive information regarding its activities and operations, which would establish entitlement to tax exempt status, including establishing that its net earnings will not inure to the benefit of private individuals and that it will not serve private interests. See Founding Church of Scientology v. United States, 188 Ct. Cl. 490, 498 (1969), cert. denied, 397 U.S. 1009 (1970). Furthermore, the courts have repeatedly upheld the Service's determination that an organization has failed to establish exemption where the organization fails to provide requested information. "[Applicant] has, for the most part, provided only generalizations in response to repeated requests by [the Service] for more detail on prospective activities. . . . Such generalizations do not satisfy us that [applicant] qualifies for the exemption." Peoples Prize v. Comm'r, T.C.M. (CCH) 813 (2004).

Exempt status may be denied based solely upon the applicant's failure to describe in adequate detail how it will satisfy the operational test. E.g., La Verdad v. Comm'r, 82 T.C. 215, 220 (1984) (finding that an organization that merely made statements as to its intended purposes without supplying any concrete information as to how it proposed to carry out those purposes did not qualify for exemption); Am. Sci. Found. v. Comm'r, 52 T.C.M. (CCH) 1049 (1986) (holding that an organization that failed to explain its criteria for providing grants and scholarships did not qualify for exempt status); Pius XII Academy, Inc. v. Comm'r, 43 T.C.M. (CCH) 634 (1982), aff'd, 711 F.2d 1058 (6th Cir. 1983) (determining that an organization which made generalizations that were so vague as to show that the organization had no real plan, but merely a concept for future activities, did not qualify for exemption).

Rev. Proc. 2014-9, § 4.03, provides that exempt status may be recognized in advance of the organization's operations if the proposed activities are described in sufficient detail to permit a conclusion that the organization will clearly meet the particular requirements for exemption pursuant to the section of the Code under which exemption is claimed. A mere restatement of exempt purposes or a statement that proposed activities will be in furtherance of such purposes

will not satisfy this requirement. 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. Where the organization cannot demonstrate to the satisfaction of the Service that it qualifies for exemption pursuant to the section of the Code under which exemption is claimed, the Service will generally issue a proposed adverse determination letter or ruling.

Rationale

The information submitted, thus far, is insufficient for us to conclude that you are organized and operated exclusively for charitable, religious, or educational purposes as specified in § 501(c)(3). Specifically, we are unable to determine whether or not you are operated for purposes that come within the exempt purposes described in § 501(c)(3).

We cannot recognize you as an exempt organization unless you first demonstrate that you will clearly meet the particular requirements of § 501(c)(3). As explained in the numerous judicial opinions cited above, to overcome the burden of proving that you are an organization described in § 501(c)(3), you must describe your proposed activities in enough detail to permit us to conclude that you will be engaged primarily in activities that accomplish one or more exempt purposes specified in § 501(c)(3). See § 1.501(c)(3)-1(c)(1). This you have yet to do.

Your Bylaws provide that you will educate, empower, and engage others in numerous everyday life skills through various media. However, in your narrative of activities you stated that your activities consist of trauma recovery and empowerment, effective money management skills, domestic violence, and post-traumatic stress disorder activities. These activities could also be conducted in a non-exempt, commercial manner. You have not submitted sufficient information to demonstrate that you will conduct your activities in an exempt manner within the meaning of § 501(c)(3). Further, you stated in one part of your application that your activities will be presented by trained volunteers; however, you later stated that other organizations and individuals will conduct the majority of your activities. Additionally, you failed to submit a sample of materials that you distribute or use in conjunction with each of your present and future activities. It remains unclear what exactly you do to further your stated goals.

Therefore, you have not established that you are operated exclusively for exempt purposes within the meaning of § 501(c)(3). Furthermore, you have failed to establish that your activities further a public charitable purpose rather than the promotion of private interests.

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.

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 (IRS) 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 IRS will consider the failure to protest as a failure to exhaust available administrative remedies. 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 this address:

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,

Michael Seto
Manager, EO Technical