



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Number: **201452018**
Release Date: 12/26/2014

Date: September 30, 2014

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Required To Be Filed:

Tax Years:

UIL: 501.33-00, 501.35-00

Dear

This is our final determination that you do not qualify for exemption from Federal income tax as an organization described in Internal Revenue Code section 501(c)(3). Recently, we sent you a letter in response to your application that proposed an adverse determination. The letter explained the facts, law and rationale, and gave you 30 days to file a protest. Since we did not receive a protest within the requisite 30 days, the proposed adverse determination is now final.

Because you do not qualify for exemption as an organization described in Code section 501(c)(3), donors may not deduct contributions to you under Code section 170. You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file. File the returns in accordance with their instructions, and do not send them to this office. Failure to file the returns timely may result in a penalty.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

In accordance with Code section 6104(c), we will notify the appropriate State officials of our determination by sending them a copy of this final letter and the proposed adverse letter. You should contact your State officials if you have any questions about how this determination may affect your State responsibilities and requirements.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at 1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Tamera Ripperda
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: July 21, 2014

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

LEGEND:

O = State
P = City

UIL:

501.33-00
501.35-00

Dear :

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

Issues

Do you qualify for exemption under section 501(c)(3) of the Code? No, for the reasons described below.

Facts

You were formed as a corporation in the state of O for charitable purposes. Your Articles of Incorporation state that you were organized, "exclusively for charitable purposes, more specifically, to facilitate community-wide mutual assistance so that community members can give and receive help on a voluntary or professional basis."

You describe your activity as a community self-help program that involves exchanging hours of service with hours of assistance. When members join your organization they provide a list of skills and services they are willing to share with someone as well as a list of any needs they might have. Membership is open to any adult living in the P area that has skills to share or has a particular need

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Catalog Number 47630W

that others may be able to help. At the time of becoming a member, an applicant will be given one share for every year over the age of 55. You state, "It is designed this way to favor elders who may have more need and not be in a position to offer as much service."

Your brochure lists different skills and interests which individuals can choose from that they might be able provide to others. This list includes:

Accounting | Bookkeeping | Childcare | Cleaning | Computer Assistance | Cooking, Meal preparation | Counseling | Crafts | Driving | Transportation | End of life counsel | Exercise (such as Yoga) | Financial planning | Gardening | Graphic Art | Healing | House/Pet sitting | Legal advice | Lifting, Moving things | House maintenance | Appliance maintenance | Nursing | Organizing | Personal assistance | Reading | Sewing | Shopping | Social Networking | Spiritual practice | Tax preparation | Vehicle maintenance | Yard work | Other

You indicate there is a simple credit system for keeping track of hours of service. Each hour of service is worth one share. The person who is being served will lose one of his or her shares for every hour of service provided to him or her. Shares can also be traded or given to others who might need them. If providing a service costs money, such as for gas to drive someone, or for materials for maintenance, then it is the responsibility of the two individuals involved to work this out between them. It is also possible for a professional service provider to ask for some compensation, but in this case there would be no share exchange. The way to gain shares is to serve other members.

Your role is to connect people that need assistance with other residents that want to volunteer their help. Your organization does not have a staff person that receives monetary compensation. Your website provides a list of members and their skills along with a list of members with needs. Individuals can use the volunteer coordinator or your website to make the connections. A person may request services through the program by calling your central coordinator who will look for a match based on the service requested, time needed, proximity, and other factors, and then contact a potential provider for availability. Upon accepting a referral, the service provider is responsible for calling the service recipient and arranging the time and place of service. After the service is provided, either the service provider or the service recipient report the hours of service to you and then credits are given to the provider's account and deducted from the recipient's account for the hours of service rendered.

It is also possible for individual members to make contact directly between themselves, without necessarily involving the coordinator's effort. Reporting of time in rendering service is voluntary and not a requirement for involvement in the program. You state, "It is hoped that you will become an active member once you join, but there is no obligation to participate on any level. All service is entirely voluntary, and you can decline a request for service at any time. This does mean that if you need some help at some point, there is no guarantee that service will be provided. This system of mutual assistance is predicated on the goodwill of a caring community."

You receive contributions to help pay for the maintenance of the computer system and to help pay for the outreach to the community to secure new members.

Law

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

Section 1.501(c)(3)-1(c)(1) of the Treasury Regulations ("regulations") provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities that accomplish one or more of such exempt purposes specified in section 501(c)(3). 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)(2) of the regulations states that an organization is not operated exclusively for the statutory purposes if its net earnings inure to the benefit of individuals.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations states that an organization is not operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest.

Revenue Ruling 61-170, 1961-1 C.B. 112, held that an association composed of professional private duty nurses and practical nurses which supported and operated a nurses' registry primarily to afford greater employment opportunities for its members was not entitled to exemption under section 501(c)(3) of the Code. Although the public received some benefit from the organization's activities, the primary benefit of these activities was to the organization's members.

Revenue Ruling 69-175, 1969-1 C.B. 149, states that a nonprofit organization, formed by parents of pupils attending a private school, that provides school bus transportation for its members' children serves a private rather than a public interest and does not qualify for exemption under section 501(c)(3) of the Code.

Revenue Ruling 71-395, 1971-2 C.B. 228, states that a cooperative art gallery formed and operated by a group of artists for the purpose of exhibiting and selling their works does not qualify for exemption under section 501(c)(3) of the Code.

Revenue Ruling 78-132, 1978-1 C.B. 157, held that a community cooperative organization formed to facilitate the exchange of personal services among members was operating primarily for the private benefit of its members and was not exempt from tax as a social welfare organization.

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).

In Old Dominion Box Co. v. United States, 477 F.2d 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

You are not described in section 501(c)(3) of the Code because you are not operated exclusively for exempt purposes.

As a time banking community network, you provide a mutual benefit to the members in your community similar to a barter exchange which utilizes units of members' time as the currency for reciprocal service exchange. This does not further an exempt purpose under section 501(c)(3) of the Code as required under section 1.501(c)(3)-1(c)(1) of the regulations.

You support and coordinate the exchange of services among your members by maintaining a file of services that members are willing to provide. You match service providers and service recipients and maintain accounts of hours of service provided under the program. You receive contributions to help pay for the maintenance of the computer system and to help pay for the outreach to the community to secure new members. You are not described in Section 1.501(c)(3)-1(d)(1)(ii) of the regulations because you coordinate the exchange of services for you members. Therefore, you are serving the private interests of your members. More than an insubstantial part of your activities results in private benefit to your members which is prohibited under section 1.501(c)(3)-1(c)(2) of the regulations.

You are similar to the organization described in Revenue Ruling 61-170 because substantially all of your resources, purposes, and activities are used to offer your members a reciprocal exchange of services between each other. You are also similar to the organization described in Revenue Ruling 69-175 because you are formed and operated for the reciprocal exchange of services among your members, similar to a barter exchange. Therefore, you are similarly structured in that a substantial part of your activities serves the private interests of your members.

You are similar to the organization described in Revenue Ruling 71-395 because your activities result in private benefit to your individual members through the exchange of services using an alternative monetary system which uses shares. The given example of a cooperative art gallery engaged in showing and selling only the works of its own members and which is a vehicle for advancing their careers and promoting the sale of their work fails the operational test for IRC 501(c)(3). This closely parallels your organization which is also serving private rather than public interests and as such does not qualify for exemption under section 501(c)(3) of the Code.

You are similar to the organization described in Revenue Ruling 78-132 because you are a community cooperative organization formed to facilitate the exchange of personal services among members.

You are similar to the organization described in Better Business Bureau v. United States, supra, because you were formed for a nonexempt purpose. Your main activity is to coordinate the exchange of services amongst your members based on their needs. The main beneficiaries of your operation are your members rather than the general public.

You are similar to the organization described in Old Dominion Box Co. v. United States, supra, because you operate for a substantial nonexempt purpose. You provide an opportunity for your members to exchange services without the exchange of money. The fair market value of service received would have been considered income to your members.

Applicant's Position

You stated you are not a bartering exchange as described in IRC 6045(c)(3) because your operations provide a means for the informal exchange of similar services on a noncommercial basis and do not result in the creation of contractual rights and obligations among members (or between members and your organization) for the exchange of property or services.

The services proved by your members are primarily domestic or personal services. All services receive a point value based solely on the number of hours of service provided without regard to the type of service. Also, a member who has performed services does not thereby have a contractual right to receive any services from you or from your members. You do not place any limits on when services must be received. Thus, there could be a gap of several years between the time when a member provides services and the time when the member first receives services. A member cannot assign (except to family or household members) the shares that he or she has accumulated for services performed.

You are a membership organization whose membership consists primarily of individuals living in the P area. You do not charge a fee for participation or membership in the program and the records you maintain show significant disparities in members' accounts as to the number of hours of services provided and the number of hours of services received.

Some members typically receive many more hours of services than they provide, while other members, who are apparently motivated by a desire to serve the community, typically provide many more hours of services than they receive. It is up to the member, rather than your organization to determine whether any services will be performed, to determine the time and place for performance of services, and to ensure that the services are satisfactorily performed. You do not have any responsibility for crediting the account of the service provider or debiting the account of the service recipient unless a member first contacts you and indicates the number of hours of service provided.

Service Response to Applicant's Position

Even though you do not charge for membership, the administrative services are performed by volunteers, the exchanged services are all performed on a volunteer basis, and no contractual rights exist, your activities do not meet the operational requirements of IRC 501(c)(3). Performing administrative activities to help members exchange services does not fulfill an exempt purpose within the meaning of Section 501(c)(3) of the Code.

Conclusion

Based on the facts and information submitted, you are not operated exclusively for exempt purposes. You serve the private interests of your members rather than public interests. Your activities are merely administrative rather than charitable. Thus, you do not qualify for exemption as an organization described in 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 why you disagree. Your protest statement must be filed within 30 days of the date of this letter and should include:

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

The protest statement may be signed by one of your officers or your representative. We will consider your statement and decide if the information affects our determination. If your statement does not provide a basis to reconsider our determination, we will forward your case to our Appeals Office. You can find more information about the role of the Appeals Office in Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*.

The protest statement should also include the following declaration.

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

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

Your protest will be considered incomplete without this statement.

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

An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you. In that case you must file a Form 2848, *Power of Attorney and Declaration of Representative*, if you have not already done so. You can find more information about representation in Publication 947, *Practice Before the IRS and Power of Attorney*. All forms and publications mentioned in this letter can be found at www.irs.gov, Forms and Publications.

If you do not file a protest within 30 days, you will not be able to seek a declaratory judgment in court at a later date because the court requires that you first exhaust administrative remedies at the IRS. Code section 7428(b)(2) provides, in part, that a declaratory judgment or decree shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted all of the administrative remedies available to it within the IRS.

If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848, and any supporting documents to the applicable address:

Mail to:

Internal Revenue Service
EO Determinations 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,

Director, Exempt Organizations

Enclosure: Publication 892