



Department of the Treasury  
Internal Revenue Service  
P.O. Box 2508  
Cincinnati, OH 45201

Release Number: **201523021**  
Release Date: 6/5/2015  
UIL Code: 501.33-00  
501.35-00

Date:  
March 13, 2015  
Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

Dear :

This letter is our final determination that you don't qualify for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code (the Code). Recently, we sent you a proposed adverse determination in response to your application. The proposed adverse determination explained the facts, law, and basis for our conclusion, and it gave you 30 days to file a protest. Because we didn't receive a protest within the required 30 days, the proposed determination is now final.

Because you don't qualify as a tax-exempt organization under Section 501(c)(3) of the Code, donors can't deduct contributions to you under Section 170 of the Code. You must file federal income tax returns for the tax years listed at the top of this letter using the required form (also listed at the top of this letter) within 30 days of this letter unless you request an extension of time to file.

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection (as required under Section 6110 of the Code) 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 the Notice 437 on how to notify us. If you agree with our deletions, you don't need to take any further action.

We'll also notify the appropriate state officials of our determination by sending them a copy of this final letter and the proposed determination letter (under Section 6104(c) of the Code). You should contact your state officials if you have questions about how this determination will affect your state responsibilities and requirements.

If you have questions about this letter, you can contact the person listed at the top of this letter. If you have questions about your federal income tax status and responsibilities, call our customer service number at 1-800-829-1040 (TTY 1-800-829-4933 for deaf or hard of hearing) or customer service for businesses at 1-800-829-4933.

Sincerely,

Director, Exempt Organizations

Enclosure:

Notice 437

Redacted Letter 4036, *Proposed Adverse Determination Under IRC Section 501(c)(3)*

Redacted Letter 4038, *Final Adverse Determination Under IRC Section 501(c)(3) - No Protest*



Department of the Treasury  
Internal Revenue Service  
P.O. Box 2508  
Cincinnati, OH 45201

Date:  
February 3, 2015  
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

**Legend:**

B = date  
C = state  
D = conference  
E = political ideology  
F = political party  
G = date  
H = individual  
J = individual  
K = individual  
L = individual  
M = political party  
R = individual  
S = state  
T = individual

**UIL:**  
501.33-00  
501.35-00

Dear :

We considered your application for recognition of exemption from federal income tax under Section 501(a) of the Internal Revenue Code (the Code). Based on the information provided, we determined that you don't qualify for exemption under Section 501(c)(3) of the Code. This letter explains the basis for our conclusion. Please keep it for your records.

**Issues**

Do you meet the organizational test of section 501(c)(3) of the Internal Revenue Code? No, for the reasons explained below.

Do you meet the operational test of section 501(c)(3) of the Internal Revenue Code? No, for the reasons explained below.

## **Facts**

You were formed in B in the state of C. Your Articles of Incorporation state you were formed as a public benefit corporation. Your By-Laws indicate that general purpose is to "create symposiums as a national, educational convention of E thinkers, statesmen and opinion leaders." Specifically, you will hold the first symposium, called D, in G, and additional symposiums will be organized either annually or as approved by your board. While no board members were listed on page 2 of Form 1023, meeting minutes submitted showed H as president, J as vice president, K as secretary, along with five other individuals as additional directors/committee members.

In planning for D you contracted with a hotel/resort in C as the event's location. You submitted a contract with the resort stipulating the responsibility for utilizing at least 450 rooms over the course of the four day event. If this commitment could not be met you would be responsible for related "damages" to the hotel resulting in pre-arranged payments to be made by you for room attrition. Further, the contract stipulated damages for cancellation based as a percentage of the room revenue not accrued.

A flyer for D stated in recent years the debate has become more intense as politicians on one side of the political spectrum have pushed massive new federal programs at the expense of the state. As the 2012 election looms, this is an opportunity to "offer a platform to key E leaders in state and national government to share their views with those assembled." Your further goal was to have people in attendance "prepare a set of documents reflecting their perspective which will then be shared with political leaders as the election season unfolds." Additional documents outlining your purposes indicated D would immediately precede the all-important C presidential primary so you expected a showing at D by many of the F presidential candidates.

You submitted a copy of the proposed agenda/schedule for D. This agenda includes a listing of over 15 current and former politicians, judges, policy experts and individuals with current or former experience in prominent political positions. Of all the individuals listed, who were invited and/or confirmed to attend D, all were apparently affiliated with the F political party and some were in current campaigns for political offices. Further, the agenda listed a "Meet the Candidates" special event scheduled; you did not, however, indicate who would be available at this session. The session would be available to attendees paying an additional fee.

You submitted seven months of meeting minutes from prior to your incorporation through a week before D was scheduled to begin. The majority of the documentation outlines your plans for soliciting volunteers for D, marketing/publicizing D, the actual topics/sessions scheduled for D, budgeting and web presence. However, the remainder of your minutes addressed who you wanted to attend this event in terms of speakers. Many of these potential speakers were current positioned politicians, and contacting/committing them to attend D required multiple contacts, scheduling and networking. You also noted a lack of the ability to raise funds until a list of speakers was compiled and shared with donors. Among the strategies used were contacting statewide F party and relative committee group chairs, keeping the chair of the F party of C up to date, obtaining a list of F staffers in Congress and inviting them to attend, having H look for every F party group within the counties of C and send them notice, then proceeding with the same plan for other bordering states, directly contacting other prominent F group leaders, coordinating events with local county F fundraising committees, meeting with the heads of local college and high school F groups, meeting with the chair of the F party of C who would in turn contact other state F chair members.

Also within your minutes you have a "trying to get" list of individuals to attend, including at least five well known positioned politicians. You go on over the course of planning to continually reference various politicians in federal, state and local positions, all with apparent affiliations to the F party. For example, "getting R (F senator from S) should be a focus", "ask senator L if they have contacted R"; and you "tried many different ways to get T (former F vice presidential candidate)." "We should invite the attorney general of C (F party)". You also noted at one point that it would be one individual's job to contact the candidates. You did not indicate why these particular individuals were being mentioned and/or contacted for invitation, however, all appear to share the same political party of F.

You indicated D would need to be cancelled in one of your meetings about a month prior to the event. You had noted your cash position was not strong, your credit was disapproved by the resort, and ticket sales were low. In contacting the resort you noted essentially the lack of interest in the event to meet room requirements. You planned for steps to refund tickets that had been sold and paying needed accounts. J asked in a meeting if "we were going to try to do this next year." One of your board members responded by stating "it would be hard to convince people another time" – everyone would think about it. You also went on to note that you would need to have the 501(c)(3) completed so that "donations are tax deductible."

In later correspondence you indicated the intent to hold one or more symposiums in the future. However, you were not able to submit any further details on operations or meetings that had been conducted since the cancellation of D. All efforts appear to have been suspended from the cancellation up until currently and you stated you were not resurrected. You restated your mission to be providing an educational forum to assist citizens in becoming more effective advocates, focusing on the Constitution and founding principles, policy, economy, education, health and values.

You also reiterated that D was not a candidate forum, nor one for influencing attendees to vote for/against any political party or candidate. While there were elected officials and some candidates invited to speak it would only be for an educational purpose. Symposiums would not be political fundraising events.

You submitted financial data for only one year, citing that in subsequent years you had no data or budgets due to suspended operations. Expenses were related mainly to event costs, insurance and event refunds.

#### **Law**

Section 501(c)(3) provides for the exemption from federal income tax of organizations organized and operated exclusively for charitable or educational purposes, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided in section 501(h)), 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.

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

Section 1.501(c)(3)-1(b)(1)(i) of the regulations provides that an organization is organized exclusively for one or more exempt purposes only if its articles of organization limit its purposes to one or more

exempt purposes and do not expressly empower it to engage, otherwise than as an insubstantial part, in activities which in themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization operates exclusively for exempt purposes only if it engages primarily in activities that accomplish exempt purposes specified in section 501(c)(3) of the Code. An organization must not engage in substantial activities that fail to further an exempt purpose.

Section 1.501(c)(3)-1(c)(3)(i) of the regulations state that an organization is not operated exclusively for one or more exempt purposes if it is an "action" organization.

Section 1.501(c)(3)-1(c)(3)(iii) of the regulations defines an "action" organization as an organization that participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office. The term "candidate for public office" is defined as an individual who offers himself, or is proposed by others, as a contestant for an elective public office, whether such office be national, State, or local. The regulations further provide that activities that constitute participation or intervention in a political campaign on behalf of or in opposition to a candidate include, but are not limited to, the publication or distribution of written statements or the making of oral statements on behalf of or in opposition to such a candidate.

Section 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized or operated exclusively for exempt purposes unless it serves a public rather than a private interest. To meet this requirement it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests.

Revenue Ruling 74-574, 1974-2 C.B. 161 states that an organization exempt under section 501(c)(3) of the Code, operating a broadcasting station presenting religious, educational, and public interest programs, is not participating in political campaigns on behalf of public candidates in violation of the provisions of that section by providing reasonable air time equally available to all legally qualified candidates for election to public office in compliance with section 312(a)(7) of the Federal Communications Act of 1934 as amended and endorsing no candidate or viewpoint.

Revenue Ruling 2007-41, 2007-25 I.R.B. and its 21 situations state that organizations that are exempt from income tax under section 501(a) of the Internal Revenue Code as organizations described in section 501(c)(3) may 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. Section 501(c)(3) organizations are permitted to conduct certain voter education activities (including the presentation of public forums and the publication of voter education guides) if they are carried out in a non-partisan manner. Providing a forum for candidates is not, in and of itself, prohibited political activity. However, a forum for candidates could be operated in a manner that would show a bias or preference for or against a particular candidate.

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 American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), the court held that an organization that operated a school to train individuals for careers as political campaign professionals, but that could not establish that it operated on a nonpartisan basis, did not exclusively serve purposes described in § 501(c)(3) because it also served private interests more than incidentally. The court found that the organization was created and funded by persons affiliated with a particular political party and that most of the organization's graduates worked in campaigns for the party's candidates. Consequently, the court concluded that the organization conducted its educational activities with the objective of benefiting the party's candidates and entities. Although the candidates and entities benefited were not organization "insiders," the court stated that the conferral of benefits on disinterested persons who are not members of a charitable class may cause an organization to serve a private interest within the meaning of § 1.501(c)(3)-1(d)(1)(ii). The court concluded by stating that even if the political party's candidates and entities did "comprise a charitable class, [the organization] would bear the burden of proving that its activities benefited members of the class in a non-select manner." American Campaign Academy, 92 T.C. at 1077.

### **Application of law**

You are not as described in Code section 501(c)(3) because you are not organized and operated exclusively for charitable and educational purposes. You fail both the organizational and operational tests.

You fail the organizational provisions of section 1.501(c)(3)-1(b)(1)(i) of the regulations. Your Articles of Incorporation do not limit your purposes to one or more exempt purposes.

You do not meet the provisions of Section 1.501(c)(3)-1(a)(1) of the regulations because you fail the operational test. Per section 1.501(c)(3)-1(c)(1) of the regulations more than an insubstantial part of your activities are devoted to a non-exempt purpose, that of political campaign intervention. You engage in substantial non-exempt activities similar to those of an action organization. In determining when an organization has conducted political campaign intervention the focus is not on the viewpoint or position, but rather the purposes and activities of the organization in communicating or advancing its viewpoints. Political campaign intervention includes any and all activities that favor or oppose one or more candidates for public office. The prohibition extends beyond candidate endorsements. Allowing a candidate to use an organization's assets or facilities also constitutes political campaign intervention if other candidates are not given an equivalent opportunity. You have invited candidates of only one political party, F, to participate in a forum as speakers. Some of these speakers are themselves candidates for office. While inviting candidates to participate is not in itself campaign intervention, inviting only one particular party of candidates is. There is no evidence in your application that you have attempted to contact, invite or allow to participate in your symposium anyone from any party outside of F.

Additionally, you have submitted no future plans for activities or budgets for funding those activities. You've indicated you are suspended without resurrection. While you have indicated the intent to conduct future symposiums you have not detailed how these would be any different from D allowing for a determination to be made that these would meet qualifications for 501(c)(3) exemption. Because you have conducted no activities after cancelling D this demonstrates you are not operated for 501(c)(3) purposes and fail the operational test.

You are described in Section 1.501(c)(3)-1(c)(3)(i) of the regulations in that you spend a substantial amount of time and resources devoted to activities that are typical of an action organization. Section 1.501(c)(3)-1(c)(3)(iii) of the regulations defines an "action" organization as one that plans to

participate and intervene in political campaigns on behalf of or in opposition to candidates for public office. In determining if your activities constitute political campaign intervention we considered whether you are distinguishing a candidate, excluding a candidate, or lacking neutrality in allowing candidates to participate. Your intent was to hold a symposium inviting only F candidates or current positioned F politicians, promote those speakers through the symposium, and do so at a time prominent during a campaign season (before a presidential primary). In focusing on only one political party you lack neutrality, exclude candidates and distinguish those focused at your event. Even though D was eventually cancelled your only activity since formation had been planning D. This clearly shows your purpose was to support and further the interests of candidates of the F party.

You are not like the organization described in Revenue Ruling 74-574. You do not provide equal time to all candidates. You only provide time to candidates who are from the F party.

You are similar to certain organizations described in Revenue Ruling 2007-41. Certain aspects are weighed in determining campaign intervention as evidenced within the ruling. While you are providing a neutral location for your event, there is limited availability due to the need to book rooms at the event and travel. There is an incentive for speakers to attend as they are receiving "comps" – free rooms, meals and transportation, as well as publicity for speaking at an event preceding a presidential primary, which is another factor (timing) in determining campaign intervention. D was scheduled to lead into the C presidential primary. Another factor is determining if those invited to attend are candidates. While you have not made clear on your agenda/schedule if those listed were campaigning for any position at that time, you continually refer to them as candidates, you scheduled a meet and greet session with candidates during D, and that D is a place to hear candidates. Further, other facts indicating political campaign intervention is not providing an equal opportunity for all candidates for the same office to appear. You are only inviting speakers from one political party – F. While you have indicated that your purpose is not to provide support or opposition to any candidate, or provide a platform for political fundraising, all other factors considered demonstrate your planning for and actions taken prior to D as well as D itself are activities supporting the purpose of campaign intervention.

As stated in Better Business Bureau of Washington v US, a single non-exempt purpose, if substantial, will preclude tax exemption under section 501(c)(3) of the code. Although your symposiums may have some educational value you have more than an insubstantial amount of non-exempt purposes, primarily, campaign intervention. The presence of this single non-exempt purpose precludes exemption under Section 501(c)(3).

You do not meet the provisions of Section 1.501(c)(3)-1(d)(1)(ii) of the regulations. You are operating for the benefit of the F party in order to confer the benefits of tax exemption under Section 501(c)(3). For example, you only invited candidates from the F party and promoted yourself to individuals affiliated with F party. Your meeting minutes demonstrate the priority to recruit prominent members of the F party. Coupled with the timing of F, and no data to indicate any individuals of the same positions or public prominence were even discussed from the other major representative political party (M), nor extended any invitations to participate at D, it is clear your purpose is to support F candidates. This constitutes a private benefit to those candidates and thereby serves private rather than public interests.

You are like the organization in American Campaign Academy v. Commissioner, who could not establish that it operated on a nonpartisan basis. The organization in that ruling was found to be using its educational activities to benefit one party's candidates. Similarly, you were planning to use D to



benefit F party candidates. This is evident though the event planning in extending invitations to only those affiliated with the F party. The organization in that ruling was found to have an affiliation to one political party. Your meeting minutes provide numerous examples of networking with those affiliated with the F party; be it locally, statewide or even nationally. D was structured and set for a time to specifically serve and benefit the candidates of one party, F. As a result, by conferring this benefit to those invited to speak you serve the private interests of those individuals and of the F party more than incidentally.

### **Conclusion**

You do not qualify for exemption under section 501(c)(3) of the Internal Revenue Code, because you do not meet the organizational or operational tests. Further, you are operating as an action organization and providing substantial private benefit to one particular political party. Therefore, you do not qualify for exemption under section 501(c)(3) of the Code.

### **If you don't agree**

You have a right to file a protest if you don't agree with our proposed adverse determination. To do so, you must send a statement to us within 30 days of the date of this letter. The statement must include:

- Your name, address, employer identification number (EIN), and a daytime phone number
- A copy of this letter highlighting the findings you disagree with
- An explanation of why you disagree, including any supporting documents
- The law or authority, if any, you are relying on
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization, or your authorized representative
- One of the following declarations:

**For an officer, director, trustee, or other official who is authorized to sign for the organization:**

Under penalties of perjury, I declare that I examined this protest statement, 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.

**For authorized representatives:**

Under penalties of perjury, I declare that I prepared this protest statement, 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.

Your representative (attorney, certified public accountant, or other individual enrolled to practice before the IRS) must file a Form 2848, *Power of Attorney and Declaration of Representative*, with us if he or she hasn't already done so. You can find more information about representation in Publication 947, *Practice Before the IRS and Power of Attorney*.

We'll review your protest statement and decide if you provided a basis for us to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't provided a basis for reconsideration, we'll forward your case to the Office of Appeals and notify you. 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*.

If you don't file a protest within 30 days, you can't seek a declaratory judgment in court at a later date because the law requires that you use the IRS administrative process first (Section 7428(b)(2) of the Code).

### **Where to send your protest**

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

U.S. mail:

Internal Revenue Service  
EO Determinations Quality Assurance  
Room 7-008  
P.O. Box 2508  
Cincinnati, OH 45201

Street address for delivery service:

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

You can also fax your statement and supporting documents to the fax number listed at the top of this letter. If you fax your statement, please contact the person listed at the top of this letter to confirm that he or she received it.

### **If you agree**

If you agree with our proposed adverse determination, you don't need to do anything. If we don't hear from you within 30 days, we'll issue a final adverse determination letter. That letter will provide information on your income tax filing requirements.

You can find all forms and publications mentioned in this letter on our website at [www.irs.gov/formspubs](http://www.irs.gov/formspubs). If you have questions, you can contact the person listed at the top of this letter.

Sincerely,

Director, Exempt Organizations

Enclosure:  
Publication 892