



**Department of the Treasury
Internal Revenue Service**

P.O. Box 2508
Cincinnati, OH 45201

Number: **201636046**
Release Date: 9/2/2016

Date:
June 6, 2016
Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

UIL: 501.32-00, 501.32-01, 501.33-00

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,

Jeffrey I. Cooper
Director, Exempt Organizations
Rulings and Agreements

Enclosures:

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:
April 28, 2016
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

X = Date
Y = Date
Z = State

UIL:

501.32-00
501.32-01
501.33-00

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 qualify for exemption under Section 501(c)(3) of the Code? No, for the reasons stated below.

Facts

You submitted Form 1023-EZ, *Streamline Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, on date X.

You attest that you were incorporated on date Y, in the state of Z. You attest that you have the necessary organizing document, that your organizing document limits your purposes to one or more exempt purposes within the meaning of Section 501(c)(3), that your organizing document does not expressly empower you to engage in activities, other than an insubstantial part, that are not in furtherance of one or more exempt purposes, and that your organizing document contains the dissolution provision required under Section 501(c)(3).

You attest that you are organized and operated exclusively to further charitable purposes. You attest that you have not conducted and will not conduct prohibited activities under Section 501(c)(3). Specifically, you attest you will:

- Refrain from supporting or opposing candidates in political campaigns in any way
- Ensure that your net earnings do not inure in whole or in part to the benefit of private shareholders or individuals
- Not further non-exempt purposes (such as purposes that benefit private interests) more than insubstantially
- Not be organized or operated for the primary purpose of conducting a trade or business that is not related to your exempt purpose(s)

- Not devote more than an insubstantial part of your activities attempting to influence legislation or, if you made a Section 501(h) election, not normally make expenditures in excess of expenditure limitations outlined in Section 501(h)
- Not provide commercial-type insurance as a substantial part of your activities

During review of your Form 1023-EZ, detailed information was requested supplemental to the above attestations. This information shows that you were formed as a nonprofit corporation on Y in the state of Z. Your Articles of Incorporation state that you are formed as a charitable or religious corporation as defined in the state of Z's Code.

Your Bylaws state that you are organized exclusively for charitable, religious, educational and scientific purposes, including making distributions to organizations that qualify as exempt organizations under Section 501(c)(3) of the Code. Your Bylaws further state that you are not organized for the private gain of any person.

Your purpose is to provide members with access to social support if a member dies or if there is a death in their family. You also provide support related to arrests, medical expenses, and immigration issues. In the case of death, you provide cash payments to members or their beneficiary of approximately \$ - \$ to assist with funeral expenses and other incidentals. Members pay approximately \$ any time a member or beneficiary dies. New members are not eligible for cash payments for the first 90 days. Members may only receive one cash payment per year.

Membership is open to persons 18 years of age and older in your local area. You charge a non-refundable membership application fee of approximately \$. Approximately \$ is identified as a registration fee and the remaining fee goes into a benevolence fund. You charge an annual membership fee of approximately \$. Members who do not provide the required payment for a period exceeding one year shall be deemed to have resigned and are not permitted to reapply for membership.

You also have a development fund. You search for opportunities that enhance social economic development amongst your members. You disseminate information regarding social economic development opportunities at your meetings or through social media. You organize information sharing networks for members who have contributed to the development fund and you organize investor-entrepreneur forums. You provide individual and collective investment opportunities to your members. For collective investment opportunities, members are informed of the opportunity and invited to participate by buying shares into the specific project. In that event, all or part of the contributions made to the development fund will be converted to shares.

Law

Section 501(c)(3) of the Code provides, in part, for the 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.

Treasury Regulation Section 1.501(c)(3)-1(a)(1) states 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 operational test, it is not exempt.

Treas. Reg. 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 Section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Treas. Reg. 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.

Rev. Rul. 67-367, 1967-2 C.B. 188, describes an organization whose sole activity was the operation of a scholarship plan for making payments to pre-selected, specifically named individuals. The organization established a plan whereby it entered into agreements with subscribers. The subscribers deposited a certain amount of money with a designated bank. The subscriber also named a specific child to be the recipient of the scholarship money. The recipient received the scholarship around the time he or she were to begin college. The organization did not qualify for exemption under Section 501(c)(3) of the Code because it was serving the private interests of its subscribers rather than serve public charitable and educational interests.

Rev. Rul. 69-175, 1969-1 C.B. 149, describes an organization which was formed by parents of pupils attending a private school. The organization provided bus transportation to and from the school for those children whose parents belong to the organization. The organization did not qualify for exemption under Section 501(c)(3) of the Code because it served a private rather than public interest.

Rev. Rul. 76-205, 1976-1 C.B. 226, describes an organization formed to aid immigrants in overcoming social, cultural, and economic problems by providing personal counseling, referrals to helpful agencies, social and recreational activities, and instruction in English. Also, the organization distributed newsletters containing information on attaining citizenship, securing housing and obtaining medical care. The organization was found to be operated exclusively for charitable and educational purposes and qualified for exemption under Section 501(c)(3) of the Code.

Rev. Rul. 79-359, 1979-2 C.B. 226, describes an organization which provided religious burial services that directly support and maintain its basic tenets and beliefs regarding burial of its members. The organization was formed by religious and lay leaders of a particular religion. In order to comply with the religious tenets, requirements regarding the preparation of the body must be followed and blessing, holding services over and interring the deceased were required. The organization qualified for exemption under Section 501(c)(3) of the Code for exclusively religious purposes.

In Better Business Bureau of Washington, D.C., Inc v. United States, 326 U. S. 279 (1945), the Supreme Court of the United States interpreted the requirement in Section 501(c)(3) of the Code that an organization be "operated exclusively" by indicating that an organization must be devoted to exempt purposes exclusively. This plainly means that the presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number and importance of truly exempt purposes.

In American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), the Tax Court held that an organization that as its primary activity operated a school to train individuals for careers as political campaign professionals was not operated exclusively for exempt purposes as described in Section 501(c)(3) of the Code because the school's activities conferred impermissible private benefit. The court defined "private benefit" as "non-incidental benefits conferred on disinterested persons that serve private interests."

Application of law

In order to qualify for exemption under Section 501(c)(3) of the Code you must be both organized and operated exclusively for exempt purposes as described in Treas. Reg. Section 1.501(c)(3)-1(a)(1). You are precluded from exemption because you are operated for the non-exempt, substantial private benefit of your members.

To satisfy the operational test under Treas. Reg. Section 1.501(c)(3)-1(c)(1) an organization must establish that it is operated exclusively for one or more exempt purposes. You were formed for the non-exempt purpose of providing a substantial private benefit to your members through your death benefits and investment activities. Because your activities do not accomplish an exempt purpose you do not qualify for exemption.

You are similar to the organization described in Rev. Rul. 67-367. Like that organization, your activities serve to benefit the private interests of your members rather than the public. The organization in this ruling made payments only to the designated individuals identified by the contributors. The death benefits you pay are limited to your members. In order to qualify for exemption under Section 501(c)(3) of the Code you must serve a public, rather than a private, interest as described in Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii).

The group of parents in Rev. Rul. 69-175 provided a cooperative service for themselves and thus served their own private interests. Like that organization, you were formed to provide benefits to your members. In your case, a substantial portion of your activities consists of providing death benefits and investment opportunities to members. These activities serve private, rather than public, interests, which precludes you from exemption.

You are dissimilar to the organization described in Rev. Rul. 79-359. That organization was formed to further religious beliefs regarding the burial of members of a particular religion. It performed religious burial services. You are not formed to carry out any religious burial services with regard to your deceased members. Your purpose is to pay death benefits and provide investment opportunities to your members. You are not operated exclusively for charitable or religious purposes within the meaning of Section 501(c)(3) of the Code.

As illustrated in Better Business Bureau, a single, substantial non-exempt purpose is sufficient to prevent exemption. Although you provide some social services to your members, such as assistance with immigration issues, your primary purpose of providing death benefits and investment opportunities to members prevents qualification for exemption under Section 501(c)(3) of the Code. You are distinguished from the organization described in Rev. Rul. 76-205, which provided aid to immigrants in overcoming social, cultural, and economic problems. Your activities provide substantial, private benefits to your members, which are impermissible under Section 501(c)(3), as described in American Campaign Academy v. Commissioner. Accordingly, you are precluded from qualifying for exemption.

Conclusion

Based on the above facts and analysis, you do not qualify for exemption under Section 501(c)(3) of the Code because you are not operated exclusively for Section 501(c)(3) purposes. Rather, you are operated for the private benefit of your members. Accordingly, you do not qualify for exemption under Section 501(c)(3).

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. If you have questions, you can contact the person listed at the top of this letter.

Sincerely,

Jeffrey I. Cooper
Director, Exempt Organizations
Rulings and Agreements

Enclosure:
Publication 892