



**Department of the Treasury  
Internal Revenue Service**

P.O. Box 2508  
Cincinnati, OH 45201

Release Number: **201740023**

Release Date: 10/6/2017

UIL Code: 501.03-30

501.32-00

501.32-01

501.33-00

Date:

July 14, 2017

Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years: All

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,

Stephen A. Martin  
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: May 22, 2017

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

**Legend:**

B = Date  
C = Date  
D = State

**UIL:**

501.03-30  
501.32-00  
501.32-01  
501.33-00

q dollars = Amount  
r dollars = Amount  
s dollars = Amount  
t dollars = Amount  
u dollars = Amount  
v dollars = Amount  
w dollars = Amount

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.

**Notes:**

- Do you meet the organizational test under section 501(c)(3) of the Code? No, for the reasons stated below.
- Do you meet the operational test 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 B.

You attest that you were incorporated on C in D. You also 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, otherwise than as an insubstantial part of your activities that in themselves are not in furtherance of one or more exempt purposes, that your organizing document contains the dissolution provision required under section 501(c)(3), and that your organizing document contains the provisions required by section 508(e) or that your

organizing document does not need to include the provisions required by section 508(e) because you rely on the operation of state law in your particular state to meet the requirements of section 508(e).

You attest that you are organized and operated exclusively to further charitable purposes and 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 domestic nonprofit corporation on C in the state of D.

Your Articles of Incorporation state, "The purpose of the organization is to raise funds to aid the members and their families with funeral expenses." Your Articles of Incorporation do not contain a dissolution clause.

You are a membership organization whose primary activity is raising money to help your members in the event of the death of a relative affiliated with your organization. You have members from several countries as well as members from many different cultures and religions.

At your inception, you provided families q dollars for funeral expenses, then increased it a few times to the current benefit of r dollars paid to those families who lose a family member.

Your membership fee for single members is u dollars. At your inception, your membership fee for families up to five members including husband and wife (or domestic partners) and children younger than 21 years old was s dollars, then has increased twice to the current fee of t dollars.

When a member dies everyone pays w dollars. In addition, members pay an annual fee of v dollars for your clerical expenses.

You stated that you emerged because of a specific necessity in the community, due to the fact that when a family that was already struggling financially had a family member die, they had to scramble and beg for money to provide a funeral for their loved ones. You also wrote you were formed for the community and open to all who wish to become members. You have a five member board and are run by volunteers who give their

time and efforts to help the community. You have operated without receiving any kind of government assistance nor have you requested such assistance.

You indicated you operate similar to churches because the members of the church receive help from the said church and your members receive help from you for all the effort they put into helping one another.

Since you began, you have welcomed everyone through public radio to join you in a meeting and if they wish, they are invited to join.

### **Law**

Section 501(a) of the Internal Revenue Code of 1986 provides for the exemption from federal income tax for organizations described in Section 501(c)(3) of the Code . Such organizations are recognized if they are organized and operated exclusively for religious, charitable, and educational purposes.

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.

Treasury Reg. Sec. 1.501(c)(3)-1(b)(1)(iv) states that in no case shall an organization be considered to be organized exclusively for one or more exempt purposes, if, by the terms of its articles, the purposes for which such organization is created are broader than the purposes specified in section 501(c)(3).

Treasury Reg. Sec. 1.501(c)(3)-1(b)(4) states 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.

Treasury Reg. Sec. 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.

Treasury Reg. Sec 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.

Revenue Ruling 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.

Revenue Ruling 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

In Better Business Bureau of Washington, D.C. v. United States, 326 U.S. 279 (1945), the Supreme Court determined that the presence of a single non-exempt purpose, if substantial in nature, will destroy exemption under section 501(c)(3) regardless of the number or importance of any other exempt purposes.

### **Application of law**

Treas. Reg. Section 1.501(c)(3)-1(a)(1) provides that 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 such section.

### Organizational Test

You do not meet the requirements in Treasury Reg. Sec 1.501(c)(3)-1(b)(1)(i). Your Articles of Incorporation state you are organized to raise funds to aid the members and their families with funeral expenses. Because your purpose clause is too broad, you are not organized exclusively for purposes described in the regulations.

Moreover, your Articles of Incorporation do not have a dissolution provision as required by Treas. Reg. Section 1.501(c)(3)-1(b)(4), which also causes you to fail the organizational test.

### Operational Test

You conduct an activity that provides direct benefits to members and private individuals that is more than insubstantial in nature. For this reason you are not operating exclusively for exempt purposes as described in Treas. Reg. Section 1.501(c)(3)-1(c)(1). As a result you do not satisfy the operational test requirement to be recognized as exempt under Section 501(c)(3) of the Code, and are not as described in Section 501(c)(3) of the Code.

You are similar to the organization described in Revenue Ruling 67-367. Like that organization, your activities serve to benefit your members rather than benefit the public. You are providing a set aside amount of funds payable, much like an insurance policy, to your members in the event of a family death. There is no charitable intent to the payments, qualification or review to determine need – the payments are automatic. The payment of these types of benefits to pre-selected, specifically named individuals serves a private interest rather than a public interest. 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.

The group of parents in Revenue Ruling 67-175 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 funding for funeral expenses of your members and their families.. The payments serve private rather than a public interest. 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

The Supreme Court held in Better Business Bureau of Washington, D.C. v. United States that a single nonexempt purpose, if substantial in nature, would preclude an organization from qualifying under section 501(c)(3) no matter the number or importance of truly exempt purposes. Your only activity presented, providing funds for funeral expenses to your members in the event of a family death is serving private, non-exempt purposes.

### **Conclusion**

Based on the above facts and analysis, you do not qualify for exemption under Section 501(c)(3) of the Code. You are not organized and operated exclusively for a 501(c)(3) purpose. You further the interests of your members which serves private interests. 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,

Steve A. Martin  
Director, Exempt Organizations  
Rulings and Agreements

Enclosure:  
Publication 892