



Department of the Treasury

Internal Revenue Service

P.O. Box 2508

Cincinnati, OH 45201

Date: November 19, 2018

Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

Number: **201907008**

Release Date: 2/15/2019

UIL: 501.03-30, 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.

Letter 4038 (Rev. 7-2014)

Catalog Number 47632S

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.

We sent a copy of this letter to your representative as indicated in your power of attorney.

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: September 17, 2018

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

B = Date

C = Date

D = State

E = Location

F = Organization

G = Name

q dollars= Amount

r dollars= Amount

UIL:

501.03-30

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.

Issue:

- 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 the state of D. 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 are a membership organization in E whose primary activity is collecting membership fees to provide financial assistance to help pay for funeral expenses of members or their families. When a member or one of their family members dies, you help cover the costs of the funeral to ease the financial burden of your members.

The membership fee for families is one single payment of q dollars while the membership fee for single members is one single payment of r dollars. Your members conduct your activities and your members elect your board of directors who are volunteers. You conduct a general assembly once every year but your activities will depend on the number of deaths. You also indicated you were formed to help your members.

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) 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.

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., Inc. v. United States, 326 U.S. 179 (1945), the Supreme Court held that the presence of a single non-exempt purpose, if substantial in nature, will destroy a claim for exemption regardless of the number or importance of truly exempt purposes. The Petitioner's activities were largely animated by non-exempt purposes directed fundamentally to ends other than that of education.

In Schoger Foundation v. Commissioner, 76 T.C. 380 (1981) it was held that if an activity serves a substantial nonexempt purpose, the organization does not qualify for exemption even if the activity also furthers an exempt purpose.

In La Verdad v. Commissioner, 82 T.C. 215 (1984), the administrative record did not demonstrate that the organization would operate exclusively in furtherance of an exempt purpose. Therefore, denial of the organization's request for tax-exempt status was reasonable.

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.

You conduct an activity that provides direct benefits to members and their family members 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).

You are similar to the organization described in Revenue Ruling 67-367. Like that organization, your activities serve to benefit your members and their families rather than benefit the public. You are providing financial assistance to help pay for funeral expenses of members or their families. For instance, when a member or one of their family members dies, you help cover the costs of the funeral. There is no charitable intent to the payments or qualification or review to determine need because 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. 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 group of parents in Revenue Ruling 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, you are primarily providing financial assistance for the funeral expenses of members and their families. The payments serve a 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.

Protest Position

You indicated collecting money from members and distributing such funds to members at the time of death is one of multiple activities and you wrote this was singled out.

You then provided the following details on why you were established:

- The communities you assist have been scattered and broken up into individual families with no place to go at times of crises.
- There is a need to handle and guide children so that they become successful in education.
- You will teach the young ones about their roots, history, language and culture so they do not forget.
- You will bring up the young in a religious spirit and assist them to learn religious aspects and learn to worship.
- You work with refugees from two different communities and are cognizant of the fact that almost all members of these two communities live on a hand to mouth income. You provide essential financial and social support to members of these two different communities.
- You assist in transporting the bodies of the deceased to their country of origin for the proper burial process which is very important to those communities you help.

You also wrote that your name is translated into “F” and that you were formed based on what is known as “G” in your culture. This concept is all inclusive and does not discriminate based on economic status, religion, gender, age, and/or political affiliation,

Furthermore, you indicated that you conduct activities that pervade all aspects of assistance during the times of both happiness and sorrow. You further stated that “It takes a village to raise a child”.

You also indicated that in order to assist families in financial crisis, you raise money from members and helping the needy families you wrote makes you a charitable organization. Finally, you stated that because your activities also include educational, religious, cultural, as well as guard the youth from juvenile delinquency and help the elderly, you deserve tax exempt status.

Our Response to your Protest Position

You failed to provide any additional information from which it can be concluded that your activities exclusively further or advance a purpose described in Section 501(c)(3) of the Code. Although you may have some charitable activities, like the organization described in Better Business Bureau, a substantial portion of your activities is providing financial assistance to your members. You are like the organization in Schoger Foundation v. Commissioner, because your activity of providing financial assistance to members serves a substantial non-exempt purpose even though some of your activities may accomplish exempt purposes. Similar to the organization in La Verdad v. Commissioner, the facts you provided do not demonstrate that you will operate exclusively in furtherance of an exempt purpose. Therefore, denial of your request for tax-exempt status is reasonable.

Conclusion

Based on the above facts and analysis, you do not qualify for exemption under Section 501(c)(3) of the Code. 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 and Treas. Reg. Section 1.501(c)(3)-1(a)(1). You further the interests of your members which serves private interests and are operating for substantial non-exempt purposes. 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. If you have questions, you can contact the person listed at the top of this letter.

This letter supersedes our letter dated June 4, 2018.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosure:
Publication 892