



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

Date:  
December 16, 2019  
Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

Number: **202011008**  
Release Date: 3/13/2020

**UIL Code: 501.03-30, 501.03-31**

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.

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 25, 2019  
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

UIL:  
501.03-30  
501.03-31

**Legend:**

P = Date 1  
Q = Date 2  
S = State  
W = Union local  
X = Persons engaged in a certain occupation  
Y = Date 3  
Z = Fundraising event  
l percent = percentage  
m percent = percentage  
n percent = percentage  
r percent = percentage  
u dollars = Amount of benefit

Dear \_\_\_\_\_ :

We considered your application for recognition of exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a). We determined that you don't qualify for exemption under IRC Section 501(c)(3). This letter explains the reasons 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 were incorporated on P in the state of S for the following purposes:

1. To administer a voluntary employees' beneficiary association providing for the payment of life, sickness, accident, or other benefits to the members of the Corporation or their dependents or designated beneficiaries as allowed by Section 501(c)(9) of the Internal Revenue Code of 1954 and Section 1.501(c)(9) of the Internal Revenue Code Regulations (or the corresponding provision of any future United States Internal Revenue Law).

2. To encourage cooperation among members of the Corporation to assist widows and orphans of deceased members of the Corporation.
3. To conduct fundraising activities including, but not limited to, raffles and bull roasts, to which the public shall be invited to participate in, for the benefit of the Corporation, so that it may provide the benefits described in paragraph No. 1 of this Article.
4. To receive and administer funds for the benefit of the Corporation so that it may provide the benefits described in paragraph No. 1 of this Article, and for no other purposes.

In Q you were determined to be exempt under Section 501(c)(5) of the Internal Revenue Code and are currently recognized to be exempt under that subsection. However, you have consistently identified yourself on your Form 990 information returns as an organization described in Section 501(c)(9) of the Code.

On Y you amended your Article of Incorporation to state that you are formed exclusively to further and promote charitable, religious, educational and scientific purposes with the business and object of providing for benefits for widows and orphans of fallen X and for lawful purpose that would further those ends, and providing for the disposition of your assets exclusively for charitable, educational, religious, or scientific purposes in the event of dissolution, and shortly thereafter submitted Form 1023, seeking exemption under Section 501(c)(3).

Members of your organization must be members of W. You provide death benefits to the widows and orphans of X, including providing financial assistance for funeral arrangements and outstanding hospital bills for sick and fallen X, purchasing flowers, grave markers, food and other materials for widows and orphans of X upon their decease. You maintain a database of all active and retired members and dependents. When you are notified of an active or retired member's death, you assist the family with all the departmental, city and state paperwork and guide them through the process. You provide a u dollars check once a family completes and submits a death benefit application and copy of the state death certificate.

Your sources of revenue are receipts from fundraising activities, investment income, and contributions. You conduct a Z and a golf tournament and raffle fundraisers. X may voluntarily donate a portion of their paychecks to the organization on a regular basis.

A significant portion of your expenses are distributions made to or for the benefit of members. Distributions to or for members in the tax years            through            were l, m, n, and r percent, respectively, of total expenses.

#### **Law**

Section 501(c)(3) of the Code provides for the recognition of exemption of organizations that are organized and operated exclusively for religious, charitable or other purposes as specified in the statute. No part of the net earnings may inure to the benefit of any private shareholder or individual.

Treasury Regulation Section 1.501(c)(3)-1(a)(1) states 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. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Treas. Reg. Section 1.501(c)(3)-1(c)(1) provides 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)(2) defines the term charitable as including the relief of the poor and distressed or of the underprivileged, and the promotion of social welfare by organizations designed to lessen neighborhood tensions, to eliminate prejudice and discrimination, or to combat community deterioration. The term "charitable" also includes lessening of the burdens of government.

In Police Benevolent Association of Richmond v. U.S., 661 F. Supp. 765 (E.D. Va. 1987) it was held that a police benevolent association that provided retirement benefits to its members did not qualify as a tax-exempt organization operated for charitable purposes under IRC 501(c)(3). The Association argued that it was described in IRC 501(c)(3) because its activities lessened the burden of the government; it assisted in recruiting better police officers, keeping them on the force and improving officer morale, which reduced the need to recruit and train new officers or pay higher pension benefits or other incentives. However, because the organization's Article of Incorporation limited providing supplemental benefits to retired active members and only officers who voluntarily joined and paid annual dues were eligible for pension benefits, the court concluded the organization served the private interests of its members in obtaining a larger pension upon retirement.

#### **Application of law**

You do not, as required by Tres. Reg. Sec.1.501(c)(3)-1(a)(1), meet the operational test for exemption under Section 501(c)(3) of the Code, because you are not operating exclusively for charitable purposes as required under Treas. Reg. Section 1.501(c)(3)-1(c)(1). Specifically, you do not engage primarily in activities which accomplish one or more of such exempt purposes specified in Section 501(c)(3) of the Code. Your activities do not further any exempt purpose but serve the private interests of active and retired members of W, like the Police Benevolent Association of Richmond.

#### **Conclusion**

You are not operated exclusively for exempt purposes within the meaning of Section 501(c)(3) of the Code and the related income tax regulations. Therefore, you do not qualify for exemption under Section 501(c)(3).

Your exemption under Section 501(c)(5) of the Code continues in effect.

#### **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.

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

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

- Your name, address, employer identification number (EIN), and a daytime phone number
- A statement of the facts, law, and arguments supporting your position

- A statement indicating whether you are requesting an Appeals Office conference
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization or your authorized representative
- The following declaration:

**For an officer, director, trustee, or other official who is authorized to sign for the organization:**  
Under penalties of perjury, I declare that I have examined this request, or this modification to the request, including accompanying documents, and to the best of my knowledge and belief, the request or the modification contains all relevant facts relating to the request, 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 they haven'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 gave us a basis to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't given us a basis for reconsideration, we'll send your case to the Appeals Office and notify you. You can find more information 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 later because the law requires that you use the IRC administrative process first (IRC Section 7428(b)(2)).

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

Send your protest, Form 2848, if applicable, and any supporting documents to the applicable address:

U.S. mail:

Internal Revenue Service  
EO Determinations Quality Assurance  
Mail Stop 6403  
P.O. Box 2508  
Cincinnati, OH 45201

Street address for delivery service:

Internal Revenue Service  
EO Determinations Quality Assurance  
550 Main Street, Mail Stop 6403  
Cincinnati, OH 45202

You can also fax your protest 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 they received it.

You can get the forms and publications mentioned in this letter by visiting our website at [www.irs.gov/forms-pubs](http://www.irs.gov/forms-pubs) or by calling 800-TAX-FORM (800-829-3676). If you have questions, you can contact the person listed at the top of this letter.

**Contacting the Taxpayer Advocate Service**

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or if you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit [www.taxpayeradvocate.irs.gov](http://www.taxpayeradvocate.irs.gov) or call 877-777-4778.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements