



Department of the Treasury

Internal Revenue Service

P.O. Box 2508

Cincinnati, OH 45201

Number: **202015018**
Release Date: 4/10/2020

Date:
January 15, 2020
Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

UIL Number: 501.07-00, 501.07-06

Dear :

This letter is our final determination that you don't qualify for tax-exempt status under Section 501(c)(7) 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.

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.

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 4034, *Proposed Adverse Determination under IRC Section 501(a) Other Than 501(c)(3)*

Redacted Letter 4040, *Final Adverse Determination under IRC Section 501(a) Other Than 501(c)(3) - No Protest*



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

Date:
November 4, 2019
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

B = Date

C = State

y dollars = Amount

z dollars = Amount

UIL:

501.07-00

501.07-06

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)(7). This letter explains the reasons for our conclusion. Please keep it for your records.

Issues

Do you qualify for exemption under IRC Section 501(c)(7)? No, for the reasons stated below.

Facts

You were incorporated on B in the State of C. Your Articles of Incorporation state you are a cooperation established among close friends agreeable and willing to extend their support to each other in case of emergencies. Your Articles also state that membership is not open to the general public.

Your only activity is to support a member during a qualified death in the family. Therefore, members are preparing for such event by collecting membership fees, which will be used to support one another during a qualified death in the family.

Your membership is not open to the general public; rather you are comprised of close friends. If you choose to admit a new member, the proposed member must be vouched for by at least three existing members. Newly admitted members are required to pay a catch-up lump sum contribution equivalent to the sum of the group's assets and liabilities at the time of admission, divided by the total number of active group members.

In the event of a qualifying death, z dollars will be “donated” to support a member, member’s spouse, or any other qualifying beneficiary. A qualifying death includes the following:

- Death of a member or their spouse
- Death of a member’s or their spouse’s biological parent
- Death of a member’s or their spouse’s biological sibling
- Death of a member’s legal child, and
- Death of a relative or a visitor occurring in a member’s home, as long as the member will be responsible or involved in meeting the funeral expenses.

Your only source of revenue is the membership fee of y dollars per member per month.

Law

IRC Section 501(c)(7) provides for the exemption from Federal income tax for clubs organized for pleasure, recreation, and other non-profitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder.

Treasury Regulation Section 1.501(c)(7)-1(a) states that exemption described in IRC Section 501(c)(7) applies only to clubs which are organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, but does not apply to any club if any part of its net earnings inures to the benefit of any private shareholder.

Rev. Rul. 55-716, 1955-2 CB 263, holds that an organization formed for the purpose of furnishing television antenna service to its members upon payment of a stipulated membership fee and a monthly charge for maintenance of the antenna was not tax exempt under IRC Section 501(c)(7). The term “club,” as used with Section 501(c)(7), contemplates a commingling of members, one with the other, in fellowship. Personal contacts and fellowship must play a material part in the life of an organization for it to come within the meaning of the term “club.”

Rev. Rul. 63-190, 1963-2 C.B. 212, describes an organization that maintains a social club for members and also provides sick and death benefits for members and their beneficiaries. The purposes of the organization are to spread friendship and fraternity in the club; to aid the membership in the event of illness, personal injury, or accident; to pay benefits to sick members; in the event of death, to pay a death benefit to whomever the member shall have designated; and to develop patriotism among the membership. The organization does not qualify for exemption as a social club under IRC Section 501(c)(7).

Rev. Rul. 69-635, 1969-2 CB 126, holds that an automobile club whose principal activity is rendering automobile services to its members but has no significant social activities, does not qualify for exemption under IRC Section 501(c)(7). The performance of motorist convenience services is not in the nature of pleasure and recreation within the meaning of Section 501(c)(7). Further, commingling of members did not play a material part in the activities of the organization.

In Keystone Automobile Club v. Commissioner, 181 F. 2d 402 (3rd Cir. 1950), the United States Court of Appeals 3rd Circuit defined the word “club” to include some type of mingling of people together as well as a common object. In this case, the court held that the club was not exempt under IRC Section 101(9) [now Section 501(c)(7)] for multiple reasons, including that they saw no evidence of the commingling of members.

The court held that the fact that people save each other money by employing a common agent from whom to procure these services did not make them club members, even in the loosest sense of the term.

Allied Trades Club, Inc. v. Commissioner, 228 F.2d 906 (1956), describes an organization operating a social club for members of a trade union. The organization also proposed to operate a death benefit fund, payable in the case of the death of a current, dues-paying member in good-standing. The death benefit fund program was not an isolated transaction, and it could not be classified as an operation for pleasure, recreation, or social purpose. Furthermore, the part of its net earnings set aside for the death benefits inured to the benefit of members. Therefore, the petitioner was not operating exclusively for pleasure, recreation, or social purposes, and was denied exemption, based on the operation of the death benefit fund.

Application of law

You are not described under IRC Section 501(c)(7) or Treas. Reg. Section 1.501(c)(7)-1(a) because your only activity of offering monetary death benefits to members does not further a social or recreational purpose. Moreover, providing financial benefits to your members constitutes inurement to your private shareholders.

You are like the denied organizations described in Rev. Rul. 55-716 and Rev. Rul. 69-635 which describe organizations which provide services to members for a fee and are absent any commingling of members. Likewise, you provide monetary death benefits for your members, and you do not sponsor commingling or fellowship, which precludes you from exemption under IRC Section 501(c)(7).

You are analogous to the non-qualifying organization in Rev. Rul. 63-190, as you provide monetary death benefits for your members and their beneficiaries. Unlike you, the instant organization offered some social and recreational activities, the presence of which still did not allow them to qualify.

As in Keystone Automobile Club, your sole purpose is to provide benefits for your members, which cannot be construed as furthering pleasure, recreation, and other non-profitable purposes and does not provide any comingling for your members. Accordingly, you do not qualify for exemption under IRC Section 501(c)(7).

As in Allied Trades Club, Inc., you operate a death benefit fund. While the instant club had some social activities, you have none. Therefore, you are not exempt under IRC Section 501(c)(7).

Conclusion

You do not qualify for recognition of tax exemption under IRC Section 501(c)(7) because providing monetary death benefits to your members causes prohibited inurement and does not further pleasure, recreation, or other non-profitable purposes. You also do not offer any commingling programs for your members, which is a key criterion to be considered under Section 501(c)(7). For these reasons, you do not qualify for exemption under Section 501(c)(7).

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 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 or call 877-777-4778.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements