



Department of the Treasury  
Internal Revenue Service

P.O. Box 2508  
Cincinnati, OH 45201

Release Number: **202016026**  
Release Date: 4/17/2020  
UIL Number: 501.32-00, 501.33-00

Date:  
January 21, 2020

Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

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

This letter is our final determination that you don't qualify for tax-exempt status under Internal Revenue Code (IRC) Section 501(c)(3). 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 IRC Section 501(c)(3), donors can't deduct contributions to you under IRC Section 170. 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 IRC Section 6110) 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 IRC Section 6104(c)). 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:  
November 21, 2019  
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

**Legend:**

M = State  
B = Date  
C = Name  
X = Name  
Y = Name

**UIL:**

501.32-00  
501.33-00

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 IRC Section 501(c)(3)? No, for the reasons stated below.

**Facts**

You incorporated in the state of M on B. Your Articles of Incorporation and bylaws state that you were formed to raise funds to provide scholarships and financial aid to members of the C family. Your bylaws list your specific objectives and purposes as to:

- provide college scholarships to high school seniors planning to attend an accredited college or university, or a technical or vocational program;
- provide assistance to family members facing financial hardships; and
- sponsor, host, or participate in events and activities that promote the provision of college scholarships and financial aid.

Your governing body is comprised of members of the C family, and you stated that you were established to provide a means to support members of the C family. Your primary focus is to provide small scholarships to high school seniors.

You will give scholarships to members of the C family as well as other individuals who share the C family's value of sustaining family ties. To that end, you will make awards available to any student whose family holds annual family reunions.

Scholarships are intended to help pay for room and board, books, and school supplies for individuals who have been accepted to an accredited college or university or who plan to enroll in a technical or vocational program. You anticipate that the majority of scholarships will be awarded to individuals who are members of the C family.

You will also provide financial assistance to individuals who are unable to meet their financial obligations, especially following the loss of a close family member. Funds will also be made available to individuals to attend their family reunion. While you will not limit distributions to members of the C family, you will give priority to individuals with a connection to the C family. You anticipate that the majority of distributions will be made to individuals who are members of the C family.

You will promote your programs through X's and Y's social media networks as well as your website.

You will be supported by funds from members of the C family but will also accept donations. Substantially all your expenses are related to scholarships and distributions to individuals facing financial hardships.

#### **Law**

Treasury Regulation Section 1.501(c)(3)-1(a)(1) states that, in order to be exempt as an organization described in IRC Section 501(c)(3), 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) of the regulations provides that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities that accomplish one or more of such exempt purposes specified in IRC Section 501(c)(3). 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(c)(2) provides an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

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 did not qualify for exemption under IRC Section 501(c)(3) because it was serving the private interests of its subscribers rather than public or charitable interests.

Revenue Ruling 69-175, 1969-1 C.B. 149, describes an organization formed by the parents of pupils attending a private school exempt under IRC Section 501(c)(3). The organization provides bus transportation to and from the school for those children whose parents belong to the organization. The ruling states that when a group of

individuals associate to provide a cooperative service for themselves, they are serving a private interest. By providing bus transportation for school children to school, the organization enables the participating parents to fulfill their individual responsibility of transporting their children to school.

Revenue Ruling 80-302, 1980-2 CB 182, describes an organization that (1) limits its membership to descendants of a particular family, (2) compiles family genealogical research data for use by its members for reasons other than to conform to the religious precepts of the family's denomination, (3) presents the data to designated libraries, (4) publishes volumes of family history, and (5) promotes social activities among family members. The organization did not qualify for exemption under IRC Section 501(c)(3) because the activities are primarily limited to one particular family. Therefore, these activities do not advance education to benefit the public interest.

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279 (1945), the court held that the presence of a single non-exempt purpose, if substantial in nature, will preclude exemption regardless of the number or importance of statutorily exempt purposes.

In Charleston Chair Co. v. United States, 203 F Supp. 126 (1962), the court held that a scholarship fund established to give scholarships to relatives of the organizer or donor is not exempt, even if the students are poor.

In Benjamin Price Genealogical Association v. Commissioner, 44 A.F.T.R.2d (1979), the court held that an organization formed to disseminate information on, and to preserve documents relating to, the genealogy of Benjamin Price did not qualify for exemption under IRC Section 501(c)(3) because it was created and operated primarily for the benefit of the private interests of its members rather than exclusively for educational purposes.

In Wendy Parker Rehabilitation Foundation, Inc. v. Commissioner, T.C. Memo 1986-348, the organization was created by the Parker family to aid an open-ended class of "victims of coma." However, the organization stated that it anticipated spending 30 percent of its income for the benefit of Wendy Parker, significant contributions were made to the organization by the Parker family, and the Parker family controlled the organization. Wendy's selection as a substantial recipient of funds substantially benefited the Parker family by assisting with the economic burden of caring for her. The benefit did not flow primarily to the general public as required under Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii). Therefore, the organization did not qualify for exemption under IRC Section 501(c)(3).

#### **Application of law**

Treas. Reg. Section 1.501(c)(3)-1(a)(1) provides that an organization described in IRC Section 501(c)(3) must be operated exclusively for one or more of the purposes specified in such section. Treas. Reg. Section 1.501(c)(3)-1(c)(1). Because more than an insubstantial part of your activities involves awarding scholarships and financial aid to members of the C family, you do not engage primarily in activities that accomplish one or more of such exempt purposes.

Treas. Reg. Section 1.501(c)(3)-1(c)(2) provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals. Your net earnings inure in part or in whole to the benefit of members of the C family. You do not, therefore, meet the operational test under IRC Section 501(c)(3).

Likewise, you do not meet the requirement of Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) because you operate for private interests rather than public interests by awarding scholarships and financial aid to members of the C family.

You are like the organizations described in Revenue Rulings 67-367, 69-175, and 80-302 and Benjamin Price Genealogical Association because you serve the private interests of the C family rather than the public interest.

Although you conduct some activities that benefit the public, you have specifically been raising funds since inception for the non-exempt purpose of awarding scholarships and financial aid to members of the C family. According to the court in Better Business Bureau of Washington, D.C., Inc., such a single non-exempt purpose, if substantial in nature, will preclude exemption regardless of the number or importance of exempt purposes the organization serves.

You closely resemble the organizations described in Charleston Chair Co. and Wendy Parker Rehabilitation Foundation, Inc. because you were formed to relieve the C family's economic burdens.

### **Conclusion**

Based on the information submitted, you fail the operational test under IRC Section 501(c)(3) because your funds inure to the benefit of the C family. Additionally, your activity of awarding scholarships and distributing funds to the C family constitutes a substantial non-exempt purpose. Therefore, you do not qualify for exemption under Section 501(c)(3).

### **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