



**Department of the Treasury  
Internal Revenue Service**

P.O. Box 2508  
Cincinnati, OH 45201

Number: 202017030  
Release Date: 4/24/2020

UIL Number: 501.03-30, 501.32-01, 501.33-00

**Date:** January 30, 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:  
December 11, 2019  
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

**Legend:**

M = State  
B = Date  
C = National identity  
D = City  
v dollars = Amount  
w dollars = Amount  
x dollars = Amount  
y dollars = Amount  
z dollars = Amount

**UIL:**

501.03-30  
501.32-01  
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 bylaws describe you as a mutual assistance membership organization whose objectives include collecting contributions and membership fees from members and disbursing funds to members or their families to carry out burial services and related ceremonies when there is a death of a member or a member's family member.

Membership in your organization is open to any C as well as persons of C heritage or their spouses over the age of 18 who reside in the metropolitan area of D. You stated that your mission is to help C families with expenses incurred due to a death in the family.

Your website includes a membership form and administrative regulations. New members are eligible for death benefits after one month of membership. The administrative regulations show different levels of benefits that will be paid to a member or a member's family in the event of a death.

Members pay a one-time membership fee of v dollars and must contribute between w dollars and x dollars within        days following the death of a member or a member's family member based on the number of members of a single family who die at the same time. When a member or member's family member dies, you pay a death benefit of between y dollars and z dollars. You will distribute funds directly to the funeral home or morgue handling the funeral.

You promote your program to the community by word of mouth, the internet, flyers, brochures, and through relationships with local nonprofit organizations. In addition to member contributions, you will raise funds from individuals and businesses.

### **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(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.

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 The Church in Boston v. Commissioner, 71 T.C. 102 (1978), an organization made grants to various individuals, including officers of the church. Although the church contended that the grants were made to assist the poor who needed food, clothing, shelter, and medical attention, the church failed to provide any documented criteria demonstrating the selection process of recipients and the reasons for the specific amounts given. The court affirmed the determination that the church failed to establish that its grant program constituted an activity in furtherance of an exempt purpose.

### **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. You do not meet the operational test because you are not, as Treas. Reg. Section 1.501(c)(3)-1(c)(1) requires, operated exclusively for one or more exempt purposes. Because more than an insubstantial part of your activities involves providing death benefits for the benefit your members and their families, you do not engage primarily in activities that accomplish one or more of such exempt purposes.

Likewise, you do not meet the requirement of Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) because your membership is a group of individuals who associated to provide a cooperative service for themselves. This serves the private interest of your members rather than a public interest.

You are like the organization described in Revenue Ruling 69-175 in that you provide a cooperative service that enables your members to meet their personal obligations. As a result, the benefits you offer to your members serve their private interests and not the interests of the public.

Like the organization described in Better Business Bureau of Washington, D.C., Inc., you further a substantial non-exempt purpose, which precludes your claim for exempt status under IRC Section 501(c)(3).

Like the organization described in The Church in Boston, you do not apply eligibility criteria to determine the charitable need of the recipient before payments are made. Your payments are distributed like those of the organization described in Revenue Ruling 67-367 in that after a death occurs, the payments are automatic and are made on behalf of a pre-selected, specifically named individual or their family to help them pay funeral expenses.

### **Conclusion**

Based on the information submitted, you fail the operational test under IRC Section 501(c)(3) because your activity of providing death benefits to pre-selected individuals and their families 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