



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

Number: **202021021**
Release Date: 5/22/2020

UIL Number: 501.03-30, 501.33-00, 501.35-00

Date: February 26, 2020

Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:
1120
Tax years: All

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.

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 23, 2019

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

V = Date
W = Date
X = Date
Y = State
Z = Ethnicity
q dollars = Amount
r dollars = Amount
s dollars = Amounts

UIL:

501.03-30
501.33-00
501.35-00

Dear _____ :

We considered your application for recognition of exemption from federal income tax under Internal Revenue Code ("Code") Section 501(a). We determined that you don't qualify for exemption under Code 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 submitted Form 1023-EZ, Streamline Application for Recognition of Exemption Under IRC Section 501(c)(3) on V. You were never formally recognized as exempt under IRC Section 501(c)(3) but your exemption was automatically revoked as of W for failure to timely file Form 990 for three consecutive years.

You attest that you were incorporated on X in the state of Y. 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 the IRC 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).

Letter 4034 (Rev. 11-2018)
Catalog Number 47628K

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 IRC 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.

You indicated on the Form 1023-EZ that you were formed to promote, friendship, cooperation and mutual assistance among members and provide assistance and counseling to members during sickness, accident, and death. You also promote community service.

During review of your Form 1023-EZ, detailed information was requested supplemental to the information provided with your application.

You provided Articles of Incorporation that were filed on X in Y. They indicated your purpose is to promote friendship, cooperation and mutual assistance among your members. You also provided Articles of Association whose purpose states that your short-term objectives are to facilitate and enable cooperation of your members through regular meetings and providing assistances by appearing in person for occasions of grief, celebrations as well as to provide financial assistance from members' deposits.

You are a membership organization in Y consisting of persons of Z ethnicity, who have been accepted by the other members. Members meet every other month in a different member's residence on a rotating basis and during the summer, you have an annual member's family picnic.

Your primary activity is collecting membership fees to provide support to members during sickness or financial distress. In addition, when a member or one of their immediate family members dies, you help cover the costs of the funeral to ease their financial burden. The amount of support you provide for grief events varies in the range of r dollars depending on the situation. Furthermore, you often provide financial coverage in the range of s dollars for celebratory occasions such as births, marriages, and first home purchases.

You are supported by membership fees. Membership requires a fee of q dollars every two months. Members are also charged a small fee if they are late to a meeting or simply don't attend. If members fail to participate in four meetings, they may be dismissed if there is no valid reason for their absence.

Finally, your members volunteer to help the elderly in cleaning, buying groceries and general counseling.

Law

IRC Section 501(c)(3) 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 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(b)(1)(i) provides that an organization is organized exclusively for one or more exempt purposes only if its articles of organization:

- (a) Limit the purposes of such organization to one or more exempt purposes; and
- (b) Do not expressly empower the organization engage, otherwise than as an insubstantial part of its activities, in activities that in themselves are not in furtherance of one or more exempt purposes.

Treas. Reg. Section 1.501(c)(3)-1(c)(1) states that in order to meet the operational test, 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) provides that an organization is not organized or operated exclusively for 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 IRC Section 501(c)(3) because it served a private rather than public interest.

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 fail both the organizational test and the operational test.

The purpose in your Articles of Incorporation states “ to promote friendship, cooperation and mutual assistance among your members. Because your Articles of Incorporation do not limit your purposes to those described in Treas. Reg. Section 1.501(c)(3)-1(b)(1)(i), you fail the organizational test in IRC Section 501(c)(3).

You do not meet the provisions of Treas. Reg. Section 1.501(c)(3)-1(c)(1). You are operated to provide direct economic benefits to members. For example, you provide financial assistance to members for such things as buying a home, funeral expenses, and birth of a member’s child. This serves a substantial nonexempt private purpose, which precludes exemption under IRC Section 501(c)(3).

You are not described in Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) because you are operating for the private interests of your members. This is evidenced by the fact you are operated to provide financial assistance to members.

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. For instance, when a member or one of their family members dies, you help cover the costs of the funeral. When a member wishes to buy a home, you provide financial aid. 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 which precludes exemption under IRC Section 501(c)(3).

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 as well as providing benefits for other occasions such as buying a home or the birth of a child. The payments serve a private rather than a public interest which precludes exemption under IRC Section 501(c)(3).

Conclusion

Based on the above facts and analysis, you do not satisfy the organizational and operational tests’ requirements to be recognized as exempt under IRC Section 501(c)(3). You further the interests of your members, which serves private interests and you are operating for substantial non-exempt purposes. 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 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