



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
PO Box 2508
Cincinnati, OH 45201

Date: November 10, 2020

Employer ID number:

Form you must file:

Tax years:

Person to contact:

Name:

ID number:

Telephone:

Number: **202105010**
Release Date: 2/5/2021

UIL Number: 501.03-00, 501.33-00

Dear _____ :

This letter is our final determination that you don't qualify for exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a) as an organization described in 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 generally can't deduct contributions to you under IRC Section 170.

We may notify the appropriate state officials of our determination, as required by IRC Section 6104(c), by sending them a copy of this final letter along with the proposed determination letter.

You must file the federal income tax forms for the tax years shown above within **30 days** from the date of this letter unless you request an extension of time to file. For further instructions, forms, and information, visit www.irs.gov.

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection after deleting certain identifying information, as required by IRC Section 6110. 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 call the contact person shown above. If you have questions about your federal income tax status and responsibilities, call our customer service number at 800-829-1040 (TTY 800-829-4933 for deaf or hard of hearing) or customer service for businesses at 800-829-4933.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosures:

Notice 437

Redacted Letter 4034

Redacted Letter 4038



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

Date: September 15, 2020

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

V = Date

W = Date

X = State

b = Number

c = Number

d dollars = Amount

UIL:

501.00-00

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 submitted Form 1023-EZ, *Streamline Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, on V.

You attest that you were incorporated on W, in the state of X. 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 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 IRC Section 501(c)(3).

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

Your mission on the Form 1023EZ shows that you are helping individuals climb out of student loan debt by providing money and resources. The money raised will be used to pay down student loan debt. You will also offer resources to educate borrowers of how to pay off debt quicker and how to utilize student loans responsibly.

Detailed information was subsequently requested. You indicated that your process for applying for student loan debt repayment will be to have individuals who are U.S. citizens, making less than b thousand dollars per year and have student loans with U.S. banks, complete an application on your website and pay the application fee of d dollars.

Once you verify the information in the application, each participant will be assigned a number, When enough funds have been collected, a number is chosen randomly. The participant with the winning number will have up to c thousand dollars paid on their student loan debt. The funds are paid directly to the lender to ensure the funds are used as intended.

There will be three non-board members who will be involved the selection process. The first individual will safeguard the list of eligible participants with their assigned corresponding number. The second individual will be responsible for using your system of randomly choosing a number and subsequently will communicate the winning number to the first individual who then identifies the winning participant. The winner's name is communicated to the third individual who verifies the winner. The amount paid on the winner's student loan will be determined by how much money you have raised through donations and application fees. Further, the amount that will be paid by you will be announced prior to applications being submitted for that particular payout.

Your board members are not eligible to receive funds, but their family members are eligible to participate. The board member who has a family member participating cannot be part of the selection process.

You will promote your organization as well as raise funds by having tables at conferences, community events, educational seminars and colleges. At these events, you will also have materials that educate the general public about student debt and how to manage and avoid it. You will also conduct fundraising events such as silent auctions and painting workshops at least once a quarter.

You have a three-person board and are operated by volunteers.

Law

IRC Section 501(c)(3) exempts from federal income tax corporations organized and operated exclusively for charitable, educational, and other purposes, provided that no part of the net earnings inures to the benefit of any private shareholder or individual.

Treasury Regulation Section 1.501(c)(3)-1(a)(1) provides 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) 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 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) provides that an exempt organization must serve a public rather than a private interest. It must not be operated for the benefit of designated individuals or the persons who created it.

Treas. Reg. Section 1.501(c)(3)-1(d)(2) defines the term "charitable" as including relief of the poor and distressed or underprivileged, lessening the burdens of government, and promotion of social welfare by organizations designed to combat community deterioration.

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279, 66 S. Ct. 112, 90 L. Ed. 67, 1945 C.B. 375 (1945), the Supreme Court stated that the presence of a single nonexempt purpose, if substantial in nature, will preclude exemption under IRC Section 501(c)(3), regardless of the number or importance of statutorily exempt purposes.

In Harding Hospital, Inc. v. United States, 505 F.2d 1068 (6th Cir. 1974), the court held that an organization seeking a ruling as to recognition of its tax-exempt status has the burden of proving that it satisfies the requirements of the particular exemption statute.

Application of law

IRC Section 501(c)(3) and Treas. Reg. Section 1.501(c)(3)-1(a)(1) set forth two main tests to qualify for exempt status. An organization must be both organized and operated exclusively for purposes described in IRC Section 501(c)(3). You have failed to meet the operational test, as explained below.

Your activities are not exclusively serving charitable purposes within the meaning of Treas. Reg Section 1.501(c)(3)-1(d)(2). For example, you are operating a lottery system for any person earning less than b thousand dollars per year to take a chance on having you pay up to c thousand dollars on their student loans. These facts show you are not providing relief to the poor and distressed within the meaning of the regulations or serve any other purpose recognized as charitable. Providing benefits to individuals who are not members of a charitable class is not a charitable activity and you are therefore not operated exclusively for charitable purposes.

You are not operated per Treas. Reg. Section 1.501(c)(3)-1(c)(1) because more than an insubstantial part of your activities is devoted to a non-exempt private purpose. You are providing payments for private individuals with student debt who make less than b thousand dollars per year who win your lottery system. Your selection process does not exclusively benefit a charitable class or purpose defined in the Regulations.

You do not meet the provisions of Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii). Anyone who earns less than b thousand dollars per year with student loan debt at a U.S. bank can complete an application on your website and pay the fee of d dollars to compete in a lottery system to have up to c thousand dollars paid on their student loan. This shows that you are serving private interests which prevents you from qualifying under IRC Section 501(c)(3).

While some of your activities may be educational within the meaning of IRC Section 501(c)(3), a substantial part of your activities serves the private interests of private persons whose student debt you repay. As the court found in Better Business Bureau of Washington, D.C. v. U.S., the presence of a single, substantial non-exempt private purpose will preclude exemption regardless of the number of other exempt purposes.

Your position

You help individuals who are U.S. citizens, making under b thousand dollars with student loan debt in a U.S. bank pay up to c thousand dollars on their student loan debt. They would fill out an application and pay an application fee to participate in the program. The funds would be raised through application fees, donations and fundraisers. Winners would be randomly selected to have their student loan debt paid and funds would be paid directly to their lenders. You will also provide loan education to help students make informed decisions about their student loan debt.

Our response to your position

You have failed to provide any information that shows you are operating exclusively for purposes described under IRC Section 501(c)(3). As described previously, the funds you provide to the winners of the lottery for student loan repayment do not further charitable purposes because they are not directed exclusively to low-income individuals nor to individuals who are poor and distressed. Similar to the organization in Harding Hospital, Inc. v. United States, 505 F2d 1068 (1974), you have failed to provide sufficient information to prove to us that you are operating exclusively for purposes described in Section 501(c)(3).

Conclusion

Based on the facts and information provided, you are not operated exclusively for exempt purposes. You are providing benefits to private persons who are not members of a charitable class. You do not serve a public interest but rather a private interest. Contributions to you are not deductible under IRC Section 170.

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