



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

Date: December 8, 2020

Employer ID number:

Form you must file:

Tax years:

Person to contact:

Name:

ID number:

Telephone:

Number: **202109008**
Release Date: 3/5/2021

UIL: 501.00-00, 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: October 6, 2020

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

B = State

C = Date

t dollars = Amount

u dollars = Amount

v dollars = Amount

w 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 were incorporated in the state of B on C. Your purpose indicates you are organized to help students deal with their student loans and for exclusively religious, charitable, scientific, literary, and educational purposes within the meaning of IRC Section 501(c)(3).

You wrote that Americans collectively have over a trillion dollars in student loan debt spread among millions of borrowers. You stated that 11.5% of student loans are 90 days or more delinquent or are in default. There are few programs that offer relief to the students from this debt.

To address student loan debt, you will conduct a Student Loan Lottery among the millions of current debt holders, millions of current college students and their parents, which will provide a potential player pool of over million. This lottery will cost these players nothing.

You will model your lottery program using concepts similar to those used in Prize Linked Savings Account lotteries. You further explained that to motivate increased savings, Congress in December 2014 passed the

“American Savings Promotion Act” (HR3374) which made it legal for Federal Savings Banks and Credit Unions to operate “Prize Linked Savings Account” lotteries.

Specifically, in your lottery, participants will deposit a minimum of t dollars in a savings account or certificate of deposit in a Prize Linked Savings Account and a percentage of these participants will have the opportunity and substantial incentive to increase their savings account from u dollars up to v dollars. You will also operate in conjunction with federal savings banks or federal credit unions which already have authorized PLSA’s. Because it is a normal practice for these accounts to have a time requirement, you will as well. Moreover, you stated that the collective amounts of these savings accounts will be invested under the direction of a corporation in guaranteed investment contracts with at least a yield of . The interest income funds will be used to create the prize pool for the winners of the lottery and pay operating costs. You have determined that the first prize will be based on the average debt of the millions who have student loan debt and will be about w dollars. This prize can be used to pay off student debt or for a scholarship for new /existing students in order to motivate the millions of current college participants and their parents.

The lottery is open to all who place a minimum of t dollars into a savings account. The recipients are selected by random computer pick of numbers. The number of grants will be determined by the funds available from interest yield of the total deposits. Further, you plan to have 50% of the loan winners to come from the group of 11.5% of student loans which are 90 days or more delinquent or are in default.

You have one member on your governing body, who is a volunteer. You state that your program fits the criteria of relief of the poor, the distressed, or the underprivileged as you will provide services to those who are in default on student loans and those who are struggling to keep from being in default. Your program will also lessen the burdens on the government.

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 in 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.

Revenue Ruling 85-2, 1985-1 C.B. 178 describes an organization legal assistance for guardians ad litem. An organization that provides legal assistance to guardians ad litem who represent abused and neglected children before a juvenile court that requires their appointment lessens the burdens, of government and, therefore, qualifies for exemption under IRC Section 501(c)(3). A determination of whether an organization is lessening the burdens of government requires consideration of whether the organization's activities are activities that a governmental unit considers to be its burdens, and whether such activities actually 'lessen' such governmental burden.

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279 (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. Thus, the operational test standard prohibiting a substantial non-exempt purpose is broad enough to include inurement, private benefit, and operations that further nonprofit goals outside of the scope of Section 501(c)(3).

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, anyone with student loan debt or wishes to receive a scholarship to avoid student loan debt can enter the lottery as long as they set up a Prize Linked Savings Account and deposit t dollars. These facts show you are not providing relief to the poor and distressed within the meaning of the regulations or that you are exclusively serving any other purpose recognized as charitable. Further, your selection process does not exclusively benefit a charitable class or other purpose defined in the Regulations.

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 who win your lottery system either to be used for student loan or as scholarships.

You do not meet the provisions of Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii). A substantial part of your activities serves the private interests of the persons who win your lottery. In addition, participants also have the opportunity and substantial incentive to increase their savings account from u dollars up to v dollars. This also shows you are serving the private interests.

You are not like the organization described in Revenue Ruling 85-2. You have not demonstrated that your activity of operating a lottery for individuals in order to have a chance to win funds to pay student loan debt lessens the burdens of government. You have not shown that the activities you conduct are of the type that have been assumed by a government agency as its burden. As noted in the revenue ruling, there must be an objective manifestation that the government considers an activity to be its burden. The mere fact that a governmental agency has a policy or program to promote a certain outcome does not mean that the government has assumed the burden of engaging in that activity.

While some of your activities may be charitable 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.

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 IRC 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. Accordingly, you do not qualify for exemption under IRC Section 501(c)(3) and you must file federal income tax returns. Contributions to you are not deductible under section 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