



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

Number: **202133015**  
Release Date: 8/20/2021

Date: May 25, 2021

Employer ID number:

Form you must file:

Tax years:

Person to contact:

Name:

ID number:

Telephone:

**UIL: 501.10-00**

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)(10). 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.

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](http://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: April 5, 2021

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

**Legend:**

C = State

D = Date

E = Organization Name

F = Region

UIL:

501.10-00

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)(10). 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)(10)? No, for the reasons stated below.

**Facts**

You incorporated in C on D for the purpose of helping and supporting the E community in the local area. You submitted Form 1024 to request exemption under IRC Section 501(c)(10) and indicated on the Schedule E, that you will not operate under the lodge system nor will you provide payment of life, sick, accident or other benefits. Specifically, you provide a place for members of E to hold their meetings.

Detailed information was subsequently requested. Information submitted reiterates that you do not operate under the lodge system. You further explained that you offer a place for members of E to have meetings in order to assist them in achieving and maintain sobriety. You also indicated that E is not described in IRC Section 501(c)(8) or IRC Section 501(c)(10). You have negotiated a rent free agreement with the building's owners to maintain the property and pay utilities in exchange for having unlimited access. In addition, you have entered into an agreement with E to provide a space for any of their member chapters in F in order for them to hold their meetings on a regular basis. You pay no dues or fees. All your income is from voluntary contributions from E meetings. Your board uses these contributions to pay utilities and make decisions on appropriating the remaining funds for building and property maintenance and upgrades. Your income is spent on providing safe, comfortable and a readily available building space for members of E.

**Law**

IRC Section 501(c)(8) of the Internal Revenue Code provides for the exemption from federal income tax of fraternal beneficiary societies, orders, or associations

- (A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and
- (B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents.

IRC Section 501(c)(10) provides for the exemption from federal income tax of domestic fraternal societies, orders, or associations operating under the lodge system, the net earnings of which are devoted exclusively to religious, charitable, scientific, literary, educational, and fraternal purposes, and which do not provide for the payment of life, sick, accident, or other benefits.

Treas. Reg. Section 1.501(c)(8)-(a) states that a fraternal beneficiary society is exempt from tax only if operated under the "lodge system" or for the exclusive benefit of the members so operating. "Operating under the lodge system" means carrying on its activities under a form of organization that comprises local branches, chartered by a parent organization and largely self-governing, called lodges, chapters, or the like. In order to be exempt it is also necessary that the society have an established system for the payment to its members or their dependents of life, sick, accident, or other benefits.

Treasury Regulation Section 1.501(c)(10)-1 provides that an organization will qualify for exemption under IRC Section 501(c)(10) if it is a domestic fraternal beneficiary society, order, or association, described in Section 501(c)(8) and the regulations thereunder, except that it does not provide for the payment of life, sick, accident, or other benefits to its members, and devotes its net earnings exclusively to religious, charitable, scientific, literary, educational, and fraternal purposes.

The court in National Union v. Marlow 74 F. 775, 778-779 (8 Cir. 1896) stated that even if the member of an organization enjoys a common tie or goal, the organization does not serve a fraternal purpose unless its members engage in fraternal activities.

In Philadelphia and Reading Relief Association v. Commissioner, 4 B.T.A. 713 (1926), the court held that an organization of railroad company employees that made payments to members who became disabled because of accident or sickness was not entitled to exemption because it was not "fraternal". The court cited rituals, ceremonies, and regalia as evidence of a fraternal purpose, and was unable to discover a single fraternal feature in its organization, being entirely without social features or fraternal object. The petitioner has neither lodges, rituals, ceremonial, nor regalia; and it owes no allegiance to any other authority or jurisdiction.

#### **Application of law**

Treas. Reg. Section 1.501(c)(10)-1 provides that an organization will qualify for exemption under IRC Section 501(c)(10) if it is a domestic fraternal beneficiary society, order, or association, described in Section 501(c)(8). As required by Treas. Reg. Section 1.501(c)(8)-(a), you are not operating under the lodge system. For example, you are not operating in such a manner that comprises local branches chartered by a parent organization and largely self-governing called lodges, chapters, or the like. This precludes exemption under IRC Section 501(c)(10).

You do not meet the definition of fraternal as provided in the National Union v. Marlow. You have not provided any evidence that you have rituals, ceremonies or regalia as described in the court case, Philadelphia and Reading Relief Association v. Commissioner. Even though your members may have a common tie, you do not engage in fraternal activities within the meaning of the regulations.

**Your Position:**

You believe you qualify under IRC Section 501(c)(10). You stated that you have a fraternal purpose because you supply a place for members of E to hold their meetings. There are up to eight meetings per week. The purpose of the meetings is to provide activities for members of E to maintain sobriety. You also believe you operate under the lodge system. This is illustrated by the fact you have an agreement with E to provide them a location for meetings. The location is also available to members for special or urgent matters.

**Our Response to Your Position:**

You have failed to provide any information that shows you qualify under IRC Section 501(c)(10). As explained previously, you are not operating under the lodge system nor do you engage in fraternal activities within the meaning of the regulations.

**Conclusion**

You do not qualify for exemption under IRC Section 501(c)(10) because you are not a fraternal beneficiary society, or an association operating under the lodge system. You are providing a meeting space for members of E.

**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