



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

Date: 9/23/21

Employer ID number:

Form you must file:

Tax years.

Person to contact:

Name.

ID number.

Telephone.

Number: **202150031**
Release Date: 12/17/2021

UIL: 501.03 30, 501.32 01, 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 43 /
Redacted Letter 4034
Redacted Letter 4038



Department of the Treasury
Internal Revenue Service
PO Box 2508
Cincinnati, OH 45201

Date: **July 20, 2021**

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

E = State

F = Date

G = Name

H = Individual

J = Name

K = Number

q dollars = Amount

r dollars = Amount

t dollars = Amount

u dollars = Amount

U11

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 were incorporated in the state of E on F. Your filed Articles of Incorporation state you are organized "To serve the charitable and social welfare needs of G". You explained that G is composed of descendants of H. Your Articles of Incorporation also state your assets will be distributed "As set forth in the Bylaws". Your bylaws state that "if a time comes that members decide to close the fund, the assets if any including the cash balance will be disbursed according to the will of the majority members at that time. At present it has been decided that after taking care of all the liabilities if any, the remaining balance will be refunded back to the members according to their contributed share".

You are a membership organization currently with K members. Your bylaws indicate that your purpose is to cover the expenses incurred for any _____ and/or _____ for any direct descendant of H, also known as J, either in the United States or abroad.

Your membership is voluntary. Members must have a source of income and must be a blood related son, nephew, grandson, or grand grandson of H. You further explained that any _____ of the family who is a direct descendent of H, income earning, and is head of the household and wants to pay the dues is welcome to join the membership. However, all those benefits are available _____ without paying any dues because at the time of need all _____ costs are covered for all direct descendants of H.

Members are expected to contribute r dollars per month which can be paid monthly, quarterly, semiannually or annually depending on the members' choice. When your funds approach t dollars, the membership fee will be reduced to u dollars per month. In the case of an unexpected shortage of funds, your members will be called to contribute extra to meet the deficit.

You explained that there is no formal application form to receive benefits. The benefits are automatically provided by directly taking care of the funeral expenses. In the case of _____ of a direct descendant of H abroad, you will provide reimbursement of expenses.

Your revenue is derived from payments of membership fees by your members. Your expenses consist of bank _____, _____, food and snacks, _____, licenses, permits and fees, supplies, and travel reimbursements.

Finally, your bylaws indicate that members can be given an interest free loan of up to q dollars in case of emergency (accident & illness only) which is expected to be repaid within one year.

Law

IRC Section 501(c)(3) provides for the exemption from federal income tax of organizations organized and operated exclusively for charitable, education and other purposes, including the prevention of cruelty to children or animals provided that no part of the net earnings inure 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 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 organization 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 limit its purposes to one or more exempt purposes and do not expressly empower it to engage, otherwise than as an insubstantial part, in activities which in themselves are not in furtherance of one or more exempt purposes.

Treas. Reg. Section 1.501(c)(3)-1(b)(4) holds that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be

considered dedicated to an exempt purpose, for example, if, upon dissolution, such assets would, by reason of a provision in the organization's articles or operation of law, be distributed for one or more exempt purposes.

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 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(c)(2) provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized or operated exclusively for an exempt purpose unless it serves a public rather than a private interest. The organization must demonstrate that it is not organized or operated for the benefit or private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled directly or indirectly by such private interests.

Revenue Ruling 67-367, 1967-2 C.B. 188, describes a nonprofit 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 from federal income tax under IRC Section 501(c)(3) because it was serving private rather than public or charitable interests.

In Better Business Bureau of Washington, D.C. Inc v. U.S., 326 US. 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 Wendy L. Parker Rehabilitation Foundation, Inc v. Commissioner, 52 T.C.M. (CCH) 51 (1986), the organization was created by the Parker family to aid an open-ended class of "victims of coma." However, the organization states that it anticipated spending 30 percent of its income for the benefit of Wendy Parker, significant contributions were made to the organization by the Parker family, and the Parker family controlled the organization. Wendy's selection as a substantial recipient of funds substantially benefited the Parker family by assisting with the economic burden of caring for her. The benefit did not flow primarily to the general public as required under Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii). Therefore, the Foundation was not exempt from federal income tax under Section 501(c)(3).

Application of law

You are not described in IRC Section 501(c)(3) because you fail both the organizational and operational tests under Treas. Reg. Section 1.501(c)(3)-1(a)(1).

You do not meet the requirements in Treas. Reg. Section 1.501(c)(3)-1(b)(1)(i). Your Articles of Incorporation state you are organized "To serve the charitable and social welfare needs of G." Because your purpose clause is not limited to purposes described in IRC Section 501(c)(3), you fail the organizational test. Moreover, your Articles of Incorporation do not have a dissolution provision as required by Treas. Reg. Section 1.501(c)(3)-1(b)(4), which also causes you to fail the organizational test.

You do not meet the provisions of Treas. Reg. Section 1.501(c)(3)-1(c)(1). For example, you are operated to pay _____ related expenses for all direct descendants of H, including your members, who must also be a direct descendant of H. This shows you are operated for substantial nonexempt private purposes which disqualifies you from exemption under IRC Section 501(c)(3).

You do not meet the provisions of Treas. Reg. Section 1.501(c)(3)-1(c)(2) and Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) You were created by the descendants of H to pay _____ related expenses for direct descendants of H. This shows your net earnings are inuring to the descendants of H and you are operated for the private interests of the descendants of H. These facts preclude you from exemption under IRC Section 501(c)(3)

You are similar to the organization described in Revenue Ruling 67-367. Like that organization, your activities serve to primarily benefit your members (who are descendants of H) rather than benefit the public. You are paying expenses associated with _____, much like an _____, to your members in the event of _____. There is no charitable intent or review to determine need; the provisions for these expenses are automatic. The payment of these types of benefits to pre-selected individuals serves a substantial private rather than public interest and disqualifies you from exemption under IRC Section 501(c)(3).

You have operated primarily for the non-exempt purpose of benefiting the descendants of H. As shown in Better Business Bureau of Washington D.C., Inc., such a single non-exempt purpose, if substantial in nature, will preclude exemption, regardless of the number or importance of the exempt purposes it serves.

You closely resemble the organization described in Wendy L. Parker Rehabilitation Foundation, Inc. because you were formed by the descendants of H, a specific family to pay the _____ expenses of their family members, relieving them of their economic burden. Your activities primarily benefit a single family and not the general public, which precludes you from exemption under IRC Section 501(c)(3).

Conclusion

Based on the facts presented above, you fail the organizational and operational tests under IRC Section 501(c)(3). You fail the operational test because your Articles of Incorporation do not limit your purposes to those which are exempt, and do not dedicate your assets to an exempt purpose upon dissolution. You fail the operational test because you are operated for a substantial private purpose as well as serving private interests. 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 Determination 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
PO 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