



Date:
05/19/2022
Employer ID number:

Form you must file:

Tax years:

Person to contact:
Name:
ID number:
Telephone:

Number: **202232017**
Release Date: 8/12/2022

UIL: 501.00-00, 501.12-00

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)(12). 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.

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 Letter 437, Notice of Intention to Disclose - Rulings, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Letter 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:
Letter 437
Redacted Letter 4034
Redacted Letter 4038



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

Date:
March 24, 2022
Employer ID number:

Person to contact:
Name:
ID number:
Telephone:
Fax:

Legend

B - Date
C - State
D = Organization
E = Related Organization
j percent = number
k percent = number

UIL:

501.00-00
501.12-00

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

Facts

You were formed as an unincorporated association on B, in the state of C. Your formation document states that "the parties to this agreement desire to join together for the purpose of purchasing insurance or reinsurance at reduced rates and to provide technical support, continuing education, safety engineering, and operational and managerial advisory assistance to said parties in order to reduce risk liabilities and further the technical, managerial, and financial capacity of those parties."

You are a membership organization whose members are mutual water companies in the state of C. Members' operations consist of development, transportation, management, storage, treatment or distribution of water. You provide customized insurance solutions to your members including property, casualty, workers compensation, and environmental pollution coverage. You are organized as a risk-sharing pool rather than traditional insurance. You contract with D, an insurance administrator, who provides your members with a full-service managing general agency providing a broad spectrum of insurance products and services. Insurance products provided are completely reinsured to D and a variety of other insurance companies. D oversees underwriting,

Letter 4034 (Rev. 01-2021)
Catalog Number 47628K

claims, risk management and control, legal and regulatory compliance, and continuing education. Specific coverage elections vary by member. D collects member insurance payments for services (and remits to the various insurance companies) and remits a j percent fee to you in accordance with an insurance administrator agreement (based on risk bearer premium of insurance and risk management related products and services).

New members can join and participate in insurance programs upon approval by your board of directors. All members must belong to E (and pay the associated annual membership fee) to be eligible to participate in your insurance coverage. E is a related, IRC Section 501(c)(6) organization with which you share some officers and directors. Per your formation document, E is an association of mutual water companies that assisted in your formation to provide insurance products to their members. Your relationship with E is formalized in your formation document with respect to certain monies provided to E through the sales of your insurance products; E receives insurance fees from D. These fees are k percent of property and casualty annual premiums.

Your other activities include:

- Providing online water treatment and distribution operator training courses.
- Providing specified training for boards of directors and managers.
- Providing background checks for potential employees and board members.

Your vision as stated on your website is “quality insurance and risk management tools that build the bedrock of support for members.” Member benefits are listed as follows:

- High quality and cost-effective insurance products,
- Efficient and effective claims, underwriting, distribution and risk control services,
- Help with basic requirements for eligibility for grants and loans to improve aging infrastructure,
- Technical support including continuing education, safety engineering, operational and management assistance to reduce risk liabilities, and
- Access to an online solutions center offering comprehensive risk management, training, compliance and human resource tools.

Law

IRC Section 501(c)(12) provides for the exemption of benevolent life insurance companies of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations, but only if 85 percent or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses.

Treasury Regulation 1.501(c)(12)-1(b) provides that the phrase of a purely local character applies to benevolent life insurance associations, and not to the other organizations specified in IRC Section 501(c)(12). It also applies to any organization seeking exemption on the ground that it is an organization similar to a benevolent life insurance association. An organization of a purely local character is one whose business activities are confined to a particular community, place, or district, irrespective, however, of political subdivisions. If the activities of an organization are limited only by the borders of a State it cannot be considered to be purely local in character.

In Revenue Ruling 65-201, 1965-2 C.B. 170, a nonprofit cooperative organization whose activities consist of selling electrical materials, equipment, and supplies, and furnishing equipment manufacturing, repairing,

testing, and other services to its members is not a "like organization" within the meaning of IRC Section 501(c)(12), and therefore does not qualify for exemption from Federal income tax under that section notwithstanding that its membership is limited to organizations exempt under such section.

Rev. Rul. 67-265, 1967-2 C.B. 205, describes a "like organization" as those cooperatives that are engaged in activities similar in nature to a public utility type service. The term "like organizations" as used in the statute is limited by the type of organizations specified in the statute. It is applicable only to those mutual or cooperative organizations which are engaged in activities similar in nature to the benevolent life insurance or public utility type of service or business customarily conducted by the specified organizations.

Rev. Rul. 68-564, 1968 2 C.B. 221, held that a mutual company, whose members were the owners of a river front property, formed to contract with the Federal Government to prevent erosion of riverbanks qualified for exemption as a "like organization" under IRC Section 501(c)(12). This company was "like" mutual ditch or irrigation company because the construction and maintenance of improvements that protect riverbanks from damage or destruction by erosion preserves the usefulness of the members' surrounding lands in the same way that the furnishing of water by mutual ditch or irrigation companies enables their members to reclaim and preserve land for useful purposes.

Rev. Rul. 83-170, 1983-2 C.B. 97, describes a cooperative organization formed to provide cable television service to its members. Membership is required in order to receive cable television service. The ruling states that the term "like organization" as used in IRC Section 501(c)(12) of the Code, is applicable only to those mutual or cooperative organizations that are engaged in activities similar in nature to the public utility-type of service or business customarily conducted by the specified organizations. The ruling also notes that cable television corporations are similar in nature to public utilities and concludes that the organization qualifies for exemption from federal income tax as a "like" organization within the meaning of IRC Section 501(c)(12).

Rev. Rul. 2002-54, 2002-37 I.R.B. 527, held an exempt electric cooperative corporation's distribution and sale of tanked propane by trucks was not a "like organization" activity under IRC Section 501(c)(12)(A) in connection with the facts provided in the ruling. The Service explained that organizations exempt under Section 501(c)(12) include mutual ditch or irrigation companies and telephone or electric cooperatives. If the organization in question does not furnish any of these services, its activity must be a "like organization" activity. The distribution and sale of the propane by trucks was not deemed a public utility-type service because the rates charged for tanked propane are not traditionally regulated by either states or the federal government. Moreover, no extensive infrastructure was required.

Consumers Credit Rural Elec. Co-op. Corp. v. Comm'r, 319 F.2d 475 (6th Cir. 1963), was a corporation which had been organized by rural electric cooperatives to finance purchases of electrical appliances and equipment by cooperatives' members for redetermination of income tax deficiency. The Tax Court stated that the petitioner was engaged solely in the business of financing purchases of electric appliances and the installation of electrical systems and water and plumbing systems by the customers of the rural electric cooperatives who were members of the petitioner; that its operation closely resembled that of a commercial bank or finance company rather than that of a cooperative organization; and that in so operating, it was not a 'like organization' to mutual ditch or irrigation companies, or mutual or cooperative telephone companies within the meaning of IRC Section 501(c)(12). "Petitioner stresses the fact that it was organized under Kentucky law as a non-profit, cooperative association and that its members, who were organized under the same law, have been accorded tax exemption under the statute. But the fact that the member cooperatives qualified under the statute doesn't automatically

confer tax exemption upon the petitioner who, in order to obtain tax exemption, must also qualify under the statute. Although the petitioner and its members were all organized under the same Kentucky statute, it is the Federal statute, not the Kentucky statute, which gives the exemption. The member cooperatives were primarily engaged in the distribution of electric energy to rural areas which qualified them under the federal statute as a 'like organization' to mutual ditch or irrigation companies or mutual or cooperative telephone companies. Petitioner's operations were in financing consumer purchases; it was not engaged in the distribution of electric energy to rural areas, and, accordingly, it did not qualify as a 'like organization' under the statute."

In Lake Petersburg Ass'n v. Comm'r, 33 T.C.M. (CCH) 259 (T.C. 1974), the Tax Court held, among other things, that the Lake Petersburg Association was not tax-exempt under IRC Section 501(c)(4), (5), (6), (7), or (12). The Association was formed, in part, to own, construct, maintain, and control a lake and its adjacent recreational facilities. As part of its defense, the Association argued that it was exempt from taxation under Section 501(a). Specifically, the Association argued that it was exempt under Section 501(c)(12) as an organization like a mutual ditch or irrigation company. The court rejected this argument because "the purpose and operation of these two types of organizations are clearly different."

Application of law

You are not described in IRC Section 501(c)(12) because you are not a benevolent life insurance company of a purely local character, a mutual ditch or irrigation company, a mutual or cooperative telephone company, or "like" organization.

You do not meet the requirements of Treas. Reg. 1.501(c)(12)-1(b) because your activities are conducted throughout the state of C.

You do not perform the activities of a mutual ditch or irrigation company. Although your members are mutual water companies and appear to be those typically exempt under IRC Section 501(c)(12), you must demonstrate that you yourself qualify under the statute. Like Rev. Rul. 65-201 and Consumers Credit Rural Elec., the fact that your member cooperatives may qualify under IRC Section 501(c)(12) doesn't confer this exemption upon you. Your activities are neither similar to those under the statute nor a "like organization".

The term "like organization" applies to organizations that are similar to any one of the types of organizations specified in the statute. For example, Rev. Rul. 68-564 determined that a mutual company, whose members were the owner of a river front property, formed to contract with the Federal Government to prevent erosion of river banks qualified for exemption as a "like" organization under IRC Section 501(c)(12). This company was "like" a mutual ditch or irrigation company because the construction and maintenance of improvements that protect riverbanks from damage or destruction by erosion preserves the usefulness of the members' surrounding lands in the same way that the furnishing of water by mutual ditch or irrigation companies enables their members to reclaim and preserve land for useful purposes. Conversely, the provision of customized insurance solutions to your members (and your other various activities) are not like those of a mutual ditch or irrigation company.

Similar to Rev. Ruls. 67-265 and 83-170 you are not a "like organization" because you are not engaged in activities similar in nature to the benevolent life insurance or public utility type of service or business customarily conducted by organizations under IRC Section 501(c)(12). Moreover, like Rev. Rul. 2002-54, your activities require no extensive infrastructure. Lastly, like Lake Petersburg, you are not like a mutual ditch or irrigation company as your purpose and operation are clearly different.

Your position

You stated that your application should be approved because you provide a “valid support function to the water agencies”. You also stated that the IRS has approved other applications submitted by similar organizations with similar membership.

Our response to your position

You state you provide a valid support function to member water companies, but it is your activities (not your members’) that determine whether you are a “like” organization. You do not engage in distribution of water services or those similar to any one of the types of organizations specified in IRC 501(c)(12). See Consumers Credit Rural Elec. which held that an organization formed by exempt rural electric cooperatives to finance purchases of electrical, water, or plumbing appliances or systems by customers of the cooperatives was not exempt as a “like” organization as it did not engage in the distribution of electric energy to rural areas and the fact that members were exempt did not confer tax exemption upon the organization.

You also stated that similar organizations have received exemption under IRC 501(c)(12). Recognition of exemption is solely based on Section 501(c)(12) requirements and the information contained in your application. Whether the IRS has approved another organization’s application is not relevant to the present case.

Conclusion

Based on the facts and information provided, you are not a benevolent life insurance company of a purely local character, a mutual ditch or irrigation company, a mutual or cooperative telephone company, or a “like organization”. Thus, you do not qualify for exemption under IRC 501(c)(12).

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