



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

Date:
07/25/2022
Employer ID number:

Person to contact:

Number: **202242009**
Release Date: 10/21/2022

UIL: 501.00-00, 501.03-00, 501.03-30, 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 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: 05/31/2022

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

B = Date

C = Date

D = State

k = Number

m dollars = Amount

n percent = Percentage

p dollars = Amount

q dollars = Amount

r dollars = Amount

s dollars = Amount

t dollars = Amount

u = Number

UIL:

501.00-00

501.03-00

501.03-30

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, *Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, on date B.

You attest that you were formed on date C, in the state of D. 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 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 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

You stated on the Form 1023-EZ that your mission is to help members during members' or their family's death.

Detailed information was subsequently requested and we specifically requested a copy of your organizing document that shows proof of adoption. In response, you provided a Certificate issued by D on C for the agent appointment as an unincorporated nonprofit association. You have also provided an unexecuted rules of operation document. This document shows your mission is to help a group member financially when a group member loses a family member and must pay funeral expenses. Your vision is to help a member pay his/her expenses without having to get in any debt while mourning for a loss of a family member. You currently have u members. If you stop operation, the account balance will be shared among the members.

According to the rules of operation document, the maximum number of members is k. Members must pay a monthly fee of m dollars and members who miss payments for three consecutive months will be removed from the group. A member is required to register beneficiaries among his/her family members. The members' meeting is held once every three months. If a member wants to leave the group, he/she is required to formally inform the members and committee. The application will be reviewed and if the reason is convincing, he/she will be refunded n percent of the amount by dividing the money in the bank by the number of members in the group.

The financial assistance is provided as follows:

- If a family member whom a group member lives with (wife, husband, or child) dies, the member will be granted p dollars.
- If a member's brother-in-law or sister-in-law dies and the member must go somewhere to mourn with his/her parents, the member will be granted q dollars. If the member doesn't go out of town to grieve with parents, the member will be granted r dollars.
- If a family member decides to mourn a loss of his/her family, the group member will be granted t dollars.

When your account balance is less than s dollars, members will pay the grieving member out of pocket. You refrain from spending money until the bank balance reaches s dollars. You will only cover one member's

expense at a time. If a family of two different members dies at the same time, the group members must pay out of pocket for the other member.

If a member dies, his/her attorney can either stay in the group by paying the monthly payments or leave and take n percent of the amount by dividing the money in the bank by the number of members in the group.

Law

IRC Section 501(c)(3) provides for the recognition of exemption of organizations that are organized and operated exclusively for religious, charitable or other purposes as specified in the statute. No part of the net earnings may inure to the benefit of any private shareholder or individual.

Treasury Regulation Section 1.501(c)(3)-1(a)(1) states 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 purposes specified in such section. If an organization fails to meet either the organizational or 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 organization is not organized and operated exclusively for charitable purposes unless it serves a public rather than a private interest. To meet this requirement, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals.

Revenue Ruling 67-367, 1967-2 C.B. 188, describes an organization whose sole activity was the operation of a subscription "scholarship" plan for making payments to pre-selected, specifically named individuals by subscribers. The organization did not qualify for exemption under IRC Section 501(c)(3) because it was serving the private interests of its subscribers rather than public or charitable interests.

Rev. Rul. 69-175, 1969-1 C.B. 149, describes an organization which was formed by parents of pupils attending a private school to provide bus transportation to and from the school for those children whose parents belong to the organization. When a group of individuals associate to provide a cooperative service for themselves, they are serving a private interest. Accordingly, the organization did not qualify for exemption under IRC Section 501(c)(3).

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279 (1945), the Supreme Court held that the presence of a single non-exempt purpose, if substantial in nature, will destroy a claim for exemption regardless of the number or importance of truly exempt purposes.

In The Church in Boston v. Commissioner, 71 T.C. 102 (1978), an organization made grants to various individuals, including officers of the church. Although the church contended that the grants were made to assist the poor who needed food, clothing, shelter and medical attention, the church failed to provide any documented criteria demonstrating the selection process of recipients and the reasons for the specific amounts given. The

court affirmed the determination that the church failed to establish that its grant program constituted an activity in furtherance of an exempt purpose under IRC Section 501(c)(3).

In The Korean-American Senior Mutual Association, Inc. v Commissioner, T.C. Memo 2020-129 (2020), the organization provides burial benefits by collecting membership dues and additional fees when members died and paying out burial benefits to families of deceased members correlated with the number of years the member had paid. The Tax Court concluded that the organization does not serve a public benefit and does not operate exclusively for one or more exempt purposes within the meaning of IRC Section 501(c)(3).

Application of law

You do not meet the requirements for recognition of tax exemption under IRC Section 501(c)(3) because you fail the operational test as described in Treas. Reg. Section 1.501(c)(3)-1(a)(1).

You conduct an activity that provides monetary distributions to members and their family members that is more than insubstantial in nature. For this reason, you are not operating exclusively for exempt purposes as described in Treas. Reg. Section 1.501(c)(3)-1(c)(1).

You are similar to the organizations described in Rev. Rul. 67-367 and The Korean-American Senior Mutual Association, Inc. Like these organizations, your activities serve to benefit designated individuals, your members, and their families, rather than benefit the public. You provide financial support during bereavement to help cover expenses so the member does not have to get into debt. The payment of these types of benefits to pre-selected, specifically named individuals serves a private interest rather than a public interest. Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) states that an organization is not operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest.

You are like the organization described in Rev. Rul. 69-175 in that you provide a cooperative service that enables your members to meet their personal obligations. As a result, the benefits you offer to your members serve their private interests and not the interests of the public.

Like the organization described in Better Business Bureau of Washington, D.C., Inc., you further a substantial non-exempt purpose which precludes your claim for exempt status under IRC Section 501(c)(3).

You do not apply eligibility criteria to determine the charitable need of the recipient before payments are made and you are similar to the organization described in The Church in Boston. Your payments are automatic to pre-selected, specifically named individuals to help them pay funeral expenses.

Conclusion

Based on the facts presented, you fail the operational test under IRC Section 501(c)(3) because your activity of providing death benefits to pre-selected individuals and their families constitutes a substantial non-exempt purpose and serves the private interests of your members. 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