



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

Date:
11/14/2022
Employer ID number:

Form you must file:

Tax years:

Person to contact:

Number: **202306011**
Release Date: 2/10/2023

UIL: 501.00-00, 501.04-00, 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)(4). 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,

Stephan 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: 08/24/2022

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Legend:

B = Date
 C = State
 E = Name
 F = Name
 g dollars = Amount

UIL:

501.00-00
 501.04-00
 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)(4). 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)(4)? No, for reasons stated below.

Facts

You were incorporated on B in the state of C as a non-profit corporation. Your Charter is silent regarding the purpose of the corporation. Upon dissolution, your assets "will be distributed to another nonprofit organization with a similar purpose."

Your Bylaws includes references to shareholders meeting and state you "may make distributions to its shareholders."

You are a home provider agency formed exclusively for the care of E. E is the daughter of your chairman and CEO. E has a disability which impacts E's physical abilities and communication skills. You are committed to E's daily and routine care, as well as E's physical and intellectual development.

F, a state government agency, has a program which allows families to establish and control the care of disabled individuals in the household unit. You are approved by F as a single-person agency to provide services including community based day, in-home day, personal assistance, respite, and individual transportation exclusively for E. According to the approved letter issued by F, there is no requirement for you to be recognized by the Service as a tax-exempt organization.

E's family provided g dollars for your startup funds and your continued funding comes exclusively from F. Time is billed to F based on the type of care provided in that time frame. % of your time and funding is dedicated to the care of E. You do not intend to issue shares although your bylaws state that you will have shareholders.

Law

IRC Section 501(a) exempts organizations from federal income tax described in Section 501(c)(4).

IRC Section 501(c)(4)(A) provides for the exemption from federal income tax of organizations not organized for profit but operated exclusively for the promotion of social welfare.

IRC Section 501(c)(4)(B) states subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

Treasury Regulation Section 1.501(a)-1(c) defines the words private shareholder or individual as persons having a personal and private interest in the activities of the organization.

Treas. Reg. Section 1.501(c)(4)-1(a)(1) states a civic league or organization may be exempt as an organization described in IRC Section 501(c)(4) if it is not organized or operated for profit and it is operated exclusively for the promotion of social welfare.

Treas. Reg. Section 1.501(c)(4)-1(a)(2)(i) provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within IRC Section 501(c)(4) is one that is operated primarily for the purpose of bringing about civic betterments and social improvements.

Revenue Ruling 73-306, 1973-2 C.B. 179, states that an organization which was formed to promote the common interests of tenants who reside in a particular apartment complex does not qualify for exemption under IRC 501(c)(4). Any person regularly living in the complex was eligible for membership. The organization represented its member-tenants in negotiations with the management of the complex in order to secure better maintenance and services, as well as reasonable rentals. The ruling holds that the organization was not described in Section 501(c)(4) because it operated essentially for the private benefit of its members and not for the common good and welfare of the community as a whole.

Revenue Ruling 73-349, 1973-2 C.B. 179, states that a cooperative grocery store which operated for the primary purpose of purchasing groceries for its members at the lowest possible prices does not qualify for exemption under IRC Section 501(c)(4). The ruling holds that the organization is operated primarily for the private benefit of members and any benefits to the community are not sufficient to meet the requirement of the regulations that the organization be operated primarily for the common good and general welfare of the people of the community.

Revenue Ruling 75-199, 1975-1 C.B. 160, illustrates that a nonprofit organization, holding monthly meetings for members and principally supported by membership dues, that restricts its membership to individuals of good moral character and health belonging to a particular ethnic group residing in a stated geographical area and provides sick benefits to members and death benefits to their beneficiaries is not exempt under IRC Section

501(c)(4). As stated in this ruling, “A membership organization of the type here described is essentially a mutual, self-interest type of organization. Its income is used to provide direct economic benefits to members and any benefit to the larger community is minor and incidental. Where the benefit from an organization is limited to that organization's members (except for some minor and incidental benefit to the community as a whole), the organization is not operated exclusively for the promotion of social welfare within the meaning of Section 501(c)(4).

Commissioner v. Lake Forest, Inc., 305 F.2d 814 (4th Cir. 1962), involved a corporation was organized by World War II veterans for the purpose of purchasing a government housing project and converting it to cooperative, nonprofit housing for its members. Individuals became members in the corporation by purchasing an apartment unit and, as such, the number of members was limited to the number of units available. The court held that the organization was not described in IRC Section 501(c)(4) because it was "a public-spirited but privately-devoted endeavor" that provided only incidental benefit to the community. The organization did not promote social welfare because it furnished housing only to a certain group of individuals, rather than on a community basis, and did not offer a service or program for the direct betterment or improvement of the community as a whole.

Erie Endowment v. United States, 316 F.2d 151 (3rd Cir. 1963), the court held that to qualify for exemption within the meaning of IRC Section 501(c)(4), “the organization must be a community movement designed to accomplish community ends.”

New York State Association of Real Estate Boards Group Insurance Fund v. Commissioner, 54 T.C. 1325 (1970), an association organized by a small group interested in obtaining group insurance did not qualify for exemption because it offered its benefits to only a limited class of its members and their employees. The court noted, "there is not in such an organization the requisite civic concern to constitute social welfare" required for qualification under IRC Section 501(c)(4). Where the primary benefit from an organization is limited to that organization's members, and not provided to the community as a whole, the organization is not operated primarily for social welfare.

Application of law

You are not operated exclusively for the promotion of social welfare within the meaning of IRC Section 501(c)(4)(A) because your activities only serve the private interests of E which is prohibited under Section 501(c)(4)(B). As stated in Section 501(c)(4)(B), you are not operating exclusively for the promotion of social welfare when your net earnings inures to the benefit any private shareholder or individual as defined in Treas. Reg. Section 1.501(a)-1(c). Therefore, you are not an organization described in Section 501(c)(4) and Treas. Reg. Section 1.501(c)(4)-1(a)(1).

According to Treas. Reg. Section 1.501(c)(4)-1(a)(2)(i), an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. You are formed solely to receive money from a state agency, F and provide all daily and routine care for E. Your provision of services is limiting to E, and you do not engaged in promoting the common good and general welfare of the people of the community.

The concept of social welfare implies a service or program directed at benefit the community as a whole, rather than a private group of individuals, as explained in Rev. Rul. 73-306 and Lake Forest, Inc. You are similar to

the organization described in Rev. Rul. 73-349 because you are not able to demonstrate how your services to a single individual provide any community benefits.

You are like the organization described in Rev. Rul. 75-199 because you are a self-interest type of organization that you only offer services to an individual without any community benefits.

To qualify for exemption under IRC Section 501(c)(4), an organization must primarily benefit the community as a whole, rather than select individuals or group. See New York State Association of Real Estate Boards Group Insurance Fund. As stated in Erie Endowment, a Section 501(c)(4) organization “must be a community movement designed to accomplish community ends.” You are an organization that benefits only one person and does not benefit the community as a whole nor promote the common good and general welfare of a community. Therefore, your operation does not promote social welfare within the meaning of Section 501(c)(4).

Conclusion

Based on the information provided, we conclude that you are not an organization described in IRC Section 501(c)(4). You are formed to only provide benefits to E, and you do not provide any community benefits. Accordingly, you do not qualify for recognition of exemption under Section 501(c)(4).

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

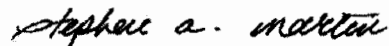
You can also fax your protest and supporting documents to the fax number listed at the top of this letter. If you fax your statement, please contact the person listed at the top of this letter to confirm that they received it.

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