



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

Release Number: **201047024**  
Release Date: **11/26/10**  
Date: September 2, 2010  
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XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX  
UIL Code: 501.03-01  
509.01-01

Contact Person:  
XXXXXXXXXXXX  
Identification Number:  
XXXXXXX  
Contact Number:  
XXXXXXXXXXXX  
Employer Identification Number:  
XXXXXXXXXX  
Form Required To Be Filed:  
XXX  
Tax Years:  
xxx

Dear

This is our final determination that you do not qualify for exemption from Federal income tax as an organization described in Internal Revenue Code section 501(c)(3). Recently, we sent you a letter in response to your application that proposed an adverse determination. The letter explained the facts, law and rationale, and gave you 30 days to file a protest. Since we did not receive a protest within the requisite 30 days, the proposed adverse determination is now final.

Because you do not qualify for exemption as an organization described in Code section 501(c)(3), donors may not deduct contributions to you under Code section 170. You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file. File the returns in accordance with their instructions, and do not send them to this office. Failure to file the returns timely may result in a penalty.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. Please 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 Notice 437. If you agree with our deletions, you do not need to take any further action.

In accordance with Code section 6104(c), we will notify the appropriate State officials of our determination by sending them a copy of this final letter and the proposed adverse letter. You should contact your State officials if you have any questions about how this determination may affect your State responsibilities and requirements.

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If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at 1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Robert Choi  
Director, Exempt Organizations  
Rulings & Agreements

Enclosure  
Notice 437  
Redacted Proposed Adverse Determination Letter  
Redacted Final Adverse Determination Letter



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

Date: May 18, 2010

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XX  
XXXXXXXXXXXXXXXXXXXX

Contact Person:  
XXXXXXXXXX  
Identification Number:  
XXXXXXX  
Contact Number:  
XXXXXXXXXXXXXX  
FAX Number:  
XXXXXXXXXXXXXX  
Employer Identification Number:  
XXXXXXXXXX

Legend:

- M = XXXXXXXXXXXX
- N = XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
- O = XXXXXXXXXXXXXXXXXXXXX

Dear

We have considered your application for recognition of exemption from Federal income tax under Internal Revenue Code section 501(a). Based on the information provided, we have concluded that you do not qualify for exemption under Code section 501(c)(3). The basis for our conclusion is set forth below.

You were organized under the nonprofit laws of the State of M on March 19. Your name at the time of incorporation was N. You amended your Articles of Incorporation on June 19 and changed your name to O. You restated your Articles on February 20. Your Restated Articles indicate that you were formed to create and administer a group self-insurance pool for the benefit of your members.

You operate a cooperative self-insurance pool offering "commercial-type" auto insurance coverage to your members. You provide insurance for your members by assuming some insurance risk yourself but also purchase insurance from third-party insurance companies on behalf of your members. Specifically, your three primary functions are: Loss Control Risk Management; Underwriting; and Claims Processing.

Your membership consists of organizations in M that have been recognized as exempt under section 501(c)(3) of the Code. Members own or lease at least one vehicle.

You received all of your initial funding directly from your members.

LAW:

Section 501(c)(3) of the Code provides for the exemption from federal income tax for corporations organized and operated exclusively for charitable, scientific or educational

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purposes, provided no part of the corporation's net earnings inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that 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) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

1.501(c)(3)-1(a)(2) of the regulations provides that the term "exempt purpose or purposes" means any purpose or purposes specified in section 501(c)(3).

Section 501(n)(1) of the Code provides that a qualified charitable risk pool shall be treated as an organization organized and operated exclusively for charitable purposes, and subsection (m) shall not apply to a qualified charitable risk pool.

Section 501(n)(2) of the Code provides that the term "qualified charitable risk pool" means any organization, comprised of section 501(c)(3) members, which is organized and operated solely to pool insurance risks of its members (other than risks related to medical malpractice) and to provide information to its members with respect to loss control and risk management, and satisfies the organizational requirements of section 501(n)(3).

Section 501(n)(3) of the Code states that an organization will be organized as a qualified charitable risk pool if the risk pool is organized as a non-profit organization under state law provisions authorizing risk pooling arrangements for charitable organizations, the risk pool is exempt from any state income tax (or will be so exempt after such pool qualifies as an organization exempt from federal income tax), the risk pool receives at least \$1,000,000 in startup capital from nonmember charitable organizations; such risk pool is controlled by a board of directors elected by its members; and the organizational documents require that each member of the risk pool be described in section 501(c)(3), any member no longer described in section 501(c)(3) shall notify the pool of its determination, and each policy of insurance issued by the risk pool will not cover the insured with respect to events occurring after the effective date of the determination.

#### RATIONALE:

An organization may be described in section 501(c)(3) of the Code if it is a "qualified charitable risk pool" as described in section 501(n). To qualify as a charitable risk pool, an organization must meet all the organizational requirements specified in section 501(n)(3). One requirement, in section 501(n)(3)(C), states that the organization must receive at least \$ \_\_\_\_\_ in startup capital from nonmember charitable organizations.

You do not meet the organizational requirement described at section 501(n)(3)(C) of the Code with respect to startup capital from nonmember charitable organizations. You received startup funding only from your members and did not receive at least \$ \_\_\_\_\_ in startup capital from nonmember charitable organizations.

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Also, you do not meet the organizational requirements described at section 501(n)(3)(E) of the Code, because your Restated Articles of Incorporation do not contain the language required by sections 501(n)(3)(E)(i), (ii), and (iii).

Thus, because you do not meet the organizational requirements of sections 501(n)(3)(C) and (E) of the Code, you are not a charitable risk pool within the meaning of section 501(n) and thus are not described in section 501(c)(3).

#### CONCLUSION:

Accordingly, you do not qualify for exemption as an organization described in section 501(c)(3) of the Code and you must file federal income tax returns.

Contributions to you are not deductible under section 170 of the Code.

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter. We will consider your statement and decide if the information affects our determination.

Your protest statement should be accompanied by the following declaration:

*Under penalties of perjury, I declare that I have examined this protest statement, including accompanying documents, and, to the best of my knowledge and belief, the statement contains all the relevant facts, and such facts are true, correct, and complete.*

You also have a right to request a conference to discuss your protest. This request should be made when you file your protest statement. An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you. If you want representation during the conference procedures, you must file a proper power of attorney, Form 2848, *Power of Attorney and Declaration of Representative*, if you have not already done so. For more information about representation, see Publication 947, *Practice before the IRS and Power of Attorney*. All forms and publications mentioned in this letter can be found at [www.irs.gov](http://www.irs.gov), Forms and Publications.

If you do not file a protest within 30 days, you will not be able to file a suit for declaratory judgment in court because the Internal Revenue Service (IRS) will consider the failure to protest as a failure to exhaust available administrative remedies. Code section 7428(b)(2) provides, in part, that a declaratory judgment or decree shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted all of the administrative remedies available to it within the IRS.

If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter. That letter will provide information about filing tax returns and other matters.

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Please send your protest statement, Form 2848 and any supporting documents to this address:

You may also fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Robert Choi  
Director, Exempt Organizations  
Rulings & Agreements