



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

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

Release Number: **201331006**  
Release Date: 8/2/2013  
Date: May 10, 2013  
UIL Code: 501.04-00

Contact Person:  
Identification Number:  
Contact Number:  
Employer Identification Number:  
Form Required To Be Filed:  
Tax Years:

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)(4). 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.

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.

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,

Holly O. Paz  
Director, Rulings and 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: March 27, 2013

UIL: 501.04.00

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

LEGEND:

Country =  
Charity =  
X =

Dear :

We have considered your application for recognition of exemption from Federal income tax under I.R.C. § 501(a). Based on the information you provided in your application and subsequent correspondence, we have concluded that you do not qualify for exemption under I.R.C. § 501(c)(4). The basis for our conclusion is set forth below.

FACTS:

You have applied for recognition of exemption under I.R.C. § 501(c)(4) as a social welfare organization. Your main activity consists of identifying and evaluating development projects throughout Country in order to aid in the funding and facilitation of such projects. You will seek projects that promote and enhance environmental, economic, and cultural sustainability. You have reached an agreement to be the sole Project Information Office in Country for Charity, a 501(c)(3) organization.

Your assistance for these projects consists of facilitating communication and collaboration among public agencies, civil society organizations, academia, and the commercial sector in order to enhance the effect and success of the projects in which they are involved. You anticipate opening an office in the largest city in Country, where you will host networking meetings, along with formal meetings to discuss projects, between the commercial sector, relevant NGOs, and government agencies. You state that you will work closely with Country's government agencies to identify areas of need and the projects that are seeking to fulfill that need. Your efforts will consist of identifying projects meeting your criteria of environmental, economic, and cultural sustainability through the networking and discussions described above. You will spend fifty percent of your time performing this activity. Another quarter of your time will be spent assisting and guiding the projects in filing for and presenting themselves for funding and aid from Charity. The final fourth of your time will be spent maintaining information

on progress and compliance with the projects chosen by Charity for the benefit of Charity.

You state that you will "charge a fee per project in which [you] helped with the introduction of contractors, grant awards, and funding assistance." You state that if you have identified a humanitarian project and also connected a funding organization to implement said project, you will collect a service fee based on the estimated cost of the proposed project. By the terms of the contract between you and Charity, you will receive your fee from Charity of 2.5 percent of the funds contributed to each project you help bring into Charity. You also state that you do not charge a fee for organizations to participate in networking and relationship building through you. You anticipate approximately \$x of fees in each of your first three years. These funds will go almost exclusively to the payment of salaries and wages, to directors and employees. You do not expect the collection of any grants or donations, nor do you expect to utilize any volunteers.

You do not seek solicitations from projects and you have not yet entered any contracts with projects or funders so no samples of such are available.

LAW:

I.R.C. § 501(c)(4) provides that an organization not organized for profit but operated exclusively for the promotion of social welfare, the net earnings of which do not inure to the benefit of any private shareholder or individual.

Treas. Reg. § 1.501(c)(4)-1(a)(2) 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 this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements.

Treas. Reg. 1.501(c)(4)-1(a)(2)(ii) provides that the promotion of social welfare does not include the carrying on of a business with the general public in a manner similar to organizations which are operated for profit.

Revenue Ruling 67-294, 1967-2 C.B. 193, provides that "a nonprofit organization created to make loans to business entities as an inducement to locate in an economically depressed area in order to alleviate unemployment may be exempt from Federal income tax under § 501(c)(4). By encouraging industry to settle in an economically depressed area, the organization is helping alleviate unemployment and is being operated to bring about civic betterment and social improvement."

Revenue Ruling 78-69, 1978-1 C.B. 156, provides exemption to a bus service operated at rush hour for a suburban community. The ruling states that, "the organization is providing a useful service to all members of the community. The bus service provided is not commercially available and is subsidized by governmental financial assistance. Participation in the organization's affairs is open to all community residents, and volunteers carry out its activities. This method of operation indicates that it is not carrying on a business with the general public in a manner similar to organizations which are operated for profit. Therefore, the organization is promoting the common good and general welfare of the people of the community within the meaning of § 1.501(c)(4)-1(a)(2)."

Revenue Ruling 78-429, 1978-2 C.B. 178, provides that, "a nonprofit organization formed to

operate an airport that is located on land owned by a municipality that supervises its overall operation, is used by the general public and key local businesses essential to the economy of a four-county rural area having no other airport facilities, uses volunteers to provide administrative and maintenance services for the organization, and uses income derived from government grants, hangar rentals, and the sale of gasoline and oil for permanent improvements, maintenance, and daily operations qualifies for exemption under § 501(c)(4)."

Mutual Aid Association of Church of the Brethren v. Commissioner, 759 F.2d 792, 795-96 (10<sup>th</sup> Cir. 1985), denies exemption to an organization primarily operated to provide insurance to the members of a church. The court states that its primary purpose was to provide insurance, which was an economic purpose, and that it did so in a manner similar to for-profit organizations by providing insurance on the basis of assessed premiums and maintaining profits to ensure a security margin for the operations of the organization. This premise for denial of recognition under § 501(c)(4) was also followed in American Association of Christian Schools Voluntary Employees Beneficiary Association Welfare Plan Trust v. United States, 850 F.2d 1510, 1516, (11<sup>th</sup> Cir. 1988).

In People's Educational Camp Society, Inc. v. Commissioner, 39 T.C. 756 (1963), the court concluded that the organization's activities, in operating the resort were not "exclusively," or even principally or primarily, for the promotion of social welfare within the meaning of the statute. The Tax Court stated:

[P]etitioner's activities in maintaining and operating the large resort at Tamiment, were not directed to, and did not result in providing benefits either for the public at large, or for any community as a whole. Rather, the facilities and activities at said resort were devoted principally and primarily to providing living accommodations, meals, and a variety of recreational and cultural programs for the personal benefit of paying guests, who were attracted to the resort because it was an enjoyable and luxurious place for summer vacations, and who were willing and able to pay the substantial daily or weekly overall rates which petitioner charged. True it is, that both the recreational and cultural activities provided, did benefit those who participated in them. But, when the same are considered in light of the facts that they were furnished for financial consideration, and were paid for by the guests as part of the "package rates" charged therefor, we think it would be overstretching the meaning and intent of the tax exemption statute to include them within the ambit of "promotion of social welfare." 39 T.C. at 768-69.

#### ANALYSIS:

In order to be exempt, you must be operated for the promotion of social welfare. Your purposes must be primarily directed at promoting the common good and general welfare of the community. Section 1.501(c)(4)-1(a). Your primary purpose must be the bringing about of civic betterments and social improvements. Id. In Rev. Rul. 67-294, supra, the organization provided low cost loans to businesses in order to encourage them to settle in and develop an economically depressed area. This activity was found to create civic betterments and social improvements by alleviating unemployment in these areas. Additionally, organizations that were formed to provide services that encouraged economic activity and that were performed in a non-commercial manner were found to be exempt under § 501(c)(4). E.g., Rev. Rul. 78-69, supra (providing exemption for a bus service operated during rush hour in a suburban area); Rev. Rul. 78-429, supra (providing exemption to a rural airport that allowed access for key local businesses).

In order for you to be recognized as exempt under § 501(c)(4) your activities must not be the carrying on of a business in a manner similar to organizations operated for profit. Section 1.501(c)(4)-1(a)(2)(ii). In Rev. Rul. 78-69, supra, the bus services charged a price below the cost of maintaining the service, it almost entirely utilized volunteers, and it received donations from individuals and the government. The ruling determines that these factors mean that the organization was not operated in a manner similar to an organization operating for profit. In Rev. Rul. 78-429, supra, the airport charged fees for its services, but it utilized volunteers to perform much of its work and it was overseen by the local government to ensure that it provided a benefit to the community. For these reasons the airport was not operated in a manner similar to that of an organization operated for profit. Alternatively, in Mutual Aid Association, 759 F.2d at 795-96, the court determined that the organization was not recognized under § 501(c)(4) since it was operated for the primary purpose of offering insurance on the basis of assessed premiums while maintaining an operating margin similar to that of a commercial insurance provider operating for profit. In People's Educational Camp, 39 T.C. at 768-69, the organization was conducting a summer camp that benefited paying guests who were attracted to the space because it was an enjoyable and luxurious place for a summer vacation. The efforts of the camp benefitted only those who could pay the market rate and the camp was operated in all respects like a for-profit organization.

You are not like the organizations that have been found exempt and you are conducting a business in a manner similar to organizations operated for profit. Unlike the organization in Rev. Rul. 78-69, supra, you do not charge fees that are below cost, you are not primarily run by volunteers, and you do not receive outside donations from any source. Also, unlike the organization in Rev. Rul. 78-429, supra, you are not overseen by a local government or any other body looking out for the benefit of the community. Instead, your activities consist of seeking to connect organizations with Charity. While your efforts will seek projects that will provide environmental, cultural, and economic sustainability, your activities are substantially similar to those of commercial grant writing organizations. You help organizations develop the plan and strategies for the project in order to make the best presentation for assistance from Charity. You provide knowledge and experience to projects similar to consulting firms. You are then paid for your services by Charity for successful applications. Thus, your activities are not primarily in furtherance of social improvements and civic betterments.

#### CONCLUSION:

You are not operated exclusively for an exempt purpose. You provide a service for a fee and operate in a manner similar to an organization operated for profit. You are not exempt under § 501(c)(4).

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 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.

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

Internal Revenue Service  
TE/GE SE:T:EO:RA:T  
1111 Constitution Ave, N.W.  
Washington, DC 20224

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,

Holly O. Paz  
Director, Rulings and Agreements