



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Number: **201338052**
Release Date: 9/20/2013

Date: 6/28/2013

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

UIL: 501.00-00; 501.03-05; 501.03-00; 503.00-00

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.

Since 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.

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, you should follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

Letter 4038 (CG) (11-2005)
Catalog Number 47632S

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.

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,

Kenneth Corbin
Acting Director, Exempt Organizations

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: April 30, 2013

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

Legend:

E = individual
N = state
x = date
y = number

UIL Numbers:

501.00-00
501.03-05
501.03-00
503.00-00

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.

Issues

Have you substantiated that you are operating within the meaning of Section 501(c)(3) of the Code? No, for the reasons described below.

Facts

You were incorporated in State N on date x. Your Articles of Incorporation state you were formed, in part, to:

Use social networking technology to facilitate scholarships and grants to needy individuals and families in order to enable them to achieve their educational goals, provide poverty relief, and to fulfill grantees' religious obligations. To accomplish these goals by providing financial assistance, food, clothing and other basic necessities as appropriate to widows, orphans and other financially disadvantaged individuals.

Your application for exemption states you will take advantage of the internet to facilitate charitable giving through social networking. Your grant making steps are as follows:

1. A needy person registers and completes a comprehensive questionnaire about their financial needs, background and references.
2. The Board of Directors independently reviews the application including checking with references and discusses it with relevant religious authorities. Currently the plan is to set up separate sites for different religious groups – so under the current site it would be reviewed by a relevant authority.
3. A redacted description of the need is uploaded to the website including the amount needed (and eventually integrated with various social networking platforms). The individual/family need is described but no individual/family name is given.
4. A donor reviews the needs and decides to make a donation to the relevant need. An affirmation that they have no personal, professional or other relationship with the grant recipient is made.
5. You facilitate the need and the grant recipient either receives payment directly or indirectly.

You hired and contracted with an individual, E, as an employee to build and manage your website. Your website also lists E as your founder.

You have three board members, responsible for :

- selecting, supporting and evaluating the chief executive and his/ her responsibilities
- ensuring participation in the overall planning process
- assisting in implementing and monitoring your goals by determining which programs are consistent and effective with your mission
- ensuring adequate financial resources to fulfill your mission, developing the annual budget and ensuring proper financial controls are in place.

They are also responsible for informing others about your activities and suggesting nominees to the board who can make significant contributions to your work.

Your website states your mission is to help “any and all Jews in need.” You do this by providing a forum whereby Jews in need can apply directly to others for help. Through this forum you connect “thousands of Jews who need help with those willing to give it.” You are setting people up to support themselves independently, and to have productive and successful lives. Your “mission is to provide temporary help to Jewish individuals and organizations in the United States and around the world on a one on one basis as needed.”

Your website states the following regarding assistance:

You simply need to be a Jew that needs help. Take the time to fill out an application for assistance and be sure to express clearly what your problem is and why you want someone to help. The better you express yourself, the more likely it is you will receive assistance.

Your website states in order to receive a grant you must:

- Be Jewish, and a permanent resident or citizen of the US
- Over 18 years of age
- In need of assistance

Your "Application and Case History Form" requests the following information: name, date of birth, Social Security number, address, phone number, employer, work address, employment reference, amount requested, a description of the financial situation (including monthly income and expenses) and references.

You verify the needs of the individuals seeking assistance through a rabbi. Regarding this verification process you said, "The rabbi generally has to be from applicants community and know the applicant on a personal level." You require verification both over the phone and on the rabbi's letterhead to confirm legitimacy of the applicant's situation. You specifically define "needy" by asking various questions regarding family size, employment, disabilities, government assistance, funds in the bank, etc. You confirm financial difficulties and ailments through the rabbi and should you find anything illegitimate or beyond the scope of your help, you deny the applicant. Your website describes you as a venture where a Jew can reach out in his time of need.

You state you have had y applicants, however, you have only substantiated around a quarter of that number. You claim to have denied many for such reasons as the amount requested is too high, no response from rabbi regarding verification, or location outside of the United States. You did not substantiate any of those that were denied.

Donors give funds which translate to points. Each potential recipient has a requested point level. You describe the "points" system referenced on your website in greater detail. You said it's just another name for dollar system. Each point represents one dollar. This was done to make a donor feel they are donating more than just money, but help. You did not describe what occurs if an approved case does not receive the requested funding level.

You have gift certificates available for purchase on your website. They were designed to be purchased on your site and given to someone else to redeem. You said, "It is basically a donation given in someone else's name, but rather than make the donation directly, the recipient of the certificate can choose to distribute the funds to a case that they specifically choose." It's both a way to give and to steer people to your website.

As you are currently a small organization, there is just one working member. Your one paid employee works 20 hours per week for you. Family members of this "committee" (one paid employee) are prohibited from applying for help, as to not cause any misunderstanding amongst donors that the money is being sent towards your members, rather than applicants. Should a family member apply for help, they will not be provided assistance.

Your "...main focus is not monetary assistance but a comfort zone, a place of relief. A place where people can turn in an emergency situation." You deal specifically with low or no income applicants who have encountered something which is obstructing them from continuing their day to day life activities.

You made your website religion-specific because you feel people want to give to those they relate to. You are hoping to expand and create similar website for other religions and have acquired domain names relative to those sites.

You raised revenues of approximately \$ in year one and expect revenues of approximately \$ and \$ in years two and three, respectively.

Your first year expenses were approximately \$ for program services, \$ for salaries and \$ in "other" expenses. These included payments to both a firm and an individual for promotion, advertising and marketing. You project expenses of approximately \$ and \$ in years two and three, respectively. These include around \$ in bank fees. When asked of these expenses you indicated you spent approximately \$ annually on bank charges – the remainder of the expenses projected was not explained.

You made approximately \$ in actual distributions to needy individuals through your website. When asked for a comprehensive list of the distributions, you substantiated only \$ of that \$. The remainder was distributed outside of your website and included almost \$ in payments labeled "A little bit of something." The purpose, or the recipients, of those distributions was not clear and you provided no further explanation.

In addition to this listing of recipients you also indicated that E, who had previously been listed as a fund recipient, had actually not received any distribution. Instead, you explained that E was previously reported as having received funds to act as a 'placeholder' for a project. You did not describe the project or further indicate the actual recipient of these funds.

You expect ninety percent of the donations you receive will be paid to individuals seeking assistance. The remainder of expenses are for operating costs.

Law

Section 501(c)(3) of the Code provides, in part, for the exemption from federal income

tax of organizations organized and operated exclusively for charitable, religious, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(c)(1) of the regulations states that if more than an insubstantial part of an organization's activities is not in furtherance of exempt purposes, the organization will not be regarded as exempt.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides, in part, that an organization is not organized or operated exclusively for one or more of the purposes mentioned in section 501(c)(3) of the Code unless it serves a public rather than a private interest. An organization may not be exempt if it is operated for the benefit of private individuals.

Rev. Rul. 56-304, 1956-2 C.B. 306, holds that organizations that otherwise meet the requirements for exemption may make distributions to individuals, provided they further the purposes for which they were organized. The organizations should keep records of names and addresses of recipients, the amounts given, the purpose for which it was given, the manner in which the recipient was chosen, and relationship between the recipient and the members, officers, or trustees or substantial contributor to the organization and a corporation controlled by a grantor or substantial contributor.

Rev. Rul. 67-367, 1967-2 C.B. 188, holds that the operation of a scholarship plan for making payments to pre-selected, specifically named individuals does not qualify for exemption under section 501(c)(3) of the Code. The organization entered into so-called 'scholarship' agreements with subscribers. Under the agreement, a subscriber agreed to deposit a specified sum with a designated bank. At some later date, the subscriber nominates a named child who will receive a 'scholarship' from the organization if he matriculates at a college. A subscriber may withdraw his principal, less any enrollment fee, from his account at any time. Under the circumstances, the organization was held to be serving private interests rather than public charitable and educational interests. This ruling was also compared with Rev. Rul. 56-403, *supra*

Rev. Rul. 68-489, 1968-2 CB 210 An organization will not jeopardize its exemption under section 501(c)(3) of the Code, even though it distributes funds to nonexempt organizations, provided it retains control and discretion over use of the funds for section 501(c)(3) purposes.

In S.E. Thomason v. Commissioner, 2 T.C. 441 (1943), the taxpayer paid an educational institution the tuition and maintenance of a particular individual, who was the ward of a public charity, and claimed a charitable deduction. The court held that the taxpayer was not entitled to the deduction because the contributions were for the benefit of a particular individual.

In Tripp v. Commissioner, 337 F.2d 432 (7th Cir. 1964), the court held that payments made to an educational institution and earmarked for the educational expenses of a

particular individual were not deductible because they were neither made to the college for use as it saw fit nor made for the benefit of an indefinite number of persons, as, for example, a scholarship fund.

In Church in Boston v. Commissioner, 71 T.C. 102 (1978), the court upheld the denial of exemption on an organization that made grants to individuals. The organization asserted that its grants were made in furtherance of a charitable purpose: to assist the poor. The organization was unable to furnish any documented criteria which would demonstrate the selection process of a deserving recipient, the reason for specific amounts given, or the purpose of the grant. The only documentation contained in the administrative record was a list of grants made during one of the three years in question which included the name of the recipient, the amount of the grant, and the "reason" for the grant. The court held that this information was insufficient in determining whether the grants were made in furtherance of an exempt purpose.

Application of Law

You are not as described in section 501(c)(3) because you have failed to establish that you are operated exclusively for charitable, religious, scientific or educational purposes.

By providing funds to pre-selected individuals for items of their request you are not furthering exclusively exempt purposes as described in section 1.501(c)(3)-1(c)(1) of the regulations, therefore you are not exempt.

Your method of soliciting funds for specific individuals, although not named, serves the private interests of individuals. When a charitable program works for the private benefit of an individual, the organization may not qualify for recognition of exemption. See section 1.501(c)(3)-1(d)(1)(ii) of the regulations.

Like Rev. Rul. 67-367, you solicit donations for specific pre-selected individuals and therefore you fail to qualify for exemption under section 501(c)(3) of the Code. Also, the payments you seek for particular individuals are like the ones described in S.E. Thomason v. Commissioner, supra, where the court held that the taxpayer was not entitled to a deduction for paying for expenses of an individual because the contributions were for the benefit of a particular individual.

You are unlike the organization in Rev. Rul. 68-489 in that you have made distributions to entities but have not documented the source of those funds nor the reason for those distributions. You took no steps to secure any information about potential recipients. You do not control the funds to be given, rather, donors distribute their funds to causes as they see fit. Here, the rabbi did not appear to collect or provide any information regarding the income of the recipients. The fact that the family has debt does not necessarily make them needy. Need was not verified through paper documentation and there was no mention of their income. Your method of operations allows for funds to be directed to pre-selected individuals. Because you did not substantiate the review,

selection, method of distribution and documentation of the use of those funds you have not demonstrated sufficient control and discretion over those funds.

You seek contributions earmarked for expenses of specifically designated individuals. In Tripp v. Commissioner, supra, the court held that payments earmarked for the educational expenses of a particular individual were not deductible because they were not made for the benefit of an indefinite number of persons, as, for example, a scholarship fund.

Although you have rabbis vouch for the needs of the individuals you assist, you do not directly collect any information from the individuals to confirm their income, or lack thereof, as described in Rev. Rul. 56-304. You have placed the control of determining qualified candidates for assistance in the hands of individuals outside of your board. Further, you have failed to establish numerous expenditures as qualified charitable distributions. The organization described in Church in Boston v. Commissioner was unable to furnish any documented criteria which would demonstrate the selection process of a deserving recipient, the reason for specific amounts given, or the purpose of the grant. The only documentation contained in the administrative record was a list of some of your grants made during one of the three years in question which included the name of the recipient, the amount of the grant, and the "reason" for the grant. Much like this case, the information you solicit from the individuals seeking assistance is insufficient in determining whether the grants are made in furtherance of exempt purposes. Also, you did not provide documentation for many of your grants such as those labeled as 'a little bit of something'.

Conclusion

Based on the above facts and law, we conclude that you do not qualify for exemption under section 501(c)(3) of the Code. Your method of soliciting funds online for specific individuals constitutes a substantial private benefit to individuals. You lack documentation, records and evidence that distributions were or will be made and used for exclusively 501(c)(3) purposes. You fail the operational test, and are disqualified from exemption under Section 501(c)(3).

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. If your statement does not provide a basis to reconsider our determination, we will forward your case to our Appeals Office. You can find more information about the role of the Appeals Office in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*.

An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you during the appeal process. If you want representation during the appeal process, you must file a proper power of attorney,

Form 2848, *Power of Attorney and Declaration of Representative*, if you have not already done so. You can find more information about representation in 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, 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 appeal 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.

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

Mail to:

Internal Revenue Service
EO Determinations Quality Assurance

Deliver to:

Internal Revenue Service
EO Determinations Quality Assurance

You may 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, Exempt Organizations

Enclosure: Publication 892