



Department of the Treasury  
Internal Revenue Service  
P.O. Box 2508  
Cincinnati, OH 45201

Number: **201632020**  
Release Date: 8/5/2016

Date: May 11, 2016

Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

UIL: 501.03-30, 501.33-00

Dear \_\_\_\_\_ :

This letter is our final determination that you don't qualify for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code (the Code). 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 Section 501(c)(3) of the Code, donors can't deduct contributions to you under Section 170 of the Code. You must file federal income tax returns for the tax years listed at the top of this letter using the required form (also listed at the top of this letter) within 30 days of this letter unless you request an extension of time to file.

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection (as required under Section 6110 of the Code) 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 the Notice 437 on how to notify us. If you agree with our deletions, you don't need to take any further action.

We'll also notify the appropriate state officials of our determination by sending them a copy of this final letter and the proposed determination letter (under Section 6104(c) of the Code). You should contact your state officials if you have questions about how this determination will affect your state responsibilities and requirements.

If you have questions about this letter, you can contact the person listed at the top of this letter. If you have questions about your federal income tax status and responsibilities, call our customer service number at 1-800-829-1040 (TTY 1-800-829-4933 for deaf or hard of hearing) or customer service for businesses at 1-800-829-4933.

[We sent a copy of this letter to your representative as indicated in your power of attorney.]

Sincerely,

Jeffrey I. Cooper  
Director, Exempt Organizations  
Rulings and Agreements

Enclosures:

Notice 437

Redacted Letter 4036, *Proposed Adverse Determination Under IRC Section 501(c)(3)*

Redacted Letter 4038, *Final Adverse Determination Under IRC Section 501(c)(3) - No Protest*



**Department of the Treasury  
Internal Revenue Service**

P.O. Box 2508  
Cincinnati, OH 45201

Date: February 17, 2016

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

**Legend:**

W =

X =

Y =

Z =

**UIL:**

501.03-30

501.33-00

Dear \_\_\_\_\_ :

We considered your application for recognition of exemption from federal income tax under Section 501(a) of the Internal Revenue Code (the Code). Based on the information provided, we determined that you don't qualify for exemption under Section 501(c)(3) of the Code. This letter explains the basis for our conclusion. Please keep it for your records.

**Issues**

- Do you meet the organizational test under section 501(c)(3) of the Code? No, for the reasons stated below.
- Do you meet the operational test under section 501(c)(3) of the Code? No, for the reasons stated below.

**Facts**

You submitted Form 1023-EZ *Streamline Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code* on date X.

You attest that you were incorporated on date Y in state Z. You also 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, otherwise than as an insubstantial part of your activities that in themselves are not in furtherance of one or more exempt purposes, that your organizing document contains the dissolution provision required under section 501(c)(3), and that your organizing document contains the provisions required by section 508(e) or that your organizing document does not need to include the provisions required by section 508(e) because you rely on the operation of state law in your particular state to meet the requirements of section 508(e).

You attest that you are organized and operated exclusively to further charitable purposes and that you have not conducted and will not conduct prohibited activities under 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

During our review of your application, detailed information was requested supplemental to the above attestations. This information shows that you were formed as a not for profit mutual benefit corporation on date Y in the state of Z.

You were formed to create a support system for members. Specifically, you provide funds to members or their registered family members who have lost a family member. Funds are intended to be used for the cost of funeral expenses. Members pay a registration fee of approximately \$20 and are expected to pay a fee of approximately \$100 per death of an active member or registered family member.

Your board of directors provides details to members regarding the deceased individuals and present funds to the registered beneficiary within twenty-four hours of the incident. Members participate in comforting grieving families.

You explain in the W community mutual benefit associations are a common way to provide assistance when the unexpected happens. You explain within the immigrant community many individuals have little to no information regarding life insurance or saving money.

You indicate you formed a support system that lessens the burden of government and provides relief to the poor and underprivileged.

## 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 or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Treasury Regulation § 1.501(c)(3)-1(a)(1) states that in order to qualify under section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more exempt purposes. If an organization fails to meet either the organizational or operational test, it is not exempt.

Treas. Reg. § 1.501(c)(3)-1(b)(1)(iv) states that in no case shall an organization be considered to be organized exclusively for one or more exempt purposes, if, by the terms of its articles, the purposes for which such organization is created are broader than the purposes specified in section 501(c)(3).

Treas. Reg. § 1.501(c)(3)-1(c)(1) states 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.

Treas. Reg. § 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. It must not be operated for the benefit of designated individuals or the persons who created it.

Treas. Reg. § 1.501(c)(3)-1(d)(2) provides that the term 'charitable' is used in section 501(c)(3) of the Code in its generally accepted legal sense, and includes the lessening of the burdens of government.

Revenue Ruling 67-367, 1967-2 C.B. 188, describes an organization whose sole activity was the operation of a scholarship plan for making payments to pre-selected, specifically named individuals. The organization established a plan whereby it entered into agreements with subscribers. The subscribers deposited a certain amount of money with a designated bank. The subscriber also named a specific child to be the recipient of the scholarship money. The recipient received the scholarship around the time he or she were to begin college. The organization did not qualify for exemption under section 501(c)(3) of the Code because it was serving the private interests of its subscribers rather than serve public charitable and educational interests.

Rev. Rul. 69-175, 1969-1 C.B. 149, describes an organization which was formed by parents of pupils attending a private school. The organization provided bus transportation to and from the school for those children whose parents belong to the organization. The organization did not qualify for exemption under section 501(c)(3) of the Code because it served a private rather than public interest

Rev. Rul. 76-205, 1976-1 C.B. 154, describes an organization formed to aid immigrants in overcoming social, cultural, and economic problems by providing personal counseling, referrals to helpful agencies, social and recreational activities, instruction in English, and distributing a newsletter containing information on attaining citizenship, securing housing, and obtaining medical care is operated exclusively for charitable and educational purposes and qualifies for exemption under section 501(c)(3) of the Code.

In Rev. Rul. 85-2, 1985-1 C.B. 178, an organization that provides legal assistance to guardians ad litem who represent abused and neglected children before a juvenile court that requires their appointment lessens the burdens of government and is described in section 501(c)(3) of the Code. The Service stated the determination of whether an organization's activities lessen the burdens of government involves two tests: 1- It is necessary to determine whether the governmental unit considers to be its burden. 2- The activities must actually lessen such burden of the government.

In Better Business Bureau of Washington, D.C. v. United States, 326 U.S. 279 (1945), the Supreme Court determined that the presence of a single non-exempt purpose, if substantial in nature, will destroy exemption under section 501(c)(3) regardless of the number or importance of any other exempt purposes.

### **Application of law**

Treas. Reg. § 1.501(c)(3)-1(a)(1) provides that in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section.

### Organizational Test

Your organizational document does not limit your purpose to one that is exclusively exempt in nature as required by Treas. Reg. § 1.501(c)(3)-1(b)(1)(iv). Rather, you are formed as a not for profit mutual benefit corporation. As a result you do not satisfy the organizational test requirement to be recognized as exempt under section 501(c)(3) of the Code, and are not as described in section 501(c)(3) of the Code.

### Operational Test

You conduct an activity that provides direct benefits to members and private individuals that is more than insubstantial in nature. For this reason you are not operating exclusively for exempt purposes (Treas. Reg. § 1.501(c)(3)-1(c)(1)). As a result you do not satisfy the operational test requirement to be recognized as exempt under section 501(c)(3) of the Code, and are not as described in section 501(c)(3) of the Code.

You are similar to the organization described in Rev. Rul. 67-367. Like that organization, your activities serve to benefit your members rather than benefit the public. The organization in this revenue ruling made predetermined payments to preselected individuals at a predetermined time. You are providing a set aside amount of funds payable, much like an insurance policy, to your members in the event of a family death. There is not charitable intent to the payments, qualification or review to determine need – the payments are automatic. The payment of these types of benefits to pre-selected, specifically named individuals serves a private interest rather than a public interest. Treas. Reg. § 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

The group of parents in Rev. Rul. 67-175 provided a cooperative service for themselves and thus served their own private interests. Like that organization, you were formed to provide benefits to your members. In your case, a substantial portion of your activities consists of providing death benefits to members. The payment of these benefits serves private rather than a public interest. Treas. Reg. 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 distinguished from the organization described in Rev. Rul. 76-205 because you are not

operated exclusively for exempt purposes. A substantial portion of your activities consists of providing death benefits to your members. The payment of these benefits serves private, rather than a public interest and are not in furtherance of one or more exempt purposes.

Although you claim to lessen the burdens of government, there is no evidence of any involvement of any governmental unit. In addition, there is no objective manifestation that a governmental unit considers your activities to be its burden or that your activities actually lessen that burden. See Rev. Rul. 85-2 and Treas. Reg. § 1.501(c)(3)-1(d)(2).

The Supreme Court held in Better Business Bureau of Washington, D.C. v. United States that a single nonexempt purpose, if substantial in nature, would preclude an organization from qualifying under section 501(c)(3) no matter the number or importance of truly exempt purposes. Despite the other qualifying activities that you conduct, the activity of providing benefits to your members in the event of a family death is serving private, non-exempt purposes.

### **Conclusion**

Based on the above facts and analysis, you do not qualify for exemption under section 501(c)(3) of the Code. You are not operated exclusively for a 501(c)(3) purpose. You further the interests of your members which serves private interests. Therefore, you do not qualify for exemption under section 501(c)(3) of the Code.

### **If you don't agree**

You have a right to file a protest if you don't agree with our proposed adverse determination. To do so, you must send a statement to us within 30 days of the date of this letter. The statement must include:

- Your name, address, employer identification number (EIN), and a daytime phone number
- A copy of this letter highlighting the findings you disagree with
- An explanation of why you disagree, including any supporting documents
- The law or authority, if any, you are relying on
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization, or your authorized representative
- One of the following declarations:

**For an officer, director, trustee, or other official who is authorized to sign for the organization:**

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

**For authorized representatives:**

Under penalties of perjury, I declare that I prepared this protest statement, including accompanying documents, and to the best of my knowledge and belief, the statement contains all relevant facts 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 he or she hasn'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 provided a basis for us to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't provided a basis for reconsideration, we'll forward your case to the Office of Appeals and notify you. You can find more information about the role of the Appeals Office in Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*.

If you don't file a protest within 30 days, you can't seek a declaratory judgment in court at a later date because the law requires that you use the IRS administrative process first (Section 7428(b)(2) of the Code).

**Where to send your protest**

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

U.S. mail:

Internal Revenue Service  
EO Determinations Quality Assurance  
Room 7-008  
P.O. Box 2508  
Cincinnati, OH 45201

Street address for delivery service:

Internal Revenue Service  
EO Determinations Quality Assurance  
550 Main Street, Room 7-008  
Cincinnati, OH 45202

You can also fax your statement 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 he or she received it.

**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.



You can find all forms and publications mentioned in this letter on our website at [www.irs.gov/formspubs](http://www.irs.gov/formspubs). If you have questions, you can contact the person listed at the top of this letter.

Sincerely,

Jeffrey I. Cooper  
Director, Exempt Organizations  
Rulings and Agreements

Enclosure:  
Publication 892