



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

Number: **201721021**
Release Date: **5/26/2017**

Date: **March 1, 2017**

Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

UIL: 501.10-00

Dear _____ :

This letter is our final determination that you don't qualify for tax-exempt status under Section 501(c)(10) 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.

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.

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.

Sincerely,

Jeffrey I. Cooper
Director, Exempt Organizations
Rulings and Agreements

Enclosures:

Notice 437

Redacted Letter 4034, *Proposed Adverse Determination under IRC Section 501(a) Other Than 501(c)(3)*

Redacted Letter 4040, *Final Adverse Determination under IRC Section 501(a) Other Than 501(c)(3) - No Protest*



**Department of the Treasury
Internal Revenue Service**

P.O. Box 2508
Cincinnati, OH 45201

Date: January 12, 2017

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

X = Name of State
Y = Date
Z = Name of Entity

UIL:

501.10-00

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)(10) of the Code. This letter explains the basis for our conclusion. Please keep it for your records.

Issues

Do you qualify for exemption under section 501(c)(10) of the Code? No, for the reasons stated below.

Facts

You formed as an LLC in the State of X on Y. Your Articles of Organization state that you shall be operated at all times "exclusively for charitable, religious, educational or scientific purposes." Your sole member is Z, an organization described in Section 501(c)(10) of the Internal Revenue Code. You operate under a Standing Resolution of your sole member.

You maintain a building for your member and other fraternal organizations to use. Your activities consist of the following:

- Paying all county taxes and assessments;
- Paying all recurring monthly bills including utilities, garbage removal, snow removal, telephone, internet, supplies, and equipment;
- Collecting rents from the fraternal organizations that use your facility;
- Maintaining and updating all yearly contracts;
- Performing day to day building maintenance;
- Scheduling all activities by the fraternal groups using the facility; and
- Maintaining monthly board meeting minutes.

You do not provide for the payment of life, sick, accident or other benefits to members. You state that your net earnings are devoted to providing a safe place for Masons to meet, and that you support the activities of various

local Masonic organizations by maintaining the building, grounds, and collecting the rents for many fraternal activities

Your primary source of revenue is rental income received from the fraternal organizations using your facility.

You initially indicated that you do not operate under the lodge system, but that you operate for the exclusive benefit of the members of an organization operating under the lodge system. You later stated that you do in fact operate under the lodge system, are largely self-governing, and are a subordinate organization of your sole member, Z.

Law

Section 501(c)(10) of the Code provides for exemption of domestic fraternal societies, orders, or associations that operate under the lodge system, devote their net earnings exclusively to religious, charitable, scientific, literary, educational, and fraternal purposes, and do not provide for the payment of life, sick, accident, or other benefits.

Treasury Regulation Section 1.501(c)(8)-1 states that a fraternal beneficiary society is exempt from tax only if operated under the lodge system or for the exclusive benefit of the members so operating. Operating under the lodge system means carrying on its activities under a form of organization that comprises local branches, chartered by a parent organization and largely self-governing, called lodges, chapters, or the like.

Treasury Regulation Section 1.501(c)(10)-1 states that an organization will qualify for exemption under Section 501(c)(10) of the Code if it (1) is a domestic fraternal beneficiary society order, or association, described in section 501(c)(8) and the regulations thereunder except that it does not provide for the payment of life, sick, accident, or other benefits to its members, and (2) devotes its net earnings exclusively to religious, charitable, scientific, literary, educational, and fraternal purposes.

Revenue Ruling 73-192, 1973-1 C.B. 224 states that an organization whose sole purpose and activity is to provide life, sick, and accident benefits for its members may qualify for exemption under Section 501(c)(8) of the Code even though it does not operate under the lodge system. It must be composed exclusively of members of a lodge of a fraternal beneficiary society operating under the lodge system.

Revenue Ruling 76-457 1976-2 CB 155 states that a domestic fraternal beneficiary society of farmers operated under the lodge system that does not itself provide for the payment of life, sick, accident, or other benefits to its members, but arranges with insurance companies to provide optional insurance to its members and devotes its net earnings exclusively to religious, charitable, scientific, literary, educational, and fraternal purposes does not qualify for exemption under Section 501(c)(8) of the Code but does qualify under Section 501(c)(10).

Revenue Ruling 81-117 1981-1 CB 346 states that an organization that does not conduct any fraternal activities or operate under the lodge system, but does operate exclusively for the benefit of certain related domestic fraternal societies operating under the lodge system, does not qualify for exemption under section 501(c)(10) of the Code. The organization is organized and operated for the purpose of holding real estate for the use and benefit of certain related fraternal societies. Each of the related societies is described in section 501(c)(10) of the Code and has representation on the corporation's board of trustees. The organization does not operate under the lodge system.

Union v. Marlow, 374 F. 775, 778 (1896), defines “fraternal society” as an association or society whose members have adopted the same, or a very similar calling, avocation, or profession, or who are working in union to accomplish some worthy object, and who for that reason have banded themselves together.

Fraternal Order of Civitans v. Commissioner, 19 T.C. 240 (1952) held that an association of persons without common ties and objectives lacked the fraternal characteristic required for exemption of fraternal beneficiary societies.

Application of law

To meet the requirements for Section 501(c)(10) of the Code an organization must be a fraternal association, operated under the lodge system, which devotes its earnings exclusively to religious, charitable, scientific, literary, educational, and fraternal purposes as stipulated in Treas. Reg. Section 1.501(c)(10)-1.

You are not operated under the lodge system as defined by Treas. Reg. Section 1.501(c)(8)-1 because you do not carry on your activities under a form of organization that comprises local branches, chartered by a parent organization and largely self-governing, called lodges, chapters, or the like. You are not a lodge or chapter of a masonic organization which it has chartered, but an organization of a completely different kind, a wholly owned subsidiary of Z formed for the purpose of managing its real property.

Furthermore, you do not fall under the exception for certain organizations operated for the exclusive benefit of the members of an organization operating under the lodge system. This exception applies only to an organization of the kind described in Rev. Rul. 73-192, which can qualify for exemption under Section 501(c)(8) if its sole purpose and activity is to provide life, sick, and accident benefits for members of a lodge of a fraternal beneficiary society operating under the lodge system. You do not provide for life, sick, and accident benefits and therefore do not meet the exception.

Furthermore, you do not qualify for exemption under Section 501(c)(10) because your activities lack both fraternal and charitable characteristics.

Unlike the organization described in Revenue Ruling 76-457, you do not conduct any fraternal activities, and your earnings are not devoted exclusively to religious, charitable, scientific, literary, educational, and fraternal purposes. For these reasons you do not qualify under Section 501(c)(10) of the Code.

You resemble closely the organization described in Revenue Ruling 81-117, which does not conduct any fraternal activities or operate under the lodge system, but holds real estate for the use and benefit of certain related fraternal societies. Although this organization supports the activities of various local masonic organizations by holding or maintaining the real estate they use in common, in exactly the same way that you say you do, it does not qualify for exemption under Section 501(c)(10) of the Code. For the same reasons, you do not qualify for exemption under Section 501(c)(10).

You are not a fraternal association or society as defined in Union v. Marlow because you do not have members who have banded themselves together to work in union to accomplish some worthy object. You are not an association of natural persons at all, but a corporation the sole member of which is a non-profit corporation or association. Because you are not a fraternal association or society, you do not qualify under Section 501(c)(10) of the Code.

Like Fraternal Order of Civitans v. Commissioner, you do not qualify for exemption because you are not an association of persons with common ties and objectives conferring on you a fraternal character.

Conclusion

Based on the information submitted you do not qualify for exemption under Section 501(c)(10) because you are not a fraternal association or society, not operated under the lodge system, and lack both fraternal and charitable characteristics. You were formed to maintain a building for use by various local fraternal organizations, but, unlike the fraternal organizations using your facility, you are not conducting any religious, charitable, scientific, literary, educational, or fraternal activities.

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. 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