



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

Date: November 9, 2017

Number: 201805015
Release Date: 2/2/2018

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,

Stephen A. Martin
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:

September 11, 2017

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

A= name

B= name

C= name

D= individual

E= organization

F= organization

G= event

X = date

Y = state

Z= state

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 were formed in Y on X. Your Articles of Incorporation state that your principal object is to personally benefit and protect members by the exchange of knowledge and the granting of assistance to those who may be sick or disabled.

Your constitution states your objective is to perpetuate the teachings of D; to unite all brethren of the A, B and C families; and to promote community welfare and sponsor social benefits, charities, and educational activities. You will not be affiliated with any political entity.

Your constitution also states all descendants (age 18 and older and legal U.S. resident) of the A, B, and C families residing in the greater metropolitan area of Z who wish to join shall become members after registering and willfully consenting to abide by your Constitution.

Per Form 1024 you were formed for the following activities:

- a. Find assistance for new immigrants
- b. Assist members in applying for housing assistance
- c. Advise members on job opportunities
- d. Counsel members in education opportunities
- e. Inform membership of business opportunities
- f. Temporary financial assistance to needy members when funds are available
- g. Establish relationships and work together with other community and faith based organizations such as the E and the F to organize community activities such as the annual G and other charitable activities
- h. Provide scholarships to needy students when funding is available

You are funded primarily by donations and member dues, but also generate income through rental income from your building. You submitted two residential and one commercial lease for the property.

You completed Schedule E, Form 1024, for organizations requesting exemption under IRC 501(c)(8) or 501(c)(10). Per schedule E, you are not a fraternity or sorority, you will not operate under the lodge system, you are not a subordinate or a local lodge, and you are not a parent or grand lodge.

Law

Section 501(c)(8) of the Code exempts fraternal beneficiary societies operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents.

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.

Treas. Reg. 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 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).

Rev. Rul. 81-117, 1981-1 C.B. 346 provides that an organization that does not conduct any fraternal activities or operate under the lodge system, but does operate exclusively for the benefit of members of certain related domestic fraternal societies operating under the lodge system, does not qualify for exemption under IRC 501(c)(10).

National 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 as an association or society to aid and assist one another, and to promote the common cause.

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. While you have indicated certain portions of your expenses are devoted toward religious, charitable, and educational purposes, you are not a fraternal association and are not operated under the lodge system as defined by section 501(c)(10) of the Code. Further, you are not a domestic fraternal beneficiary society order, or association, described in section 501(c)(8) and the regulations thereunder. As a result you do not meet the requirements under section 501(c)(10).

You are not operated under the lodge system as defined by Treas. Reg. Section 1.501(c)(8)-1. You do not carry on your activities under a form of organization that comprises local branches, you are not chartered by a parent organization or are a largely self-governing lodge, chapter, or the like. Rather you are formed to perpetuate the teachings of D; to unite all brethren of the A, B and C families; and to promote community welfare and sponsor social benefits, charities, and educational activities.

In Rev. Rul. 76-457 an organization that operated under the lodge system, but did not provide for the payment of life, sick, accident, or other benefits to its members, instead arranging with insurance companies to provide optional insurance, qualified under section 501(c)(10) of the Code. While this organization met an exception in directly providing benefits they still operated under the lodge system. Unlike the organization in that ruling, you do not operate under the lodge system, and therefore would not qualify under section 501(c)(10) for any considerable exceptions.

In Rev. Rul. 81-117, an organization that did not conduct fraternal activities or operate under the lodge system but operated exclusively for the benefit of members of other fraternal societies operating under the lodge system did not qualify for exemption under section 501(c)(10) of the Code. As you do not operate under the lodge system or conduct fraternal activities, as defined within, any benefits provides to members do not meet the requirements for qualification under section 501(c)(10).

You are not a fraternal association or society as defined in National Union v. Marlow because you do not have members who have banded themselves together to work in union to accomplish some worthy object. Because you are not a fraternal association or society, you do not qualify under section 501(c)(10) of the Code.

Conclusion

Based on the information submitted you do not qualify for exemption under section 501(c)(10) of the Code because you are not a fraternal association or society, are not operated under the lodge system, and lack both fraternal and charitable characteristics.

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,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosure:
Publication 892