



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

Number: **201919015**
Release Date: 5/10/2019

Date:
February 12, 2019
Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

UIL: 501.03-00, 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.

Sincerely,

Stephen A. Martin
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:

December 19, 2018

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

Y = Date

Z = State

UIL:

501.03-00

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 qualify for exemption under Section 501(c)(3) of the Code? No, for the reasons stated below.

Facts

You were formed as a corporation on Y in the state of Z. Your organizing document provides that you are organized for purposes described in Section 501(c)(3) of the Code and that upon dissolution, any remaining assets would be distributed for one or more exempt purposes within Section 501(c)(3).

Your Form 1023-EZ states that your mission is to provide a platform to collect genealogical information, communicate, and preserve family history and your heritage. You want to help inform family and relatives about your ancestry and heritage. During review of your Form 1023-EZ, detailed information was requested supplemental to the attestations provided with your application.

You want your family members to be informed about their history. You maintain a website with information concerning your family genealogy. You have joined a couple of genealogical research websites to assist you with your research. You hope to locate long lost relatives, both in the United States and from your ancestors' homelands.

The only people participating in your activities are family members located in a particular metropolitan area. You stated that you will have a lot of public activities and information for the public in upcoming years.

You expect to receive funding from grants and fundraisers. You are collecting recipes from family members to put together a family cookbook to sell as a fundraiser. Your expenses include website related fees. You plan to hire a researcher next year once you receive funding. Currently, you do not charge any fees for your services.

Law

Section 501(c)(3) of the Code provides for the recognition of exemption of organizations that are organized and operated exclusively for religious, charitable or other purposes as specified in the statute. No part of the net earnings may inure to the benefit of any private shareholder or individual.

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

Treas. Reg. Section 1.501(c)(3)-1(c)(1) provides 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. Section 1.501(c)(3)-1(d)(1)(ii) states that an organization is not organized or operated exclusively for exempt purposes unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Treas. Reg. Section 1.501(c)(3)-1(d)(1)(iii), Example 1, provides an illustration of when an organization serves a private interest, rather than a public interest:

(i) O is an educational organization the purpose of which is to study history and immigration. O's educational activities include sponsoring lectures and publishing a journal. The focus of O's historical studies is the genealogy of one family, tracing the descent of its present members. O actively solicits for membership only individuals who are members of that one family. O's research is directed toward publishing a history of that family that will document the pedigrees of family members. A major objective of O's research is to identify and locate living descendants of that family to enable those descendants to become acquainted with each other.

(ii) O's educational activities primarily serve the private interests of members of a single family rather than a public interest. Therefore, O is operated for the benefit of private interests in violation of the restriction on private benefit in paragraph (d)(1)(ii) of this section. Based on these facts and circumstances, O is not operated exclusively for exempt purposes and, therefore, is not described in Section 501(c)(3).

Treas. Reg. Section 1.501(c)(3)-1(d)(3)(i) defines the term "educational" as the instruction or training of the individual for the purpose of improving or developing his capabilities or the instruction of the public on subjects useful to the individual and beneficial to the community.

Revenue Ruling 71-580, 1971-2 C.B. 235, describes an organization formed by members of a particular family to compile genealogy research in order to perform religious ordinances of the religious denomination to which the family members belonged. It qualified for recognition of exemption under Section 501(c)(3) of the Code.

Rev. Rul. 80-301, 1980-2 C.B.180, describes an organization that had a membership open to all persons in a particular geographic area and provided instruction in genealogical research techniques. The organization qualified for exemption as an educational organization.

Rev. Rul. 80-302, 1980-2 C.B. 182, describes an organization formed to locate, acquire, restore and preserve all available genealogical records of a particular family. Membership was limited to lineal or legal descendants. The organization did not qualify for exemption. The activities served the private interests of its members.

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279 (1945), the Court held that the presence of a single non-exempt purpose, if substantial in nature, will preclude exemption regardless of the number or importance of statutorily exempt purposes.

The Callaway Family Association, Inc. v. Commissioner, 71 T.C. 340 (1978), held that a family association formed as a nonprofit organization to study immigration to and migration within the United States by focusing on its own family history and genealogy does not qualify for exemption under Section 501(c)(3) of the Code. The association's activities included researching the genealogy of its members for the ultimate purpose of publishing a family history. The court stated that the association's family genealogical activities were not insubstantial and were not in furtherance of an exempt purpose. Rather, they served the private interests of the members. Thus, the association was not operated exclusively for exempt purposes.

In Benjamin Price Genealogical Association v. Internal Revenue Service, 79-1 U.S.T.C. P9361 (D. D.C. 1979), the Court held that an organization formed to disseminate information on, and to preserve documents relating to, the genealogy of Benjamin Price did not qualify for exemption under Section 501(c)(3) of the Code because it was created and operated primarily for the benefit of the private interests of its members rather than exclusively for educational purposes.

Application of law

As explained in Treas. Reg. Section 1.501(c)(3)-1(a)(1), to be exempt as an organization described in Section 501(c)(3) of the Code, you must be both organized and operated exclusively for one or more of the purposes specified in such section. Although you are organized for Section 501(c)(3) purposes, you are not operated exclusively for Section 501(c)(3) purposes.

You do not meet the operational test of Section 501(c)(3) of the Code because you are not operating exclusively for exempt purposes as required under Treas. Reg. Section 1.501(c)(3)-1(c)(1). You do not meet the provisions of Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) because you are operating for the private interests of your family members, rather than the general public. Any benefit to the general public is merely incidental to the private benefit accruing to family members.

You are very similar to Treas. Reg. Section 1.501(c)(3)-1(d)(1)(iii), Example 1, because your genealogy activities primarily serve the private interests of members of a single family rather than a public interest.

Your activities do not accomplish exclusively educational purposes as required in Treas. Reg. Section 1.501(c)(3)-1(d)(3)(i). Rather, your activities serve the private interests of your family members.

You are not like the organization described in Rev. Rul. 71-580 because your activities are not conducted to fulfill a religious ordinance. Rather, your stated purpose is to conduct genealogical research for your family so that they know their history.

Unlike the organization described in Rev. Rul. 80-301, you only perform genealogical research for your family members, and not the general public. You are like the organization described in Rev. Rul. 80-302 because your research is only related to one particular family.

Similar to the organization described in The Callaway Family Association, Inc. and Benjamin Price Genealogical Association, you are not exempt because you are formed for the benefit of members of a particular family and you focus on your own genealogy with limited public orientation. Therefore, you are operated for the private interests of your family members and do not qualify for exemption under Section 501(c)(3) of the Code.

Even if you do conduct some educational activities, your activities which are in furtherance of the private interests of your family are more than insubstantial as explained in Better Business Bureau of Washington, D.C., Inc. You do not qualify for exemption under Section 501(c)(3) of the Code because your genealogical research furthers a substantial non-exempt, private purpose. Therefore, you do not qualify for exemption under Section 501(c)(3).

Conclusion

Based on the information provided, you do not qualify for exemption because you are not operated exclusively for exempt purposes within the meaning of Section 501(c)(3) of the Code. You have a substantial non-exempt purpose of conducting genealogical activities for the members of a particular family, which furthers private interests. Therefore, you do not qualify for exemption under Section 501(c)(3).

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