



Department of the Treasury  
Internal Revenue Service  
Tax Exempt and Government Entities  
PO Box 2508  
Cincinnati, OH 45201

Number: **202117023**  
Release Date: 4/30/2021

Date: **February 2, 2021**

Employer ID number:

Form you must file:

Tax years:

Person to contact:

**UIL: 501.00-00, 501.03-00, 501.33-00**

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

This letter is our final determination that you don't qualify for exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a) as an organization described in IRC Section 501(c)(3). 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 IRC Section 501(c)(3), donors generally can't deduct contributions to you under IRC Section 170.

We may notify the appropriate state officials of our determination, as required by IRC Section 6104(c), by sending them a copy of this final letter along with the proposed determination letter.

You must file the federal income tax forms for the tax years shown above within **30 days** from the date of this letter unless you request an extension of time to file. For further instructions, forms, and information, visit [www.irs.gov](http://www.irs.gov).

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection after deleting certain identifying information, as required by IRC Section 6110. 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 call the contact person shown above. If you have questions about your federal income tax status and responsibilities, call our customer service

number at 800-829-1040 (TTY 800-829-4933 for deaf or hard of hearing) or customer service for businesses at 800-829-4933.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements

Enclosures:

Notice 437

Redacted Letter 4034

Redacted Letter 4038



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

**Date: December 2, 2020**

**Employer ID number:**

**Contact person/ID number:**

**Contact telephone number:**

**Contact fax number:**

**Legend:**

- B = State
- C = Date
- D = Name
- E = Name
- F = Organization
- G = Profession

**UIL:**

- 501.00-00
- 501.03-30

x dollars = Amount

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

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

**Issues**

Do you qualify for exemption under IRC Section 501(c)(3)? No, for the reasons stated below.

**Facts**

You were formed in the state of B on C. You later attested that you amended your Articles to include required Section 501(c)(3) language; however, to date there is no evidence of such an amendment on B's Secretary of State website.

Your application indicates that you were established to provide education related to health, balanced, effective living, and happiness in the form of one-on-one counseling, public lectures and seminars for established groups including churches, yoga centers, fitness centers, health food stores, and bookstores. You also plan to publish educational information in the form of articles, books, and blogs.

During the \_\_\_\_\_ years of your operations, you will primarily fund the continuing education of your founder/president/director, D, who is conducting full-time studies at F in order to become a certified G.

Your initial funding is provided by an interest free loan of x dollars from D and E (D's spouse) and is intended to pay for D's transportation and airfare, apartment and furnishings, tuition, school supplies, and training seminars while studying at F. D will also be paid a salary while studying at F.

Upon completion of studies, D will establish an office in B to begin educating and advising clients on best practices for health and well-being on a pro bono basis. You hope to also provide an alternative to individuals who cannot afford the costs of health care, insurance, and medical practitioners by teaching them how to live a healthy and balanced life. Further, D will write and offer programs offered for free to the public while continuing personal study and development. D plans to grant you a license to publish literature but will maintain control over copyrights to intellectual properties.

After D completes education, you plan to receive funding through grants from D and E's family trust and donations from the general public.

During this time, you will also begin designing and implementing a website, as well as creating brochures, and promotional materials while soliciting funding.

### **Law**

IRC Section 501(c)(3) 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 IRC Section 501(c)(3), 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 IRC Section 501(c)(3). 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(c)(2) provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals as defined in Section 1.501(a)-1(c).

Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. To meet the requirement of this subsection, the burden of proof is on the organization to show 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.

In Harding Hospital, Inc. v. United States, 505 F.2d 1068, 1071 (6th Cir. 1974), the court held that an organization has the burden of proving that it satisfies the requirements of the particular exemption statute. The court noted that whether an organization has satisfied the operational test is a question of fact.

In Wendy L. Parker Rehabilitation Foundation, Inc. v. Commissioner, T.C. Memo. 1986-348, the tax court upheld the Service's position that a foundation formed to aid coma victims, including a family member of the founders, was not entitled to recognition of exemption. Approximately 30% of the organization's net income was expected to be distributed to aid the family coma victim. The distribution of funds from the foundation were for the medical and rehabilitative care of Wendy Parker, and this was to relieve the Parker family of the economic burden of providing such care.

### **Application of law**

You are not described in IRC Section 501(c)(3) because you fail the operational test set forth in Treas. Reg. Section 1.501(c)(3)-1(a)(1).

You are not described in Treas. Reg. Section 1.501(c)(3)-1(c)(1) because more than an insubstantial part of your activities is in furtherance of non-exempt private purposes. You are primarily funding D's educational and living expenses as well as a salary while studies to become a practitioner by using the proceeds of a loan from D and E. This precludes exemption under IRC Section 501(c)(3).

You are not operating as required by Treas. Reg. Section 1.501(c)(3)-1(c)(2) and Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii). For example, you are funding the living expenses and transportation expenses of your founder, so she can go to school which you are also funding. Further, D plans to grant you a license to publish literature but will maintain control over copyrights to intellectual properties. These facts show your net earnings are inuring to D and that you are operating for private interests. Therefore, you do not qualify for exemption under IRC Section 501(c)(3).

Moreover, analogous to the organization described in Wendy L. Parker Rehabilitation Foundation v. Commissioner, a disproportionate amount of your benefits is provided to a family member of the directors, who maintained complete control over the operations of the organization, rather than to the public as a whole.

### **Your position**

You stated that you were created to support the services that D wants to offer to your community and that your goal is to have a functioning clinic where can offer health and wellness counseling free of charge to clients. You also stated that you will conduct your activities in a rural county of North B which has a high percentage of individuals living at and below poverty levels who could benefit from a free alternative to traditional medical treatment. You reiterated that these activities will begin upon the completion of D's full-time studies at F.

### **Our response to your position**

You failed to provide any additional information from which it can be concluded that your activities exclusively further or advance a purpose described in IRC Section 501(c)(3) as previously explained. Similar to the organization in Harding Hospital, Inc. v. United States, 505 F2d 1068 (1974), you have failed to provide sufficient information to prove to us that you are operating exclusively for purposes described in Section 501(c)(3).

### **Conclusion**

Based on the information submitted, you are not operated exclusively for one or more purposes described in Section 501(c)(3), you are primarily operated for the private benefit of D.

**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.

**If you don't agree**

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

- Your name, address, employer identification number (EIN), and a daytime phone number
- A statement of the facts, law, and arguments supporting your position
- A statement indicating whether you are requesting an Appeals Office conference
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization or your authorized representative
- The following declaration:

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

Under penalties of perjury, I declare that I have examined this request, or this modification to the request, including accompanying documents, and to the best of my knowledge and belief, the request or the modification contains all relevant facts relating to the request, 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 they haven'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 gave us a basis to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't given us a basis for reconsideration, we'll send your case to the Appeals Office and notify you. You can find more information 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 later because the law requires that you use the IRC administrative process first (IRC Section 7428(b)(2)).

**Where to send your protest**

Send your protest, Form 2848, if applicable, and any supporting documents to the applicable address:

U.S. mail:  
Internal Revenue Service  
EO Determinations Quality Assurance  
Mail Stop 6403  
P.O. Box 2508  
Cincinnati, OH 45201

Street address for delivery service:  
Internal Revenue Service  
EO Determinations Quality Assurance  
550 Main Street, Mail Stop 6403  
Cincinnati, OH 45202

You can also fax your protest 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 they received it.

You can get the forms and publications mentioned in this letter by visiting our website at [www.irs.gov/forms-pubs](http://www.irs.gov/forms-pubs) or by calling 800-TAX-FORM (800-829-3676). If you have questions, you can contact the person listed at the top of this letter.

### **Contacting the Taxpayer Advocate Service**

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or if you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit [www.taxpayeradvocate.irs.gov](http://www.taxpayeradvocate.irs.gov) or call 877-777-4778.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements