



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

Number: 202124012
Release Date: 6/18/2021

UIL Number: 501.00-00, 501.03-30, 501.33-00

Date:
03/23/2021
Employer ID number:
Form you must file:
Tax years:
Person to contact:
Name:
ID number:
Telephone:

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.

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:
 02/02/2021
 Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

B = Date
 C = State
 D = City
 f dollars = Amount
 g dollars = Amount
 h dollars = Amount

UIL:

501.00-00
 501.03-30
 501.33-00

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 submitted Form 1023-EZ and attested that you have a necessary organizing document that limits your purposes to one or more exempt purposes within the meaning of IRC Section 501(c)(3), that your organizing document does not expressly empower you to engage in activities, other than an insubstantial part, that are not in furtherance of one or more exempt purposes, and that your organizing document contains the dissolution provision required under Section 501(c)(3). You also attested 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).

Your application states your mission or most significant activity is to create a community and social support system for members in D and surrounding areas at the time of death of a member or member's immediate relatives, by way of providing funds for funeral services or shipment of the body to a distant place.

During review of your Form 1023-EZ, detailed information was requested supplemental to your attestations. You were incorporated on B in the state of C. Your Articles of Incorporation state that your purpose is to create

a community and social support system for members and immediate relatives by the way of providing funds. Your Articles are silent regarding this disposition of your assets upon your dissolution.

At the time of death of a member or the death of an immediate relative of a member, you will provide funds for the funeral services and/or for the shipment of the body out of the country. You will also organize members to provide emotional support to the mourning families.

Your Bylaws state that membership is open to any individual who is 18 years old or older and who agrees to abide by your Bylaws. Membership fees include an f dollar membership registration, an inclusion fee of g dollars for dependent parents, and monthly dues of h dollars.

Quarterly and annual meetings are held. During the quarterly meetings, your executive committee along with the treasurer and accountant evaluate the members' financial obligations to ensure member payments are current. You send out invoices, reconcile deposits, and send reminders to members who have not paid their monthly dues. No one receives compensation for any of the tasks they perform.

You are supported by membership dues. Your primary expense is the distribution of death benefits to your members or to immediate family of deceased members. You requested private foundation classification.

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) of the regulations provides that in order to be exempt under IRC Section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the exempt purposes specified in that section. If an organization fails to meet either the organizational test or the operational test, it does not qualify for exemption.

Treas. Reg. Section 1.501(c)(3)-1(b)(1)(i) provides that an organization will be regarded as organized exclusively for one or more exempt purposes only if its articles of organization limit the purposes of such organization to one or more exempt purposes and do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Treas. Reg. Section 1.501(c)(3)-1(b)(4) provides that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. Assets will be considered dedicated if, upon dissolution, assets would be distributed for one or more exempt purposes

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 that 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(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.

Revenue Ruling 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 IRC Section 501(c)(3) because it served a private rather than public interest.

Rev. Rul. 79-359, 1979-2 C.B. 226, describes an organization which provided religious burial services that directly support and maintain its basic tenets and beliefs of a religion regarding burial of its members. The organization was formed by religious and lay leaders of a particular religion. In order to comply with the religious tenets, requirements regarding the preparation of the body must be followed and blessing, holding services over and interring the deceased were required. The organization qualified for exemption under IRC Section 501(c)(3) for exclusively religious purposes.

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

Application of law

IRC Section 501(c)(3) and Treas. Reg. Section 1.501(c)(3)-1(a)(1) set forth two main tests to qualify for exempt status. An organization must be both organized and operated exclusively for purposes described in Section 501(c)(3). You have failed to meet both requirements, as explained below.

You are not organized exclusively for charitable purposes as described in Treas. Reg. Section 1.501(c)(3)-1(b)(1)(i). Your Articles are not limited to one or more exempt purposes and they empower you to provide death benefits to your members and their immediate relatives. Additionally, you do not have an adequate dissolution clause as required by Treas. Reg. Section 1.501(c)(3)-1(b)(4).

To satisfy the operational test under Treas. Reg. Section 1.501(c)(3)-1(c)(1) an organization must establish that it is operated exclusively for one or more exempt purposes. You were formed for the non-exempt purpose of providing a substantial private benefit to your members through death benefits. Because your activities do not accomplish an exempt purpose you do not qualify for exemption.

Likewise, you do not meet the requirement of Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) because your membership is a group of individuals who have associated to provide a death benefit service for themselves. This serves the private interest of your members rather than a public interest, like the organization described in Rev. Rul. 69-175, and precludes exemption under IRC Section 501(c)(3).

You are distinguished from the organization described in Rev. Rul. 79-359. That organization was formed to further its religious beliefs regarding the burial of members of a particular religion and it performed religious burial services. You provided no indicators that you were formed to carry out any religious burial services regarding your deceased members. Your purpose is to pay death benefits to members or their relatives, which is not a religious purpose within the meaning of IRC Section 501(c)(3).

As explained in Better Business Bureau of Washington, D.C., Inc., a single, substantial non-exempt purpose is sufficient to prevent exemption. You have a substantial purpose of providing death benefits to members, which prevents you from qualifying for exemption under IRC Section 501(c)(3).

Conclusion

Based on the above facts and analysis, you do not qualify for tax exemption because you are neither organized nor operated exclusively for purposes described in IRC Section 501(c)(3). Your Articles of Incorporation do not limit your purposes to those described in Section 501(c)(3) and are silent regarding your assets upon your dissolution. Additionally, you fail the operational test because you are operated for the substantial non-exempt purpose of providing for the burial costs of your members, which precludes exemption under Section 501(c)(3).

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 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 or call 877-777-4778.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements