



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

Number: **202126025**
Release Date: 7/2/2021

UIL Number: 501.04-00

Date: April 5, 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)(4). 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 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.

We sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations

Letter 4038 (Rev. 1-2021)
Catalog Number 47632S

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: January 26, 2021

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

- B = Date
- C = State
- D = Type
- E = Name
- v = Number
- w = Number
- x = Number
- y = Number

UIL:

501.04-00

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)(4). 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)(4)? No, for the reasons stated below.

Facts

You were formed on B in C as a D corporation. Your Articles of Incorporation state you are organized and operated exclusively for the charitable purpose of and collection and disbursement only for death benefits to members and members' beneficiary within the meaning of Section 501(c) (3) and (12) of the Internal Revenue Code. Additionally, as a D Corporation in C, assets can only be distributed to members upon dissolution and D corporations in C are formed for the benefit of members.

Your bylaws indicate you are a membership organization. They further state that you are organized and operated exclusively for charitable purposes which include the collection of money and the disbursement of those funds for death benefits to be paid to members and members' beneficiaries and provide worship and prayer services for those near death. Your objectives as provided in your bylaws consist of providing assistance to elderly members of E by using their member assessments to pay expenses related to their funeral services.

Members must be between v and w years old and complete an application. You require members over the age of x years to obtain a health assessment by a physician before they are accepted as a member. Persons believed to be in poor health or addicted to drugs are not eligible. New members must pay the membership registration fees and agree to the terms in your bylaws. You have a cap of y members but this may be changed though a vote of your directors.

To be accepted as a member and be eligible for death benefits, members must submit to the terms of the bylaws and pay the required fees. The required fees include membership registration fees, funeral contribution fees, and annual membership dues. The membership registration fee is paid at the time the member joins the organization. The funeral contribution fee is paid monthly. The annual membership dues are paid annually.

To receive the death benefit payment, the deceased member's first beneficiary must request the payment of the benefit in writing, along with an appropriate certificate of death issued by the applicable county government, social security card of the deceased member and the designated beneficiary, and proper identification cards with photo for verification and authorization purposes. The death benefit is calculated based on a ratio which includes the number of years the person had been a member and the total number of your members multiplied by the funeral contribution fee.

Members of your board and officers must be active members under the age of w, who are a faithful Christians devoting themselves to the social welfare services provided by you for the community.

You are funded by membership registration fees, annual membership dues, funeral contribution fees, bank interests and special contributions from donors. Your outlays are for death benefit payments to your members' beneficiaries, salaries and other expenses.

Law

IRC Section 501(c)(4) provides for the exemption from federal income tax of organizations not organized for profit but operated exclusively for the promotion of social welfare. Further, exemption shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

Treasury Regulation Section 1.501(c)(4)-1(a)(1) states a civic league or organization may be exempt as an organization described in IRC Section 501(c)(4) if it is not organized or operated for profit and it is operated exclusively for the promotion of social welfare.

Treas. Reg. Section 1.501(c)(4)-1(a)(2)(i) provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this Section is one that is operated primarily for the purpose of bringing about civic betterments and social improvements.

Revenue Ruling 75-199, 1975-1 C.B. 160 describes a nonprofit organization that restricts its membership to individuals of good moral character and health belonging to a particular ethnic group residing in a stated geographical area and provides sick benefits to members and death benefits to their beneficiaries is not exempt under IRC Section 501(c)(4).

In Police Benevolent Association of Richmond v. U.S., 661 F. Supp. 765 (E.D. Va. 1987), the association alleged that, in tax year 1982, it was tax-exempt under IRC Section 501(c)(4) until it restated its articles of incorporation, and thereafter was exempt under IRC Section 501(c)(3). The court held that as a matter of law, the association could not establish that it was organized and operated for a charitable purpose under any set of facts consistent with its allegations. Because a substantial purpose of the association and its activities were intended to serve the pecuniary interests of its members, a non-exempt purpose, the court held that the association could not qualify as an organization operated exclusively for the promotion of social welfare under IRC Section 501(c)(4).

Application of law

You are not as described in IRC Section 501(c)(4) and Treas. Reg. Section 1.501(c)(4)-1(a)(1) because your activities do not primarily promote civic betterment or social welfare; you are primarily operating for the economic benefit of members. There is little or no benefit to the community.

You are like the organization described in Rev. Rul. 75-199. For example, you are supported by membership fees and your outlays are for death benefit to the members' designated beneficiaries. This shows you are essentially a mutual, self-interest type of organization operating for the economic benefit of your members. You are not primarily engaged in promoting in some way the common good and general welfare of the people of the community as required by Treas. Reg. Section 1.501(c)(4)-1(a)(2)(i).

Like the organization in Police Benevolent Association of Richmond v. U.S., your benefits are limited to members and there is only minor and incidental benefit to the community as a whole. Therefore, you are operated as a mutual benefit society and do not qualify for exemption from federal income tax under IRC 501(c)(4).

Conclusion

You are not described in IRC Section 501(c)(4) because you are not operated exclusively for the promotion of social welfare. Your activities are conducted primarily for the economic benefit of members and any benefit to the community is incidental.

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.

We sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements