



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

Date:
07/22/2024
Employer ID number:

Person to contact:

Release Number: 202442009
Release Date: 10/18/2024
UIL Code: 501.03-00, 501.36-00

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.

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 Letter 437, Notice of Intention to Disclose - Rulings, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Letter 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
Rulings and Agreements

Enclosures:

Letter 437

Redacted Letter 4034

Letter 4038

cc:



Department of the Treasury
Internal Revenue Service
PO Box 2508
Cincinnati, OH 45201

Date: 05/29/2024

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

B = State

C = Date

D = Organization

E = Program

F = Program

G = Number

UIL:

501.03-00

501.36-00

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 incorporated in B on C. According to your Articles of Incorporation you are organized not for profit and for charitable purposes as described in Section 501(c)(3) of the Internal Revenue Code (IRC) and in furtherance thereof to engage in assisting and sharing the loss of property by members of the D and that in a measure it will not be necessary to enter into general insurance companies. You attested in your response to our additional information request that you have amended your organizing document to include an appropriate dissolution clause.

Your Bylaws state that you are a fully-integrated auxiliary of the D and that you share common religious doctrines, principles and practices with D. They further state that you will be listed as a subordinate, integrated auxiliary in D's yearbook and that your name will be submitted to the Internal Revenue Service each year as an organization exempt from federal income tax under Section 501(c)(3) of the IRC of 1986 per the D's group exemption letter.

Your activities, as described in your application, are to assist your brethren in their loss. You accomplish this through two programs, E and F. These activities precipitated from a concern amongst your brotherhood to

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devise a plan to assist each other in cases of loss caused by the elements of destruction. Your brotherhood felt that ways and means should be found to provide funds that would be available for immediate distribution among the brotherhood if and when losses occurred.

Your programs are funded by assessment plans where members enroll their property in the plan and pay funds based on the value of their property. Members that wish to enroll, apply to their local church representative who submits the application to your office, where annual billings are sent out and the money is collected for disbursement when losses take place. All funds are held for the payment of losses, and no funds are invested or used for any purposes other than the payment for losses or overhead expenses. Approximately G participants receive loss assistance annually.

Program E

- Prospective participants notify their local office secretary of their intent to cover their property. Valuers and the district secretary will determine the value of the property and submit a completed and signed application to the main office. Applications from partnerships, corporations, or trusts where any partner, shareholder, or member of the partnership, corporation or trusts is not a member of the D, shall not be accepted.
- You charge set rates based on the value of the property being insured. Participants in this program pay a set deductible based on the valuation of the property, regardless of the type of loss.
- Insurable properties include buildings and contents, machinery and equipment, livestock, short term contracts, and builders' contracts, owned by members of D.
- Payable claims incidents include animal collision, collision, drowning, earthquake, electrocution, explosion, fire, flood, hail, lightning, predators (to livestock), storm, suffocation, theft, upset, vandalism, wind, etc.
- Losses are reported on a loss report form that must include a description of the property, the amount of the loss, and a detailed description of the loss.
- Policies are terminated automatically when insured property is sold, unless the party who becomes the owner is a member of the D. However, if the property is mortgaged, and the transfer is made to a non-member, the policy shall remain in effect for a period of fifteen days after notice of transfer is given to the lienholder.

Program F

- Prospective participants submit an application to their local office secretary providing their personal information, describing the vehicle(s) to be insured, and payment information. You charge set rates per vehicle, depending on the type and value of the vehicle being insured. Participants in this program pay a set deductible based on the type of car and type of incident that is to be covered.
- Payable claims incidents include glass breakage, loss caused by projectiles, falling objects, fire, theft, explosion, earthquake, windstorm, hail, water, flood, malicious mischief or vandalism, riot, civil commotion, vehicle collision, animal collision, or hit and run collision, except where the other party's

liability insurance is responsible. The policy documents also contain provisions for towing and/or storage fire department charges.

- Losses are reported on a loss report form that must include a description of the vehicle, a description of the incident and estimates for the cost of repair/salvage from body shops. The loss payment cannot exceed the current value of the vehicle.

You state that you help members even if they have not paid for membership. You further state that you also help those that may have forgotten to add a new property to their list, or whose membership was cancelled due to them failing to pay their dues. These individuals can submit a claim and your board of directors will take these factors into consideration and may make donations to help the affected individual with their misfortunes.

You also issue loans to congregations and school buildings. Loans are issued for the purpose of building or improving churches, school buildings, housing for schoolteachers, care facilities, guest houses, mission houses, and other outreach programs.

You are primarily funded by assessment receipts, lease income, and administrative income. You receive minimal donations annually. Your primary expenses are related to your loss payments, followed by payroll expenses and then all other overhead expenses.

Law

IRC Section 501(c)(3) provides for the recognition of exemption from federal income tax of organizations organized and operated exclusively for charitable, religious or educational purposes, provided that no part of its net earnings inures to the benefit of any private shareholder or individual.

Treasury Regulation Section 1.501(c)(3)-1(a)(1) provides 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(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 purpose. To meet this requirement, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests.

Revenue Ruling 69-175, 1969-1 C.B. 149, held that a nonprofit organization, formed by parents of pupils attending a private school that provides school bus transportation for its members' children, serves a private rather than a public interest and does not qualify for exemption under IRC Section 501(c)(3). When a group of individuals associate to provide a cooperative service for themselves, they are serving a private interest. The organization enables the participating parents to fulfill their individual responsibility of transporting their

children to school. Thus, the organization serves a private rather than a public interest. Accordingly, it is not exempt from federal income tax under Section 501(c)(3).

In Better Business Bureau of Washington D.C. Inc. v. United States, 326 U.S. 279 (1945), the Supreme Court held that the presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes. The Court found that the trade association had an "underlying commercial motive" that distinguished its educational program from that carried out by a university.

In Bethel Conservative Mennonite Church v. Commissioner, 746 F.2d 388 (7th Cir. 1984), an organization, in addition to operating a church, operated a program to share healthcare costs of church members. The church collected contributions from church members which was used to pay the health care bills of other members of the church. Significantly, there was no requirement that a church member contributed or subscribe to the program in order to receive the benefits of the program. The court held that this healthcare sharing program was sufficiently linked to the church's religious belief that it was operated primarily for a religious and thus exempt purpose.

In American Association of Christian Schools Voluntary Employees Beneficiary Association Welfare Plan Trust v. U.S., 850 F.2d 1510 (11th Cir. 1988), an organization formed a trust to provide health, hospital, disability, life, accidental death and dismemberment, dental and prescription drug insurance to employees of members' schools and their dependents and beneficiaries. The Court of Appeals found that the organization did not operate for a religious purpose because it operated similar to an insurance business where the premiums paid were directly linked to benefits being received by the members.

In Nonprofits' Ins. Alliance of California v. U.S., 32 Fed. Cl. 277, 283 (1994), the court held that the corporation which administered a self-insurance risk and provided commercial insurance was not entitled to tax exempt status under IRC Section 501(c)(3) because it failed the operational test within Section 501(c)(3). Selling insurance was inherently a commercial activity ordinarily carried on by a for-profit company, and these commercial activities outweighed any nonexempt activity it offered to the public. The existence and amount of accumulated profits and how much below cost the corporation was providing its services also factored into the court's consideration.

In Capital Gymnastics Booster Club, Inc. v. C.I.R., T.C. Memo. 2013-193 (2013), the tax court ruled that an organization that authorized members to raise funds for the benefit of their children served a private benefit. The contributions did not generally benefit all the child athletes in the program but rather benefitted only the children of the members who did the fundraising. Because the organization operated in a manner that promoted substantial private benefit and not public interests, the organization did not operate exclusively for an exempt purpose.

Application of law

IRC Section 501(c)(3) and Treas. Reg. Section 1.501(c)(3)-1(a)(1) set forth two main tests for an organization to be recognized as exempt. An organization must be both organized and operated exclusively for purposes described in Section 501(c)(3). Based on the information you provided, we conclude that you fail the operational test.

You serve a private rather than a public interest because you confer benefits primarily to your members. You operate a loss sharing program designed to mitigate losses to your enrolled members. Members pay monthly fees based on the property enrolled, and in return, receive payments in the event that they suffer loss related to their property. Like Capital Gymnastics Booster Club, your loss sharing plan does not provide substantial benefits to the public, but rather exclusively benefits your members. Because your program only benefits your members, you operate substantially for a private rather than a public interest as described in Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii). Consequently, you are providing a cooperative service for your members, like the organization in Rev. Rul. 69-175, and are not operating exclusively for exempt purposes as described in IRC Section 501(c)(3).

In Bethel Conservative Mennonite Church, the organization, in addition to operating a church, managed a program to share healthcare costs of church members. The church collected contributions from church members which were used to pay the health care bills of other members of the church. Significantly, there was no requirement that a church member contribute or subscribe to the program in order to receive benefits from the program. The court held that this healthcare sharing program was sufficiently linked to the church's religious belief that it was operated primarily for a religious and thus exempt purpose. You are distinguishable from Bethel because you operate under a fee-based subscription model. You require members to pay a monthly subscription to enroll, and the receipt of loss sharing benefits is contingent on the payment of these fees. You do have a process where individuals may have property covered that is not under the plan, but this is not the process used by the majority of your claimants. As such, you are similar to American Association, which was found to operate for nonexempt purposes because the healthcare benefits were closely linked to membership fees. Because more than an insubstantial part of your operations are conducted in a commercial manner similar to Nonprofits' Ins. Alliance of California, you are not exclusively operated for a religious purpose.

Qualification for exemption under IRC Section 501(c)(3) requires that an organization operate exclusively for exempt purposes. Exclusivity with respect to Section 501(c)(3) does not mean "solely" or "without exception," but rather contemplates that any non-exempt activities be only incidental and less than substantial. See Treas. Reg. Section 1.501(c)(3)-1(c)(1). This requirement is affirmed in Better Business Bureau Inc., where 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 truly exempt purposes. You primarily operate programs for assisting your members recover from the loss of their properties, through payments to cover these losses. By doing so, you are serving substantial private interests of your members. You do not qualify for exemption under Section 501(c)(3).

Conclusion

Based on the facts and circumstances presented, you are not operated exclusively for exempt purposes as set forth in Section 501(c)(3). By providing a means by which your members pay a monthly fee and in turn are provided benefits, you are operating for a substantial non-exempt purpose. Your operations are not exclusively charitable and resemble those of a trade or business. Therefore, you do not qualify for 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 Determination 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
PO 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