



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

Date:
08/29/2022
Employer ID number:

Person to contact:

Release Number: 202247016
Release Date: 11/25/2022
UIL Code: 501.00-00, 501.03-00,
501.03-30, 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.

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.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosures:
Letter 437
Redacted Letter 4034
Redacted Letter 4038



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

Date: 07/06/2022

Employer ID number:

Person to contact:

Name:

ID number

Telephone:

Fax:

Legend:

B = Date

C = State

D = Date

E = Date

F = Culture

G = Country

w dollars = Amount

x dollars = Amount

y dollars = Amount

UIL:

501.00-00

501.03-00

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 were incorporated on B in the State of C. You were previously exempt under IRC Section 501(c)(3), but your exempt status was automatically revoked on D, for failing to file required annual returns or notices for three consecutive years. In response to the revocation, you filed Form 1023 requesting for reinstatement of exemption under Section 501(c)(3) on E.

Your Articles of Incorporation describes your specific purpose is "to engage in activities related to promoting F heritage and to assist the community at large by informing them of government assistance programs, F culture and pride, solutions to concerns of the community through attempting to help local, state and federal lawmakers establish relevant programs, promote youth sports, and assist a sister city in G with emergency relief supplies, equipment and materials."

The activities you described on your Form 1023 explains your resources are dedicated to the primary purpose of covering funeral costs to members. The costs not only include funeral expenses, but often include the travel costs to send the deceased and family members, to their city of origin in G. Annually, you serve from to families and all requests are honored. Maximum amounts of w dollars are provided to members with less than one year of membership, x dollars for memberships to years, and y dollars for memberships more than years.

You will also provide the following:

- Coverage of medical expenses for your members and other community members in dire cases of emergencies where the individuals cannot afford the procedure.
- Assistance to your sister city in G with emergency sanitation and medical supplies, equipment, and material. This includes funds to construct a public , build a hospital clinic and enlarge the

Approximately percent of your resources are devoted to the above activities. The remainder of your activities includes the following:

- Promote F heritage in the community through annual celebrations based around G originated holidays. The annual celebrations are also your fundraisers to supplement membership dues.
- Support youth in the community by hosting a party, donating sports equipment and uniforms, and sponsor sports teams.
- Hold an annual party to celebrate families and children in the community.

It is unclear about your membership criteria. Only your members are eligible to receive funeral cost coverage. Recipients for any of your benefits may be related to a board member but must meet the same criteria as any other members.

You are mostly funded by membership fees and cultural events. Your expenses are mainly distributions to your members and costs to conduct your cultural events.

Law

IRC Section 501(c)(3) provides, in part, for the exemption from federal income tax of organizations organized and operated exclusively for charitable, religious or educational purposes, no part of the net earnings of which 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 qualify under IRC Section 501(c)(3), an organization must be both organized and operated exclusively for one or more exempt purposes. If an organization fails to meet either the organizational or 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 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. 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 such as designated individuals.

Revenue Ruling 67-367, 1967-2 C.B. 188, describes an organization whose sole activity was the operation of a subscription “scholarship” plan for making payments to pre-selected, specifically named individuals by subscribers. The organization did not qualify for exemption under IRC Section 501(c)(3) because it was serving the private interests of its subscribers rather than public or charitable interests.

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. When a group of individuals associate to provide a cooperative service for themselves, they are serving a private interest. Accordingly, the organization did not qualify for exemption under IRC Section 501(c)(3).

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 held that the presence of a single non-exempt purpose, if substantial in nature, will destroy a claim for exemption regardless of the number or importance of truly exempt purposes.

In Schoger Foundation v. Commissioner, 76 T.C. 380 (1981), it was held that if an activity serves a substantial nonexempt purpose, the organization does not qualify for exemption even if the activity also furthers an exempt purpose.

In La Verdad v. Commissioner, 82 T.C. 215 (1984), the administrative record did not demonstrate that the organization would operate exclusively in furtherance of an exempt purpose. Therefore, denial of the organization's request for tax-exempt status was reasonable.

In The Korean-American Senior Mutual Association, Inc. v. Commissioner, T.C. Memo 2020-129 (2020), the organization provides burial benefits by collecting membership dues and additional fees when members died and paying out burial benefits to families of deceased members correlated with the number of years the member had paid. The Tax Court concluded that the organization does not serve a public benefit and does not operate exclusively for one or more exempt purposes within the meaning of IRC Section 501(c)(3).

Application of law

You do not meet the requirements for recognition of tax exemption under IRC Section 501(c)(3) because you fail the operational test as described in Treas. Reg. Section 1.501(c)(3)-1(a)(1).

You conduct an activity that provides direct benefits to members and their family members that is more than insubstantial in nature. For this reason, you are not operating exclusively for exempt purposes as described in Treas. Reg. Section 1.501(c)(3)-1(c)(1).

You are similar to the organizations described in Rev. Rul. 67-367 and The Korean-American Senior Mutual Association, Inc. Like these organizations, your activities serve to benefit your members and their families, rather than benefit the public. You provide monetary support for funeral expenses correlating to the number of membership years. The payment of these types of benefits to pre-selected individuals serves a private interest rather than a public interest. Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) states that an organization is not operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest.

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 death and other benefits 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 and other 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 and other benefits to your members, which prevents you from qualifying for exemption under IRC Section 501(c)(3).

Although you may have some charitable activities such as cultural events to promote the F heritage, the cultural events are also conducted as fundraisers to supplement your membership dues. You are like the organization in Schoger Foundation. You do not qualify for exemption when your activities serve substantial non-exempt purpose even though your activities may also accomplish exempt purposes.

Similar to the organization in La Verdad, the facts you provided do not demonstrate that you operate exclusively in furtherance of an exempt purpose.

Conclusion

Based on the above facts and analysis, you fail the operational test under IRC Section 501(c)(3) because your activity of providing funeral coverage to your members and their families constitutes a substantial non-exempt purpose and serves the private interests of your members. 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

cc: