



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

Number: **201416009**
Release Date: 4/18/2014

Date: January 23, 2014

UIL: 501.14-00

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

Dear :

This is our final determination that you do not qualify for exemption from Federal income tax as an organization described in Internal Revenue Code section 501(c)(14). Recently, we sent you a letter in response to your application that proposed an adverse determination. The letter explained the facts, law and rationale, and gave you 30 days to file a protest. Since we did not receive a protest within the requisite 30 days, the proposed adverse determination is now final.

You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file. File the returns in accordance with their instructions, and do not send them to this office. Failure to file the returns timely may result in a penalty.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. Please 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 Notice 437. If you agree with our deletions, you do not need to take any further action.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at

1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Karen Schiller
Acting Director, Exempt Organizations
Rulings and Agreements

Enclosure
Notice 437
Redacted Proposed Adverse Determination Letter
Redacted Final Adverse Determination Letter



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: December 19, 2013

UIL: 501.14-00

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

Legend:

<u>Foreign Country</u>	=
<u>Foreign Law</u>	=
<u>Foreign Government Bank</u>	=
<u>Foreign Language</u>	=
<u>Date 1</u>	=
<u>Date 2</u>	=

Dear :

We have considered your application for recognition of exemption from Federal income tax under Internal Revenue Code § 501(a). Based on the information provided, we have concluded that you do not qualify for exemption under Code § 501(c)(14). The basis for our conclusion is set forth below.

FACTS

You are a nonprofit financial institution incorporated under Foreign Country general corporations law on Date 1. You operate under Foreign Law (Law), which created a fund to promote the social and economic development of Foreign Country through business using a cooperative structure. You state that you also operate under uniform bylaws adopted by Foreign Country.

You applied for recognition under § 501(a) as a § 501(c)(14) state-chartered credit union on Date 2. You submitted documents supporting this application. However, those documents were in Foreign Language. You provided no translation of those documents. When asked to provide translations of these documents, you provided a translation of the Law but failed to translate any other documents, including your Articles of Incorporation, Bylaws, and financial statements.

In your initial application, you state that you were created by the Law "to promote the social and economic development of Foreign Country through business using a cooperative structure." The Law controls your operations. Specifically, the Law states that:

- You are a "non-lucrative corporation" incorporated under Foreign Country's general corporations law;
- Your purpose is to be an investment and development vehicle for certain cooperative enterprises;
- Your members are cooperative enterprises that contribute to you and Foreign Government Bank. Nine members compose your board of directors, four of which are from Foreign Government Bank and five of which represent the cooperative enterprises that are your members; and
- Cooperative enterprises are entities organized under Foreign Country law, including cooperative credit and savings unions; subsidiaries or affiliates organized or owned by one or more cooperative credit and savings unions; insurance cooperatives; the Foreign Government Bank; and other cooperatives.
- Any securities, instruments, certificates, stocks, shares or other evidence of investment participation you issue is exempt from Foreign Country securities law.

In addition to providing an investment vehicle for your members, the Law permits you to "assume an active role in the design, gestation, organization, and capitalization of cooperative enterprises"; to conduct "pertinent studies and analyses" of those organizations; and to "invest in projects proposed by third parties" consistent with your policies.

Additionally, you state that the Law defines your loan terms, including the loan's purpose, security, and rate of interest; securities that qualify as legal investments; and the distribution of dividends on your shares, if any.

You provide no evidence indicating that you are operated under Foreign Country credit union law and do not state whether you conform to the requirements of the Federal Credit Union Act.

LAW

I.R.C. § 501(a) exempts organizations described in § 501(c) from federal income taxation.

I.R.C. § 501(c)(14)(A) describes credit unions without capital stock organized and operated for mutual purposes and without profit.

Rev. Rul. 69-282, 1969-1 C.B. 155, determined that an organization that did not operate under the state law governing credit unions did not qualify as a credit union under § 501(c)(14)(A). The ruling states that state law determines whether organizations are credit unions for purposes of exemption from federal income taxation under § 501(c)(14).

Rev. Rul. 69-283, 1969-1 C.B. 156, determined that an organization formed by a group of individuals at a United States military base in a foreign country that met all but the territorial requirements of the Federal Credit Union Act, would be regarded as a credit union under § 501(c)(14)(A). The organization formed to accumulate savings and provide a source of credit at

reasonable rates. The organization restricted membership to United States military personnel and civilians employed at the installation and provided services only to its members. Its purposes and method of operation conformed to the provisions of the Act. However, the Act applies only to the several States, the District of Columbia, the several Territories and possessions of the United States, the Panama Canal Zone, and the Commonwealth of Puerto Rico (the "territorial requirement"). The organization was not located in one of these countries. The ruling states that, if an organization is not governed by the law of any of the States, its status as a credit union cannot be determined under State law. Nonetheless, if the organization meets all but the territorial requirements of the Act, it will be regarded as a credit union for purposes of exemption under § 501(c)(14)(A). Accordingly, the organization qualified for recognition under § 501(c)(14)(A) because it met all but the territorial requirements of the Act.

Rev. Rul. 72-37, 1972-1 C.B. 152, clarifies that, to qualify as a credit union, the organization must operate without profit and for the mutual benefit of its members as required by the Federal statute, in addition to being chartered under a state credit union law as specified in Rev. Rul. 69-282.

Section 9.01 of Rev. Proc. 2013-4, 2013-1 C.B. 126 (updated annually), provides that all requests for letter rulings and determinations must be submitted in English. Additionally, all documents submitted in support of such requests must be in English, or accompanied by an English translation.

In La Caisse Populaire Ste-Marie (St. Mary's Bank) v. United States, 425 F. Supp. 512 (D.N.H. 1976), aff'd, 563 F.2d 505 (1st Cir. 1977), the United States District Court for the District of New Hampshire determined that St. Mary's operated for "mutual purposes" because "[b]oth borrowers and savers alike are required to be members of the institution and participate in the earnings of the institution by receiving dividends declared on capital shares."

RATIONALE

You do not qualify for recognition as a state-chartered credit union under § 501(c)(14)(A). First, you failed to show that you are organized and operated without capital stock, without profit, and for mutual purposes because you failed to provide English translations of your supporting documents, including your Articles of Incorporation, Bylaws, and financial statements. Rev. Rul. 72-37; Rev. Proc. 2013-1, § 9.01. Nonetheless, assuming that the Law is a valid substitute for a translation of your Articles of Incorporation, the Law allows you to operate for purposes other than mutual purposes. See Rev. Rul. 72-37. A credit union is operated for "mutual purposes" if "[b]oth borrowers and savers alike are required to be members of the institution and participate in the earnings of the institution by receiving dividends declared on capital shares." La Caisse Populaire Ste. Marie (St. Mary's Bank) v. United States, 425 F. Supp. 512 (D.N.H. 1976), aff'd, 563 F.2d 505 (1st Cir. 1977). However, the Law allows you to "assume an active role in the design, gestation, organization, and capitalization of cooperative enterprises"; to conduct "pertinent studies and analyses" of these organizations; and to "invest in projects proposed by third parties" consistent with your policies. These purposes are broader than the "mutual purposes" described in § 501(c)(14). Accordingly, you are operated for purposes other than "mutual purposes" within the meaning of § 501(c)(14)(A).

Additionally, you failed to show that you operate under a state law governing credit unions. A credit union recognized under § 501(c)(14)(A) must operate under the state law governing credit unions. Rev. Rul. 69-282. You are organized and operated in Foreign Country, which is not a state. Accordingly, you cannot be organized under a state law governing credit unions. Nonetheless, you may still be recognized under § 501(c)(14)(A) if you meet all but the territorial requirements of the Federal Credit Union Act (Act). Rev. Rul. 69-283. However, you failed to provide information showing that you meet the requirements of the Act. Therefore, you are not a state-chartered credit union within the meaning of § 501(c)(14)(A).

CONCLUSION

You fail to meet the requirements of § 501(c)(14) and do not qualify for recognition under that section. You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter. We will consider your statement and decide if the information affects our determination.

Your protest statement should be accompanied by the following declaration:

Under penalties of perjury, I declare that I have examined this protest statement, including accompanying documents, and, to the best of my knowledge and belief, the statement contains all the relevant facts, and such facts are true, correct, and complete.

You also have a right to request a conference to discuss your protest. This request should be made when you file your protest statement. An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you. If you want representation during the conference procedures, you must file a proper power of attorney, Form 2848, *Power of Attorney and Declaration of Representative*, if you have not already done so. For more information about representation, see Publication 947, *Practice before the IRS and Power of Attorney*. All forms and publications mentioned in this letter can be found at www.irs.gov, Forms and Publications.

If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848 and any supporting documents to this address:

Internal Revenue Service

1111 Constitution Ave, N.W.
Washington, DC 20224

You may also fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Karen Schiller
Acting Director, Exempt Organizations
Rulings and Agreements