



**Department of the Treasury
Internal Revenue Service**

P.O. Box 2508
Cincinnati, OH 45201

Number: 201532021
Release Date: 8/5/2016

Date: May 11, 2016

Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

UIL: 501.03-20, 501.03-30, 501.35-00, 501.36-01

Dear _____ :

This letter is our final determination that you don't qualify for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code (the Code). 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 Section 501(c)(3) of the Code, donors can't deduct contributions to you under Section 170 of the Code. You must file federal income tax returns for the tax years listed at the top of this letter using the required form (also listed at the top of this letter) within 30 days of this letter unless you request an extension of time to file.

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection (as required under Section 6110 of the Code) 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 the Notice 437 on how to notify us. If you agree with our deletions, you don't need to take any further action.

We'll also notify the appropriate state officials of our determination by sending them a copy of this final letter and the proposed determination letter (under Section 6104(c) of the Code). You should contact your state officials if you have questions about how this determination will affect your state responsibilities and requirements.

If you have questions about this letter, you can contact the person listed at the top of this letter. If you have questions about your federal income tax status and responsibilities, call our customer service number at 1-800-829-1040 (TTY 1-800-829-4933 for deaf or hard of hearing) or customer service for businesses at 1-800-829-4933.

Sincerely,

Jeffrey I. Cooper
Director, Exempt Organizations
Rulings and Agreements

Enclosures:

Notice 437

Redacted Letter 4036, *Proposed Adverse Determination Under IRC Section 501(c)(3)*

Redacted Letter 4038, *Final Adverse Determination Under IRC Section 501(c)(3) - No Protest*



**Department of the Treasury
Internal Revenue Service**

P.O. Box 2508
Cincinnati, OH 45201

Date: March 18, 2016

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

B = Date

C = State

D = Name

F = Organization

G = Organization

UIL:

501.03-20

501.03-30

501.35-00

501.36-01

Dear :

We considered your application for recognition of exemption from federal income tax under Section 501(a) of the Internal Revenue Code (the Code). Based on the information provided, we determined that you don't qualify for exemption under Section 501(c)(3) of the Code. This letter explains the basis for our conclusion. Please keep it for your records.

Issues

Do you qualify for exemption under section 501(c)(3) of the Code? No, for the reasons stated below.

Facts

You formed on B in the State of C pursuant to its general statutes. Your stated purposes in your Articles of Incorporation are as follows:

Said organization is organized exclusively for charitable, religious, educational, and scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code. The business activity for said organization is as follows: Provide ministry to a group by teaching various topics to strengthen their relationships and spiritual walk with God.

You are governed by a board of four persons, led by your president D. The other board members consist of D's spouse, D's aunt and D's friend. D and one other board member are compensated.

Initially in your application, you stated that your activities consist of teaching Biblical principles for everyday life. To this end you stated you would teach classes to youth regarding communicating in society, sexual purity, marriage and forgiveness. Additionally, you stated you provide ministry opportunities to churches to participate in disaster relief efforts and you travel to historical places and compare the places to the Biblical foundations set by America's forefathers. You further stated that you will contact organizations daily and visit churches to seek an opportunity to work with their ministries through your outreach ministry and you would seek to provide an opportunity for underprivileged children to participate in your programs and seek financial support for them to cover any expenses. You included a travel brochure with your application and stated that your activities will be conducted at various locations while traveling on the road.

Upon case development, you explained that your sole activity consists of providing mobile retreats on a specially converted bus to accommodate a group of thirty-eight retreaters. Your services include providing transportation, sleeping accommodations on the bus, and meals for church or ministry groups participating in your retreats. The teachings you described in your application are provided to participants during your trips, mainly incorporating Bible lessons. All materials used are directly from the Bible. You primarily provide these services for a children's choir and you provided a copy of your contract with them showing they pay you to transport them to their various singing venues for twenty-nine weeks of the year.

When you are not providing your services for the children's choir you stated that you provide your services to other ministry groups four to eight times during the year for purposes of conducting vacation Bible schools, singing in nursing homes, or serving on disaster relief teams. The ministry teams you transport provide the ministry or service projects. Your role is to provide transportation, accommodations, food, and Bible classes for team participants. Part of each trip may include stops at amusement parks, beaches, and other recreational destinations.

You submitted a brochure outlining your services and inviting people to "call today and plan your mobile retreat." The following are excerpts from your brochure:

Join D and [his spouse] for an exciting trip as each day will bring the excitement of "the day the Lord hath made." (Psalms 118:24)

Call today,[...] lock in your dates and let us start planning now.

The planning of your trip!

Where do you want to go?

We will drive each night to get your group there throughout each day of your retreat.

The purpose of your trip.

What do you want to do?

Missions trip, disaster relief, service, fun and education, marriage enrichment. You decide and we'll put it together for you.

What can we do!

We will drive, we can cook meals, mainly breakfast and lunches, yes hot ones and not just cereal or bologna sandwiches, although they are good too. We can work out the details of where you want to visit and get tickets and reservations. We will teach, preach, play music, pop popcorn and even turn down the blankets for you.

What do you need to do?

Most trips average 4 days and 3 nights, however, we can do more. The cost depends on what we are doing and where we are going. We will work with your group and customize your Mobile Retreat to fit into your budget. Fund raisers and sponsorship are a good way to help keep the individual costs down. Start one now, and build up your fund quickly so we can get on the road sooner.

The bottom line will be, the lives that will be changed and transformed into the likeness and mind of Christ. We all need to grow and mature in the Lord. Often, there are times when things hinder our growth and walls go up. Breaking down those walls and allowing God's word to heal the hearts, and then rebuild our lives, makes all of our efforts of working together with you, worth it all.

This is not your usual check into a hotel and stay three days retreat. It's not like going to church camp for a week and sleeping in a cabin with no A/C. It's a new adventure everyday (sic). Arise your first morning out on top of a mountain and hear your voice echo throughout the hills. Enjoy day two at an exciting amusement park with rides, shows or water activities. Then finish up day three relaxing on a beautiful beach feeling the oceans breeze. Each day we will incorporate Bible lessons.

Since formation, you have taken approximately twenty trips. The purposes listed for your trips include a men's retreat, exchange student ministry, ministry to nursing homes, and a youth retreat, among others. You stated in the course of your trips, you have visited several amusement parks, national parks and national monuments. We requested an hourly itinerary for your last four trips which included time for all your activities including Bible classes. Your last four trips were conducted for a F group, a college class, a church choir and G. The itinerary for the F group included visits to Niagara Falls, New York City, and Washington DC, as well as a whitewater rafting trip. Each destination had a full schedule of sightseeing. The itinerary indicates that you conducted group devotions every evening. The trip for the college included destinations to various campgrounds at national parks such as Yellowstone and the Grand Canyon. The itinerary for the college class did not make any reference to Bible classes or devotions. The itinerary for the church choir included three days with multiple stops for singing. According to the itinerary, you planned a visit to an amusement park for the final day of the

trip. Your itinerary labeled "G" included visits to Niagara Falls, New York City, and Washington DC. Each destination included a full day of sightseeing. Your trip information sheet shows that you held devotions each morning and evening.

You determine the cost of your trips based on an amount for the driver's salary, fuel, bus maintenance, meals, and activities. You explained that you use a cost share program for each trip, wherein you divide the total costs of the trip by the number of participants. Generally each participant pays his or her share of the cost. However, if someone is unable to pay, another person may pay their share or you stated that you may cover their expenses from general donations.

You are supported by fees as well as donations. The children's choir raises its own funds for its trips. You submitted a copy of your Retreat Agreement with the children's choir which shows the choir pays you for the driver's salary, mileage, and bus idle time. The agreement shows that you calculated a ten percent discount on the bus idle fee and mileage and a five percent discount on the driver's salary. The agreement provides provisions for overage charges if the duration of the trip and/or mileage exceeds the duration and mileage to which you agreed. Fees for entertainment, fuel, and tolls are not included in the agreement total. Your website encourages donations so that you keep prices low "

We asked you how many program participants' costs were covered from general donations. You stated that out of 528 participants, around 390 paid nothing and the remaining participants paid a small amount of their share after their organization contributed funds and after you used any available funds to assist. You stated that if funds are designated for an individual's share it goes directly to their share. For large groups, the organizations raise funds on behalf of their participants and the amount raised is shared among the individuals attending. The attendees then pay the amount remaining to their organization.

Historically you provided one donation to a church, but you do not have plans to make similar donations in the future. Your expenses are for compensation for your directors, at least one of whom also serves as a driver, rent to store the motorhome, supplies, maintenance of the motorhome, gas, lodging, and miscellaneous expenses.

Law

Section 501(c)(3) of the Code provides, in part, for the exemption from federal income tax to organizations organized and operated exclusively for charitable, religious or educational purposes where 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 (c)(1) states 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 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.

Rev. Rul. 77-366, 1977-2 CB 192, describes a nonprofit organization that was formed to provide a continuing educational program in an atmosphere conducive to spiritual renewal. The organization's only activities consisted of the regular arrangement and conduct of fourteen-day wintertime cruises on chartered ships. In addition to the usual cruise activities, the programs conducted on each cruise included a schedule of lectures, discussion groups, and special interest workshops on religious topics, at which attendance was not required. For approximately four hours on each of the nine days the ship was at sea, the organization conducted lectures, discussions, and workshops. The remainder of the time was available for meals, recreation activities and social functions. Many of the social and recreational function were arranged as part of the cruise, and recreational

facilities were readily at hand for participants use. A day was spent at each of five different ports of call where arrangements were made for general sightseeing tours and shopping opportunities. At three of the ports of call, the cruise sponsored programs also enabled the participants to spend minor portions of their time ashore meeting with local church leaders, attending worship services and/or visiting mission projects.

The ruling held that The lectures, discussions, workshops, and some of the activities on shore further religious and educational purposes. However, the extensive amount of time, energy, and other resources which are regularly devoted to the conduct of social and recreational activities, together with the manner in which such activities are scheduled in relation to other cruise programs, and all the other attendant facts and circumstances here present demonstrate that the organization's conduct of such social and recreational activities serve substantial independent purposes of a non-charitable nature.

Rev. Rul. 77-430, 1977-2 CB 194, describes an organization which conducted religious weekend retreats at a rural lakeshore site where participants enjoyed recreational facilities during their limited free time and qualified for exemption under section 501(c)(3). The organization was formed for the purpose of conducting weekend religious retreats open to individuals of diverse Christian denominations. The retreats are conducted by ministers and priests of the various denominations. The activities engaged in at the retreats are group and individual prayer, lectures, reading, and meditation. Such activities are generally scheduled on an hourly basis throughout the day. Although no recreational activities are scheduled, there is a limited amount of free time in which the participants may relax and enjoy the facilities.

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 179 (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 B. S. W. Group, Inc. v. Commissioner, 70 T.C. 352 (1978) the organization provided consulting services for a fee to various tax-exempt and non-profit organizations. The organizations fees were set at or close to cost. The court concluded that those activities are not inherently charitable because they are of the type typically conducted by for-profit organizations. Even though the organization argued that its fees may in fact be lower than those charged by other firms, the court concluded that it was not enough to prove that organization's purposes are primarily exempt. The Court concluded that the petitioner is not an organization described in section 501(c)(3) because its primary purpose is neither educational, scientific, nor charitable, but rather commercial.

In The Schoeger Foundation v. Commissioner, 76 TC 380, (1981) the applicant organization, which was characterized as a religious retreat facility, owned and operated a mountain lodge. Numerous religious, recreational and social activities were available to the lodge's guests none of which were regularly scheduled or required. The religious activities revolve around individual prayer and contemplation with optional daily devotions and occasional Sunday services available to the guests. The Court held that the organization did not qualify for exemption because the lodge's recreational and social activities were those of a vacation resort.

In Retreat in Motion, Inc. v. C.I.R., , 48 T.C.M. 334, T.C. Memo, 1984-315, a religious organization was formed to provide fun experiences through bus trips to Florida/Disneyworld and Washington DC. To accomplish its purposes the organization acquired an "over-the-road" bus which it rebuilt inside in order to provide in-bus sleeping facilities. The organization's program consisted of taking church-related groups on three-to five-day trips and providing an environment which was more conducive to the sharing of the Christian faith. The bus trips constituted the entire program of the organization with the only other activities ancillary such as fund

raising, administration and bus maintenance. The organization failed to qualify as a tax-exempt organization. The recreational aspects of the trips (involving secular sightseeing, beach-going, mountain climbing, etc.) were not shown by the taxpayer to be insubstantial in nature and were not merely incidental to religious activities.

Application of law

You are not described in section 501(c)(3) of the Code. You do not meet the operational test as described in Treas. Reg. Section 1.501 (c)(3)-1 (c)(1) because you have failed to establish that you exclusively further charitable, religious, or educational purposes, or any other purposes described in section 501(c)(3) of the Code, and because you have failed to establish that no more than an insubstantial part of your purposes are social, recreational and commercial.

You stated that your purpose is to restore relationships through the teachings you share during travel. We asked you to provide itineraries which showed an hourly schedule of your activities including Bible classes. The only reference to Bible classes on some of your itineraries was morning and evening devotions. The itineraries include multiple stops for sightseeing and amusement parks. Your devotional times are only a small part of your overall activities, which are providing transportation services for a fee. According to Better Business Bureau of Washington, D.C., Inc. v. United States, you fail to qualify for exemption from federal income tax due to the presence of a substantial non-exempt purpose, your transportation services. This is true regardless of the number of truly exempt purposes.

You are similar to the organizations described in Retreat in Motion, Inc. v. C.I.R and Rev. Rul. 77-366 in that you arrange and conduct travel opportunities which include an opportunity for spiritual renewal. Your sole activity is your mobile retreats, and similar to those organizations, your retreats include extensive opportunities for sightseeing, recreational, and social activities. Indeed, the itineraries submitted with your application showed that your participants engaged in activities such as sightseeing, whitewater rafting, and attending amusement parks. Although you have a devotional time each evening during your trip, it is clear that a substantial purpose of your organization is to transport persons to participate in social and recreational activities. In fact, based on the itineraries you provided, the devotional times are only an incidental part of your overall purposes. We note that some groups you transport may conduct activities that further religious or charitable purposes. However, it is they, not you, who conduct those activities. Your role is to provide transportation and to coordinate their sightseeing adventures. We also note that although you state your purpose is to transport groups to ministry opportunities, only one of your four most recent itineraries pertained to a group participating in ministry. The itineraries and brochures show your activities further substantial social and recreational purposes by transporting persons to sites where they may engage in recreational activities.

You are distinguished from the organization in Rev. Rul. 77-430, above, which provided a full schedule of group and individual prayer, lectures, reading, and meditation conducted each hour throughout the day. Participants attending (their retreats) had access to recreational facilities in their limited spare time. Instead of you providing structured religious activities, your brochures make it clear that your participants choose the destinations and activities of the trips. The brochures also advertise that each day participants may awaken on a mountain, a beach, or may attend an amusement park. We also note that some of the organizations you serve provide activities for persons in a charitable class such as for youth (F trip) or for persons who may be distressed (G). However, you do not have an established program to provide charitable programs for a charitable class nor do you appear to limit the availability of your retreats in any way. Instead, the organizations which utilize your services to plan the trip determine the destinations. Your role is to provide travel services and to organize the logistics of the trips. You are more like the organization described in The Schoeager

Foundation v. Commissioner, which provided opportunities for several unstructured activities, most of which furthered social and recreational purposes.

You stated your primary activity is providing transportation services to the children's choir for a fee. According to your contract you provide these services to them twenty-nine weeks of the year. They pay you a fee for the driver's salary, bus mileage, and bus idle time. The services you provide are not distinguished from those provided by a for-profit bus charter company. Like the organization in B. S. W. Group, Inc. v. Commissioner, your activities are not inherently charitable. Rather, your primary purpose is providing services for a fee which is commercial. Also like the organization in B. S. W. Group, Inc. v. Commissioner, you state that you set your fees at cost. However, that is insufficient to establish you are formed for purposes described in section 501(c)(3) of the Code.

You are similar to the organization described in Rev. Rul. 72-369. You provide services at cost to primarily non-profit groups. (You did not specify whether all the organization you serve have been recognized as exempt from federal income tax under section 501(c)(3) of the Code. However, as held in Rev. Rul. 72-369, above, that factor alone is insufficient to establish you are operated for charitable purposes.) Like the organization described in Rev. Rul. 72-369, your services are those generally carried on by for-profit companies. You are not supported significantly by grants or donations. Although your financial data shows you will receive donations and your website also shows you will solicit for donations, your travel brochure clearly states that the cost of the trip depends on where participants go and the activities conducted. You stated that you covered the cost of 390 participants, but the other facts of the case do not support this assertion. When we asked you how you determined who you would assist you stated that funds designated for an individual's share is paid for their share and large groups raise funds on behalf of their participants. Additionally, your brochure encourages your trip participants to start their own fundraiser to keep costs down. Thus, we must conclude that the organizations participating with you typically raise their own funds rather than you subsidizing costs from general donations. Setting your fees at cost lacks the donative element necessary to establish you are operated exclusively for exempt purposes under section 501(c)(3) of the Code. Even if you did provide your services at substantially below cost, your services do not exclusively further 501(c)(3) purposes. As described above, your services work to substantially further social and recreational purposes.

Your position

You state that you are not a motor coach transportation business. You do not seek commercial business and are not involved in one day bus trips. Your purpose is to work with ministries that serve others through ministry. You state that during evening travel you will have a time to share with each other so that relationship healing may begin. You stated that like a church camp, which provides recreational activities like swimming, volleyball, and arts and crafts, your main focus is to help each individual grow spiritually from teaching the Bible. You desire to be able to accept tax deductible contributions to minimize your operational costs.

Our response to your position

As described, above, you did not establish that you are formed exclusively for the purposes described in section 501(c)(3) of the Code. You did not distinguish yourself from a commercial business providing transportation services. Merely adding a devotional time to your itinerary does not make your operations exclusively religious. The commercial and recreational aspects of your operations are substantial. Although it is possible that a recreational activity may further a 501(c)(3) purpose, you did not establish how your operations do so. Even if you did establish that your recreational activities further 501(c)(3) purposes, the substantial commercial aspects of your operations would preclude exemption. Although given an opportunity to revise your activities and brochures, you made no changes and thus provided no additional information for us to consider. (We note

additionally that the factual assertions in your position statement were not signed under penalties of perjury as required by Rev. Procs. 2016-4 and 2016-5. However, the information in your position statement provided no new information.)

Conclusion

You do not qualify for exemption from federal income tax under section 501(c)(3) of the Code because you do not meet the operational test. You failed to establish that you are operated exclusively for religious, charitable, educational, or other 501(c)(3) purposes. Additionally, the administrative record indicates that you are formed to further substantial social, recreational and commercial purposes.

If you don't agree

You have a right to file a protest if you don't agree with our proposed adverse determination. To do so, you must send a statement to us within 30 days of the date of this letter. The statement must include:

- Your name, address, employer identification number (EIN), and a daytime phone number
- A copy of this letter highlighting the findings you disagree with
- An explanation of why you disagree, including any supporting documents
- The law or authority, if any, you are relying on
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization, or your authorized representative
- One of the following declarations:

For an officer, director, trustee, or other official who is authorized to sign for the organization:

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

For authorized representatives:

Under penalties of perjury, I declare that I prepared this protest statement, including accompanying documents, and to the best of my knowledge and belief, the statement contains all relevant facts 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 he or she hasn'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 provided a basis for us to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't provided a basis for reconsideration, we'll forward your case to the Office of Appeals and notify you. You can find more

information about the role of the Appeals Office 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 at a later date because the law requires that you use the IRS administrative process first (Section 7428(b)(2) of the Code).

Where to send your protest

Please send your protest statement, Form 2848, if needed, and any supporting documents to the applicable address:

U.S. mail:

Internal Revenue Service
EO Determinations Quality Assurance
Room 7-008
P.O. Box 2508
Cincinnati, OH 45201

Street address for delivery service:

Internal Revenue Service
EO Determinations Quality Assurance
550 Main Street, Room 7-008
Cincinnati, OH 45202

You can also fax your statement 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 he or she received it.

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.

You can find all forms and publications mentioned in this letter on our website at www.irs.gov/formspubs. If you have questions, you can contact the person listed at the top of this letter.

Sincerely,

Jeffrey I. Cooper
Director, Exempt Organizations
Rulings and Agreements

Enclosure:
Publication 892