



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Release Number: **201433020**

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501.00-00

501.03-00

501.03-08

501.03-14

501.32-00

501.33-00

501.36-00

501.36-03

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)(3). 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.

Because you do not qualify for exemption as an organization described in Code section 501(c)(3), donors may not deduct contributions to you under Code section 170. 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,

Tamera Ripperda
Director, Exempt Organizations

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



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Date: March 26, 2014

Contact Person:

Uniform Issue List:

Identification Number:

Contact Telephone Number:

501.00-00

FAX Number:

501.03-00

Employer Identification Number:

501.03-08

501.03-14

501.32-00

501.33-00

501.36-00

501.35-03

Legend:

State =

Date 1 =

Website =

Name =

Year =

Dear :

We have considered your application for recognition of exemption from Federal income tax under Internal Revenue Code (I.R.C.) § 501(a). Based on the information provided, we have concluded that you do not qualify for exemption under I.R.C. § 501(c)(3). The basis for our conclusion is set forth below.

Facts

You were formed as a charitable corporation under the laws of State on Date 1. Your Articles of Incorporation ("Articles") state that you are organized and operated exclusively for educational purposes within the meaning of § 501(c)(3). Specifically, you are organized to "form a research and teaching institution for the comprehensive study of the Quran, which include activities such as lectures, discussion, online courses, workshops, [and] publication of books and journals."

You were created to be a nonprofit publisher of scholars focused on teaching Islam and the Quran. Scholars create their own works and submit them to you for publishing. Since formation, only members of your board have submitted their works to you for publishing and you have produced works of your directors and founder. The scholars initiate, supervise, and manage their own publishing efforts. Your role is to provide the initial setup and typesetting of materials for printing and to provide an online portal for selling the books at fair market value through your publishing arm, Name. Works are published solely in the name of the individual

scholars and are not published in your name. The scholars maintain ownership of any copyrights or other intellectual property rights. The scholars own all royalty rights to their published works and receive income from the books. You state that the authors will not transfer copyrights or other intellectual property or royalty payments to you. You will not receive income from the sale of books and instead seek to finance your operations through individual charitable donations.

Since formation, you have been funded solely by your founder's father, who is also your board member and treasurer. You seek to receive charitable donations in order to cover the cost of printing the books. You presently have four board members, which includes your founder and his father. In response to a request for copies of minutes from board meetings since your formation, you stated that you have held one meeting in Year and provided a copy of minutes from the meeting.

Law

I.R.C. § 501(c)(3) provides, in part, for 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.

Treas. Reg. § 1.501(c)(3)-1(a)(1) states that in order to qualify under section 501(c)(3) of the Code, 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. § 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 I.R.C. § 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. § 1.501(c)(3)-1(c)(2) provides that if an organization's net earnings inure in whole or in part to the benefit of a private individual, then that organization is not operated exclusively for exempt purposes.

Treas. Reg. § 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. It must not be operated for the benefit of designated individuals or the persons who created it.

Treas. Reg. § 1.501(c)(3)-1(d)(3) provides that the term "educational" relates to the instruction or training of the individual for the purpose of improving or developing his capabilities, or the instruction of the public on subject useful to the individual and beneficial to the community. The regulation also provides four examples of educational organizations.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized or operated for an exempt purpose unless it serves a public rather than a private interest.

Rev. Rul. 67-4, 1967-1 CB 121 provides criteria that demonstrate that the publishing and distribution of materials are directed to attaining purposes specified in section 501(c)(3). These criteria are:

1. The content of the publication is educational;
2. The preparation of material follows methods generally accepted as "educational" in character;
3. The distribution of the material is necessary or valuable in achieving the organization's educational and scientific purposes; and
4. The manner in which the distribution is accomplished is distinguishable from ordinary commercial publishing practices.

Rev. Rul. 66-104, 1966-1 C.B. 135 provides that an organization that makes funds available to authors and editors for preparing teaching materials and writing textbooks, and, under the terms of the contract with the publisher, receives royalties from sales of the published materials and then shares them with those individuals, does not qualify for exemption under § 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 a trade association had an "underlying commercial motive" that distinguished its educational program from that carried out by a university, and therefore, the association did not qualify for exemption.

In B.S.W. Group, Inc. v. Commissioner, 70 T.C. 352 (1978), the Tax Court held that an organization did not qualify for exemption under § 501(c)(3) because it was primarily engaged in an activity that was characteristic of a trade or business and ordinarily carried on by for-profit commercial businesses.

In American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), the organization operated for the benefit of private interests, a nonexempt purpose. Because more than an insubstantial part of the organization's activities furthered this nonexempt purpose, the organization failed to establish that it operated exclusively for exempt purposes within the meaning of § 501(c)(3). When an organization operates for the benefit of private interests, such as designated individuals, the creator or his family, or persons directly or indirectly controlled by such private interests, the organization by definition does not operate exclusively for exempt purposes.

Rationale

Based on the facts presented in your application and supporting documents, we conclude that you are not operated for exempt purposes. Accordingly, you do not qualify for exemption as an organization described in section 501(c)(3) of the Code.

Your application and supporting documentation must demonstrate that your organization meets the operational test under section 1.501(c)(3)-1(a)(1) of the Regulations. Exempt organizations must operate exclusively for exempt purposes. I.R.C. § 501(c)(3). The term exclusively has

been interpreted to mean primarily. Treas. Reg. § 1.501(c)(3)-1(c)(1). A single substantial non-exempt purpose is sufficient to prevent exemption. Better Business Bureau v. U.S., 326 U.S. at 283. If an organization fails the operational test, it cannot qualify as an exempt organization under section 501(c)(3) of the Code.

You were established to collect donations and fund the publishing costs of individual authors in their individual capacity, including your founder and directors. Further, part of your net earnings inures to the benefit of private individuals and your operations serve private interests. These are substantial non-exempt purposes, and as such, you do not qualify for exemption.

Your activity of producing the literary works of your directors, including your founder, is not educational or otherwise exempt within the meaning of the Code and Regulations. Treas. Reg. § 1.501(c)(3)-1(d)(3). In order to be described in § 501(c)(3), a publishing organization must be operated exclusively for charitable purposes. While the material you publish may qualify as educational, you produce it in a manner that is similar to commercial publishers and similar to the nonexempt publishing organization described in Rev. Rul. 66-104. You do not direct or control the authors' works, hold copyrights or other intellectual rights to the works, receive profits from the sales of the books, or publish books in your name. You promote the authors' works for sale online in a manner similar to a commercial publisher and charge fair market value for the books. The authors receive all profits and will not transfer copyrights or royalties to you. You have not shown that you publish educational materials in a charitable manner within the meaning of § 501(c)(3) and Rev. Rul. 67-4. Also see B.S.W. Group, Inc. v. Commissioner, 70 T.C. 352. Your other activity of soliciting donations for the purpose of fundraising to carry on your other nonexempt publishing activities does not further exempt purposes as described in § 501(c)(3).

Further, you operate for the primary purpose of publishing your directors', including your founder, literary works and therefore serve a substantial private benefit. Since your directors and founder are insiders, this benefit also constitutes inurement that is strictly prohibited under § 501(c)(3).

As you operate for the benefit of private interests, you by definition do not operate exclusively for exempt purposes. See American Campaign Academy v. Commissioner, at 1065-1066. Because you provide a substantial private benefit to private individuals and for-profit companies that is not incidental to furthering any exempt purpose, you have a substantial nonexempt purpose which destroys the exemption regardless of the number or importance of truly exempt purposes. See Better Business Bureau v. U.S., 326 U.S. at 283.

Conclusion

Based on the information provided, we are not able to conclude that you are operated exclusively for exempt purposes. You cannot qualify for tax exemption because more than an insubstantial part of your activities are not in furtherance of exempt purposes.

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 file a protest within 30 days, you will not be able to file a suit for declaratory judgment in court because the Internal Revenue Service (IRS) will consider the failure to protest as a failure to exhaust available administrative remedies. Code section 7428(b)(2) provides, in part, that a declaratory judgment or decree shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted all of the administrative remedies available to it within the IRS.

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
TEGE

1111 Constitution Ave., N.W.
Washington, D.C. 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,

Michael Seto
Manager, EO Technical