



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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Release Number: **201447039**

Release Date: 11/21/2014

Date: August 27, 2014

UIL Code: 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 under Internal Revenue Code section 501(a) as an organization described in Code section 501(c)(14).

We made this determination for the following reason(s):

You do not operate under a state law governing credit unions. Therefore, you are not a state-chartered credit union within the meaning of § 501(c)(14)(A). You are organized and operated to make loans to and accept deposits from nonmembers. Accordingly, your purposes are broader than the "mutual purposes" within the meaning of § 501(c)(14). Therefore, you fail to meet the requirements of § 501(c)(14) and do not qualify for recognition under that section.

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
Rulings and Agreements

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: April 28, 2014

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 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 section 501(a). Based on the information provided, we have concluded that you do not qualify for exemption under Code section 501(c)(14). The basis for our conclusion is set forth below.

FACTS

You are a nonprofit financial institution incorporated under Foreign Country incorporation law on Date 1. 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. Those documents are in English as well as Foreign Language. Nowhere in those documents do you indicate that you conform to the requirements of the Federal Credit Union Act.

You operate under Foreign Law (Law), which generally provides that "savings and credit cooperatives have as their primary purpose to promote, through the cooperative movement, full access to financial services, to act as regulator of prices, educate their members on the best management of their personal and family finances, promote gainful activity through self-employment, self-enterprise and the support of small enterprises, and the development of leaders for the promotion of the cooperative movement and of the communities." Specifically, section 2.03 of Foreign Law provides that every cooperative in Foreign Country may offer loans and other financial services to non-members.

Your articles of incorporation indicate that you were organized for the following purposes:

- (a) To receive the savings of its members either as payment for shares or deposits. It may take deposits from non-members.
- (b) To grant loans to its members for their personal needs or urgent business.
- (c) To grant loans to non-members. The total amount of loans to individuals not associated may not exceed the amount of loans granted to members.
- (d) To grant loans to cooperative societies and other organizations that are not members of the cooperative savings and credit, with the approval of the Inspector of Cooperatives of Puerto Rico.
- (e) To make deposits in commercial banks that are recognized by the appropriate authority.
- (f) To invest in cooperative societies that in any manner are authorized by law for investment of trust funds in Puerto Rico.
- (g) To borrow money.

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 jurisdictions. 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.

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

Not only do the Law and your articles of incorporation allow you to make loans to and accept deposits from nonmembers, but, you actually do make loans to and accept deposits from nonmembers. 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). Your purposes are broader than the "mutual purposes" described in § 501(c)(14). Accordingly, you are organized and 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
TE/GE (SE:T:EO:RA:T:3)

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,

Manager, EO Technical