Department of the Treasury
Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Date: May 8, 2018

Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

Number: **201831014**
Release Date: 8/3/2018

UIL: 501.03-30, 501.32-00, 501.32-01, 501.33-00

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,

Stephen A. Martin
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: February 27, 2018

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:
k dollars = $
m dollars = $ – $
N = Number
V = State
W = Date
X= Number
Y= State Agency
Z = Religious Person or Group

UIL:
501.03-30
501.32-00
501.32-01
501.33-00

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.

Issue:

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

Facts:

You were incorporated in the state of V on date W. Your Articles of Incorporation state your purposes are charitable and religious. You attest that your organizing document was amended to meet the organizational requirements of Section 501(c)(3). You have reorganized as a for-profit Limited Liability Company (LLC). A copy of your Operating Agreement was not included with your Certificate of Organization as an LLC.

You have X directors all of which are related through family relationships. Your directors are chosen by, and serve at the will of, your president. Subsequent presidents will be chosen by your president through a legal will. Your directors cannot overrule the authority of your president. Your president has full and total control over your activities and finances. You represent that safeguards exist, but they are part of your private internal workings. Your president is the only person currently receiving compensation. All other positions are voluntary unpaid positions or positions that receive income based upon an individual's performance.

Your application states you operate (or will operate) in a foreign country or countries. Specifically, you state you will operate worldwide in any country where your assistance is needed. You will engage in humanitarian efforts. When asked about these foreign operations you stated, "...at this time to make issues less complicated in this process, [we] have scaled back [our] objective to operate in other countries." You subsequently stated that you do not have any plans to operate in a foreign country.

Your narrative description of activities states you are organized for religious and charity purposes. Through your church, its members, and their contributions, you strive to educate and help your fellow man. You intend to help out where allowed, which may include helping individuals who are less fortunate or suffered loss. The assistance is provided on a case by case basis and may include donation of labor from your members, food, goods and/or funds. You intend to donate funds you set aside to legally established charities or organizations. However, in your response to our first information request you stated you will not be making/issuing any grants, foreign or domestic.

You state that all your time and resources are devoted to building and adding to your activities. Specifically, you conduct religious activities, sermons, education, and expansion. You provide weekly religious services. Activities are conducted on the internet and will be conducted in person in the future when funds allow you the ability to purchase brick and mortar establishments. Your religious activities, sermons and education entail a group of like-minded individuals gathering to worship according to their beliefs and customs. Initially activities are conducted at various public open spaces with plans to have a permanent location. You spend 80% to 90% of your time on religious activities, sermons, education, and expansion activities. These activities are conducted weekly at a predetermined time and place which will be posted to your website. Video recordings of services will be available to active members.

You represent that you are a church recognized by the State of V. In response to our information request you stated that "[we] believe that [we] have made adequate changes to conform to the criteria of [*American Guidance Foundation v. United States*, infra.] If [not, we] will continue to make changes, as necessary, until [we do] qualify." You state you have a distinct legal existence. That your creed and form of worship is all creeds and forms of worship. You state your distinct ecclesiastical government is your directors and leader. That your formal code of doctrine and discipline are all forms of doctrine and discipline. You state your religious history spans back to the year in which you were formed. And that your literature will be the literature of all religions around the world.

Only active members may participate in your activities. Active members are required to tithe approximately k dollars per month. Members are required to be at least 18 years of age, submit a membership application and remain a full tithe payer. You will acquire members by word of mouth and by referring individuals to your website.

You will have both and online and physical presence. Your website is currently a beta version and constantly changing. You state the only people or agencies that know of your websites existence are your directors, the Internal Revenue Service, and Y.

Your website mentions humanitarian efforts. Our information request asked about your humanitarian efforts. You explain that your website is continually evolving and that the website no longer mentions that excerpt. However, your intent is to help individuals in need with funds or goods, which includes donating goods or funds to a reputable organization conducting humanitarian efforts.

Your website states that you are in need of people in every community across the country to be a Z. Zs try to find new members in their community, look after and mentor those members to become a Z with a flock of their own. You may compensate Zs for the service they provide to their flocks.

Z is also a title bestowed upon an active member. Z is a "paid-voluntary" service of monitoring the welfare of members & Zs whom you have placed under them for guiding. Zs strive to keep in regular contact with and monitor each member. Zs sign a membership agreement and are responsible for their determining their own schedule, working, hours, and taxes. Zs receive payments of approximately m dollars per member per month. The maximum members under each Z is approximately N. You state no members are receiving compensation. Compensation will begin once tax exempt status is obtained. All of your revenue is from member tithing and all of your expenses will be used to pay compensation.

Members are required to sign a contract/agreement. The contract explains that members are volunteers and as a volunteer the individual is self-employed and determines for themselves when they work and the number of hours they work. Zs are compensated based on the service to their flock. Members are subject to entrepreneurial and financial risk and are solely responsible for losses they incur. Members must obtain and pay for their own insurance and obtain a federal employer identification number, if required. Members must agree that they are responsible for all costs and expenses incurred. Members acknowledge that they are not an employee of you and they are not a professional fundraiser and except as permitted are not authorized to act on behalf of you.

The contract holder must agree to arbitration in the event of any disputes with you and must indemnify you. The contract states you have a limitation of liability in regard to damages, including loss of profits, arising from a breach of contract.

All members are encouraged to continually locate like-minded persons who are interested in joining and direct them to your website where they may become a member. New members are placed at your sole discretion. Members must pay a recurring monthly tithe of approximately k dollars monthly. A member must pay the recurring tithe to receive any compensation earned. Payment must be made on a designated day each month via electronic bill pay or money transfer along with the individual's member identification number. Members agree to pay any service or transfer charges. Earnings are mailed via check to the member's address on record.

Adult members are permitted to have multiple contracts/accounts which may be gifted at a later date. Members may cancel their tithes/contributions at any time. Members can be removed at any time for any reason. Canceling the contract and membership results in the member forfeiting any earnings they may have received. Tithes are not refundable even if a member forgets to cancel their automatic bill pay.

Law:

Section 501(c)(3) of the Code provides for the recognition of exemption of organizations that are organized and operated exclusively for religious, charitable or other purposes as specified in the statute. No part of the net earnings may inure to the benefit of any private shareholder or individual.

Treas. Reg. § 1.501(c)(3)-1(b)(1)(iii) provides that an organization is not organized exclusively for one or more exempt purposes if its articles expressly empower it to carry on, otherwise than as an insubstantial part of its activities, activities that are not in furtherance of one or more exempt purposes.

Treas. Reg. § 1.501(c)(3)-1(b)(4) provides that an organization's assets will be considered dedicated to an exempt purpose, for example, if, upon dissolution, such assets would, by reason of a provision in the organization's articles be distributed for one or more exempt purposes.

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 Section 501(c)(3) of the Code. 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(d)(1)(i) lists the purposes under Section 501(c)(3) which are exempt. Said purposes are: religious, charitable, scientific, testing for public safety, literary, educational and the prevention of cruelty to children or animals.

Treas. Reg. § 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. Thus, to meet the requirement of this subsection, 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, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private 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. The organization did not qualify for exemption under Section 50 I (c)(3) of the Code because it served a private rather than public interest.

In Harding Hospital, Inc. v. United States, 505 F.2d 1068 (6th Cir. 1974), the court held that an organization seeking a ruling as to recognition of its exempt status has the heavy burden of proving that it satisfies the requirements of the particular exemption statute.

In Universal Life Church v. United States, 372 F. Supp. 770 (E.D. Cal. 1974), the court concluded that "one seeking a tax exemption has the burden of establishing his right to a tax-exempt status."

Basic Bible Church v. Commissioner, 74 T.C. 846 (1980), the Tax Court found that although the organization did serve religious and charitable purposes, it existed to serve the private benefit of its founders, and thus failed the operational test of Section 501(c)(3). Control of over financial affairs by the founder created an opportunity for abuse and thus the need to be open and candid, which the applicant failed to do.

Bubbling Well Church of Universal Love, Inc. v. Commissioner, 74 T.C. 531 (1980). In an action for declaratory judgment pursuant to Section 7428(a), the Tax Court considered an adverse ruling by the IRS on an application for exempt status as a church. The applicant had declined to furnish some information, and made answers to other inquiries that were vague and uninformative. On the basis of the record, the Court held that the applicant had not shown that petitioner was not operated for the private benefit of its founders.

In American Guidance Foundation, Inc. v. United States, 490 F. Supp. 304, (D.D.C. 1980) the court stated: "Faced with the difficult task of determining whether or not religious organizations are in fact churches, the IRS has developed fourteen criteria with which it applies on an ad hoc basis to individual organizations." Said criteria includes:

1) a distinct legal existence
2) a recognized creed and form of worship
3) a definite and distinct ecclesiastical government
4) a formal code of doctrine and discipline
5) a distinct religious history
6) a membership not associated with any other church or denomination
7) an organization of ordained ministers
8) ordained ministers selected after completing prescribed studies
9) a literature of its own
10) established place of worship
11) regular congregation
12) regular religious services
13) Sunday schools for religious instruction of the young
14) schools for the preparation of its ministers.

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 organization's request for tax-exempt status was reasonable.

In National Association of American Churches v. Commissioner, 82 T.C. 18 (1984), the Tax Court denied a petition for declaratory judgment that the organization qualified for exempt status as a church. In addition to evidence of a pattern of tax-avoidance in its operations, the court noted that the organization had failed to respond completely and candidly to IRS during administrative processing of its application for exemption. An organization may not declare what information or questions are relevant in the determination process. It cited a number of declaratory relief actions that upheld adverse rulings by the Service because of the failure of the applicants to provide full and complete information on which the Service could make an informed decision.

New Dynamics Foundation v. United States, 70 Fed. Cl. 782 (2006), was an action for declaratory judgment that the petitioner brought to challenge the denial of his application for exempt status. The court, in finding that the actual purposes displayed in the administrative record supported the Service's denial, stated "It is well-accepted that, in initial qualification cases such as this, gaps in the administrative record are resolved against the applicant." The court noted that if the petitioner had evidence that contradicted these findings, it should have submitted it as part of the administrative process. The court also highlighted the principle that exemptions from income tax are matters of legislative grace.

Ohio Disability Association v. Commissioner, T.C. Memo 2009-261, states denial is justified because responses to requests for additional information failed to supplement the initial application or clarify purposes and activities, and generalizations did not provide sufficient detail to determine that the organization would be operated exclusively for exempt purposes.

Application of Law:

You are not organized exclusively for religious, charitable or other purposes as specified in the statute under Section 501(c)(3) of the Code.

Subsequent information you furnished indicates you are organized as a for-profit LLC. This contradicts the provisions in Treas. Regs. §§ 1.501(c)(3)-1(b)(1)(iii) and 1.501(c)(3)-1(b)(4) which require a Section 501(c)(3) organization to be organized to further an exempt purpose and its assets to be distributed, upon dissolution, for one or more exempt purposes. Stating in your Certificate of Organization that the purpose for your creation is for "any legal purpose" negates any exempt purpose you previously held.

You do not meet the operational test under Treas. Reg. § 1.501(c)(3)-1(c)(1) because you are not operated for an exempt purpose. While your activities consist, in part, of furthering a religious purpose, other activities such as your president choosing your board of directors, subsequent presidents being chosen by the current president's legal will, and the president having full and total control over your activities and finances, show that you are furthering a non-exempt purpose more than insubstantially.

You state your directors serve at the will of your president and that they cannot overrule him. Your president also is the only individual who is currently compensated. Other positions in your organization may receive income based on their individual performance. Because of the control your president exerts on your organization, you are not operated for an exempt purpose.

The payments you make to Z promotes the private interests of members these payments are substantial in nature. For this reason, you are not operating exclusively for exempt purposes (Treas. Reg. § 1.501(c)(3)-1(c)(1)). Thus, you do not satisfy the operational test requirement to be recognized as exempt under Section 501(c)(3) of the Code, and are not as described in Section 501(c)(3).

You are not as defined in Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) because you are operating for the private interest of your President and the President's family. The president serves as president for life and cannot be removed. This is substantial in nature and cannot be dismissed as being merely incidental to accomplishing an exempt purpose.

The group of parents in Revenue Ruling 67-175 provided a cooperative service for themselves and thus served their own private interests. Like that organization, you were formed to provide benefits to your members and your president. In your case, a substantial portion of your activities consists of expansion activities in which Zs are receiving between m dollars monthly per member in their flock. These payments promote the private interests of Z. You serve private rather than a public interest. Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations states that an organization is not operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest.

You are similar to the ruling in the court cases New Dynamics and Bubbling Well Church of Universal Love, consistent with the cited cases, you were formed for the private benefit of your president and Zs through the planned revenue based payments to your president and Zs. Further, your president has full and total control over your activities and finances.

While you appear to meet some of the requirements under *American Guidance Foundation*, your overall operations benefit your president and your members of Z to such an extent that exemption under Section 501(c)(3) of the Code is precluded.

You are similar to the ruling in the court cases Basic Bible Church v. Commissioner and National Association of American Churches v. Commissioner. Consistent with these cited cases, you were formed for the private benefit of your president and members of Z. Your intent, based upon information submitted and your budget, is to expand membership to pay funds to the Zs. Your purposes further the interests of your president and your members of Z.

In La Verdad, and New Dynamics, it was established that an organization must establish, through its administrative record, that it meets the requirements for exemption. You have not established that you meet the requirements for exemption under Section 501 (c)(3) of the Code. As provided in New Dynamics, any gaps in the administrative record will be resolved against the applicant. Similarly, in Ohio Disability Association, the court found that even when additional information was provided, but it contained generalizations and failed to clarify purposes, denial is justified.

As in Harding Hospital and Universal Life Church, you have the heavy burden of establishing that you qualify for tax exemption. You not proven to us that you are organized and operating in a manner appropriate under Section 501(c)(3) of the Code.

Conclusion:

Based on the above facts and analysis, you do not qualify for exemption under Section 501(c)(3) of the Code. You are not organized and operated exclusively for a 501(c)(3) purpose. You further the interests of your president and members which serves private interests. Therefore, you do not qualify for exemption under Section 501 (c)(3).

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.

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

Enclosure:
Publication 892