



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
P.O. Box 2508
Cincinnati, OH 45201

Date:
11/09/2022
Employer ID number:

Form you must file:
1120
Tax years:
All
Person to contact:

Release Number: 202305017
Release Date: 2/3/2023
UIL Code: 501.03-00, 501.03-30

Dear :

This letter is our final determination that you don't qualify for exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a) as an organization described in IRC Section 501(c)(3). 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 IRC Section 501(c)(3), donors generally can't deduct contributions to you under IRC Section 170.

We may notify the appropriate state officials of our determination, as required by IRC Section 6104(c), by sending them a copy of this final letter along with the proposed determination letter.

You must file the federal income tax forms for the tax years shown above within 30 days from the date of this letter unless you request an extension of time to file. For further instructions, forms, and information, visit www.irs.gov.

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection after deleting certain identifying information, as required by IRC Section 6110. Read the enclosed Letter 437, Notice of Intention to Disclose - Rulings, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Letter 437 on how to notify us. If you agree with our deletions, you don't need to take any further action.

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

We sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,

Stephan A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosures:

Letter 437

Redacted Letter 4034

Redacted Letter 4038

cc:



Department of the Treasury
Internal Revenue Service
PO Box 2508
Cincinnati, OH 45201

Date: August 18, 2022

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

D= Date

E = State

G = Date

h dollars = Amount

j = Number

UIL:

501.03-00

501.03-30

Dear :

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

Issues

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

Facts

You submitted Form 1023-EZ, Streamline Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code

You attest that you were incorporated on D in the state of E. You attest that you have the necessary organizing document, that your organizing document limits your purposes to one or more exempt purposes within the meaning of the IRC Section 501(c)(3), that your organizing document does not expressly empower you to engage in activities, other than an insubstantial part, that are not in furtherance of one or more exempt purposes, and that your organizing document contains the dissolution provision required under Section 501(c)(3).

You attest that you are organized and operated exclusively to further charitable purposes. You attest that you have not conducted and will not conduct prohibited activities under IRC Section 501(c)(3). Specifically, you attest you will:

- Refrain from supporting or opposing candidates in political campaigns in any way
- Ensure that your net earnings do not inure in whole or in part to the benefit of private shareholders or individuals

Letter 4034 (Rev. 01-2021)
Catalog Number 47628K

- Not further non-exempt purposes (such as purposes that benefit private interests) more than insubstantially
- Not be organized or operated for the primary purpose of conducting a trade or business that is not related to your exempt purpose(s)
- Not devote more than an insubstantial part of your activities attempting to influence legislation or, if you made a Section 501(h) election, not normally make expenditures in excess of expenditure limitations outlined in Section 501(h)
- Not provide commercial-type insurance as a substantial part of your activities

You described your mission or most significant activity as "Hunting Organization."

During review of your Form 1023-EZ, detailed information was requested supplemental to the above attestations. This information shows you are a membership hunting club. Members are given the opportunity to hunt year-round for all legal game such as wild hogs, deer, turkey, squirrels, bear, and other wild game on land leased by you. The participants of these activities include members of your club, potential members, youths, and any member of the public interested in game and fish hunting.

The activities are conducted on the land you lease. The types of activities conducted are based on the hunting season and the particular quarter as well as any needs for hunting and weapon training. The percentage of time spent on your activities is mainly on a quarterly basis and weekends. During the winter quarter no specific activities are conducted. Members and interested members visit the lodge and facilities to locate a potential hunting location. The spring quarter is used for cleanup, repairs and rifle and gun activities. This includes practicing shooting, conducting gun classes, and conducting classes on the rules and regulations for the upcoming hunting season. You also educate new members and kids on the rules and regulations of hunting and rifle safety.

During the summer quarter you carry on the same activities as spring quarter and prepare for the hunting season in fall. The major season for your activities is the fall season. This is when members are allowed to hunt and utilize the hunting lodge and area. The only activity during this season is practicing shooting and conducting land scouting for good hunting areas.

Your major source of income is membership fees. New membership is based on recommendation of existing members and voted on by the entire club membership. You charge club dues of g dollars per year for existing and new members. These dues are used to support operating expenses and collected by G of every year

Your club includes over j acres of land, and no other activities are conducted on the property outside scheduled events.

Law

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

Treasury Regulation Section 1.501(c)(3)-1(a)(1) provides that, in order to be exempt as an organization described in IRC Section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or

the operational test, it is not exempt

Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) states that an organization is not organized or operated exclusively for one or more exempt purpose 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.

Revenue Ruling 65-64, 1965-1 C.B. 241, upheld the exemption under IRC Section 501(c)(7), a nonprofit membership organization that provided hunting and fishing facilities for its members through the propagation and stocking fish and game on the club property. The organization's purposes were the maintenance of a club for the promotion of fellowship, recreation, hunting, fishing and similar sports among its members, their families and bona fide guests, and the conservation of fish and game.

Revenue Ruling 66-273, 1966-2 C.B. 222, held that a nonprofit organization may qualify for exemption under IRC Section 501(c)(4) where it provides a community with facilities for rifle, pistol, and shotgun practice and instructions in the safe handling and proper care of weapons. The general public was permitted full use of the organization's facilities, which were also available free of charge to units of the armed services of the United States and for their use in conducting required training classes, to local law enforcement officers, and to junior rifle organizations. The ruling concluded that providing a community with supervised facilities for firearm shooting, giving instructions in the safe handling and proper care of guns, and teaching better marksmanship are considered activities that promote the common good and general welfare of the community under Section 501(c)(4).

Revenue Ruling 69-175, 1969-1 C.B. 149, describes an organization created to provide bus transportation for school children to a tax-exempt private school. The organization was formed by the parents of pupils attending the school. The organization provided transportation to and from the school for those children whose parents belonged to the organization. Parents were required to pay an initial family fee and an additional annual charge for each child. The Service determined that "when a group of individuals associate to provide a cooperative service for themselves, they are serving a private interest."

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279 (1945), the Supreme Court determined the activities of the organization were aimed at promoting the prosperity and standing of the business community, and therefore served

In Schoger Foundation v. Commissioner, 76 T.C. 380 (1981), it was held that if an activity serves a substantial non-exempt purpose, the organization does not qualify for exemption even if the activity also furthers an exempt purpose.

In Media Sports League, Inc. v. Commissioner, T.C. Memo 1986-568, the Tax Court addressed an organization that arranged football, softball, volleyball, and other games among its members with membership open to all persons over age twenty-one without regard to their skills in the sport. The organization offered members informal instruction in the fundamentals of each sport, but members were not required to receive instruction or to participate in any athletic activities. The Tax Court held that the organization was not exempt from federal income tax under IRC Section 501(c)(3) because the social and recreational interests of its members constituted a substantial purpose, which is not an exempt one under Section 501(c)(3).

Application of law

IRC Section 501(c)(3) and Treas. Reg. Section 1.501(c)(3)-1(a)(1) set forth two main tests for an organization to be recognized as exempt. An organization must be both organized and operated exclusively for purposes described in IRC Section 501(c)(3). Based on the information you provided in your application and supporting documentation, we conclude you do not meet the operational test.

You are not described in IRC Section 501(c)(3) because you fail the operational test. Specifically, you are not operated exclusively for an exempt purpose as described in Treas. Reg. Section 1.501(c)(3)-1(c)(1). The facts show you are not operated exclusively for charitable and educational purposes, but for the social and recreational purposes of members. Specifically, you are operating a hunting club in order for your members to use at their convenience throughout the year.

You do not meet the provisions of Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) because you are not operating exclusively for public purposes; rather, you are serving the private interests of your members. You collect dues and use that revenue to provide social and recreational events for your members. Although you provide some educational classes, they are for the benefit of your members and are only a small part of your overall activities. Your members benefit more than incidentally from the events you conduct.

You have not differentiated your activities from those that are organizations exempt under IRC Section 501(c)(7) as described in Rev. Rul. 65-64. You have not provided evidence that you are doing any more than operating a club for the private interests of your members.

You are similar to the organization described in Rev. Rul. 66-273. Through conducting hunting and weapon practice and instructions in the safe handling of weapons for members, you are doing more to promote the common good and general welfare of the community under IRC Section 501(c)(4) than operating exclusively for Section 501(c)(3) purposes.

You are like the organization described in Revenue Ruling 69-175, a substantial part of your activities is carried on for the benefit of your members. You collect dues from your members and these dues are used to support operating expenses of your hunting club. This serves a private interest rather than a public interest.

Like the organizations in the court cases, Better Business Bureau of Washington, D.C., Inc. v. United States, Schoger Foundation v. Commissioner, and Media Sports League, Inc. v. Commissioner, you do not qualify under IRC Section 501(c)(3). You do provide some educational classes, but your activities are mainly open to your members. You serve a substantial non-exempt purpose of serving the private interests of your members.

Conclusion

Based on the facts and circumstances presented, you do not qualify for exemption from federal income tax as an organization described in IRC Section 501(c)(3). You are not operated exclusively for exempt purposes as set forth in Section 501(c)(3). Specifically, more than an insubstantial part of your activities consists of operating a membership-based hunting club for the benefit of your members. This is neither exclusively educational nor charitable.

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.

If you don't agree

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

- Your name, address, employer identification number (EIN), and a daytime phone number
- A statement of the facts, law, and arguments supporting your position
- A statement indicating whether you are requesting an Appeals Office conference
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization or your authorized representative
- The following declaration:

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

Under penalties of perjury, I declare that I have examined this request, or this modification to the request, including accompanying documents, and to the best of my knowledge and belief, the request or the modification contains all relevant facts relating to the request, 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 they haven'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 gave us a basis to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't given us a basis for reconsideration, we'll send your case to the Appeals Office and notify you. You can find more information in Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status.

If you don't file a protest within 30 days, you can't seek a declaratory judgment in court later because the law requires that you use the IRC administrative process first (IRC Section 7428(b)(2)).

Where to send your protest

Send your protest, Form 2848, if applicable, and any supporting documents to the applicable address:

U.S. mail:

Internal Revenue Service
EO Determinations Quality Assurance
Mail Stop 6403
PO Box 2508
Cincinnati, OH 45201

Street address for delivery service:

Internal Revenue Service
EO Determinations Quality Assurance
550 Main Street, Mail Stop 6403
Cincinnati, OH 45202

You can also fax your protest 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 they received it.

You can get the forms and publications mentioned in this letter by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676). If you have questions, you can contact the person listed at the top of this letter.

Contacting the Taxpayer Advocate Service

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or if you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 877-777-4778.

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

cc: