



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

Date:
12/13/2022
Employer ID number:

Form you must file:

Tax years:

Person to contact:

Number: **202310012**
Release Date: 3/10/2023

UIL: 501.07-00

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)(7). 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.

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.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosures:
Letter 437
Redacted Letter 4034
Redacted Letter 4038



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

Date:
October 12, 2022
Employer ID number:

Person to contact:
Name:
ID number:
Telephone:
Fax:

Legend:

X = State
Y = Date
Z = County, State

UIL:
501.07-00

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)(7). 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)(7)? No, for the reasons stated below.

Facts

You were formed as a mutual benefit corporation in X on Y. Your Articles state you are 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 IRC Section 501(c)(3), or the corresponding section of any future federal tax code.

You applied for exemption under IRC 501(c)(7) using Form 1024. You are a membership organization formed to provide donations to Z student athletes. The donations will be provided to school officials to be used for necessary equipment, uniforms, and similar items. Recipients of funding are chosen based on a written request. Once a written request for funding is received (for example, a baseball coach requests funding for new uniforms), members are asked to vote for or against the funding. Revenue consists of donations from members and membership is open to anyone who donates (no membership qualifications).

Members will not co-mingle unless they happen to attend the same sports function. You currently have no planned activities or events other than donating to Z student athletes. You have no social or recreational activities. Your entire purpose is to provide funding to youth athletic programs in Z.

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

Law

IRC Section 501(c)(7) provides for exemption for clubs organized for pleasure, recreation, and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder.

Revenue Ruling 58-589, 1958-2 C.B. 266 provides that, in making a determination whether an organization comes within the provisions of IRC 501(c)(7), all facts pertaining to its form of organization, method of operation and activities should be considered. An organization must establish (1) that it is a club both organized and operated exclusively for pleasure, recreation and other non-profitable purposes and (2) that no part of its net earnings inures to the benefit of any private shareholder or individual. To meet the first requirement, there must be an established membership of individuals, personal contracts, and fellowship. A commingling of the members must play a material part in the life of the organization.

Rev. Rul. 69-635, 1969-2 C.B. 126 held that an automobile club whose principal activity is rendering automobile services to its members but has no significant social activities does not qualify for exemption under IRC Section 501(c)(7). It noted that, in order to qualify for exemption under IRC Section 501(c)(7), a commingling of members must play a material part in the activities of the organization.

Rev. Rul. 70-32, 1970-1 C.B. 132 held that a flying club providing economical flying facilities for its members but having no organized social and recreation program does not qualify for exemption under IRC Section 501(c)(7). The sole activity of the club involves the ownership, operation, and maintenance of the aircraft for use by the members. There is little commingling among members for social or recreational purposes.

In Chattanooga Automobile Club v. Commissioner, Warren Automobile Club, Inc. v. Commissioner, 182 F.2d 551 (6th Cir. 1950), the United States Court of Appeals 6th Circuit held that to be exempt under the Act of Congress, a club must have been organized and operated exclusively for pleasure, recreation, and other non-profitable purposes. The court further specified that the words "other non-profitable purposes" must be construed as coming within the same classification as pleasure and recreation. In addition, there must be at least some sort of comingling of members to constitute a club.

Application of law

IRC Section 501(c)(7) provides for exemption of clubs organized for pleasure, recreation, and other non-profitable purposes, substantially all of the activities of which are for such purposes. There must be an established membership of individuals who meet to make personal contacts and promote fellowship. The comingling of members must play a material part in the life of the social club.

You have not established that you are a club organized and operated for pleasure, recreation, and other non-profitable purposes. The court in Chattanooga Automobile Club further clarifies that "other non-profitable purposes" must be construed as coming within the same classification as pleasure and recreation. Like the organizations in Rev. Rul. 69-635 and 70-32, you have no substantial social or recreational activities. Your only activity is to provide funding for student athletes.

Additionally, as Rev. Rul. 58-589 prescribes, you have not shown an established membership of individuals, personal contracts, and fellowship. Your members are simply anyone who donates to the organization and there is no co-mingling or fellowship between members unless by happenstance at a sporting event.

Because your purposes and activities are not social or recreational and your members do not comingle, you do not meet the requirements for exemption under IRC Section 501(c)(7).

Conclusion

You do not meet the requirements for exemption under IRC Section 501(c)(7).

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.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements