



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

Date:  
12/13/2022  
Employer ID number:  
  
Person to contact:

Number: **202310013**  
Release Date: 3/10/2023

**UIL: 501.00-00, 501.03-00, 501.03-30, 501.33-00**

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)(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](http://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: 10/24/2022

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

**Legend:**

O = Date

P = Date

Q = State

U = Local School District

Y = State Agency

**UIL:**

501.00-00

501.03-00

501.03-30

501.33-00

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)(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*, on O.

You attest that you were formed on P, in Q. 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 educational 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 state on Form 1023-EZ that your association promotes the general welfare of your members which is to protect and advance their interests, to promote and protect their civil and human rights, and advance their employment status and circumstances.

During our review of your Form 1023-EZ we requested detailed information to supplement the above attestations. With your response you provided a copy of your Constitution and Bylaws that describes you as a membership organization of persons employed by U. Your purpose is to promote the general welfare of your members, and establish and maintain helpful, friendly relations among all persons connected with your local.

You also submitted a copy of a labor contract agreement between you and U that recognizes you as the exclusive representative for all full-time and regular part-time employees in the bargaining unit certified by Y, for the purpose of collective bargaining on all matters in respect to wages, hours and other terms and conditions of employment.

#### **Law**

IRC Section 501(c)(3) provides, in part, for the exemption from federal income tax of organizations organized and operated exclusively for charitable, religious, or educational purposes, in which no part of the net earnings inures to the benefit of any private shareholder or individual.

Treasury Regulation Section 1.501(c)(3)-1(a)(1) provides that, for an organization to be exempt and described in IRC Section 501(c)(3), that 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. Sec. 1.501(c)(3)-1(b)(1)(i) provides that an organization is organized exclusively for one or more exempt purposes only if its articles of organization limit the purposes of such organization to one or more exempt purposes; and do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Treas. Reg. Sec. 1.501(c)(3)-1(b)(4) provides that, for an organization to be exempt and described in IRC Section 501(c)(3), that the organization must dedicate its assets to an exempt purpose by operation of the law, or a provision in the organization's articles of incorporation, or to the federal government, or to a state or local government for a public purpose, or assets would be distributed by a court to another organization that would meet similar purposes as the dissolved organization was organized to meet. An organization will not be considered to be exempt if its assets are not dedicated to an exempt purpose.

Treas. Reg. Section 1.501 (c)(3)-1(c)(1) provides that an organization will be considered as operated exclusively for one or more exempt purposes if it primarily engages only in activities that accomplishes one or more such exempt purposes as specified in Section 501(c)(3). An organization will not be so regarded as being exempt if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Treas. Reg. Section 1.501 (c)(3)-1(d)(1)(ii) provides that an organization is not organized or operated exclusively for an exempt purpose unless it serves a public rather than a private interest. To meet this requirement, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as the creator or his family, designated individuals, shareholders of the organization, or persons controlled directly or indirectly by these private interests. To meet this requirement, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests.

Treas. Reg. Section 1.501 (c)(3)-1(d)(3) provides that the term “educational,” as used in Section 501(c)(3) of the Code, relates to the instruction of the public on subjects useful to the individual and beneficial to the community.

Revenue Ruling 59-6, 1959-1C.B. 121, describes a professional association that was not entitled to exemption under IRC Section 501(c)(3) because its educational program was only an incidental part of its total activities. It had as its principal purpose the professional advancement of its members.

In Better Business Bureau of Washington D.C. Inc v. United States, 326 U.S.279 (1945), the Supreme Court of the United States interpreted the requirement in IRC Section 501(c)(3) that an organization be “operated exclusively” by indicating that an organization must be exclusively devoted to exempt purposes. The presence of a single non-exempt purpose, if more than insubstantial in nature, will destroy the exemption regardless of the number and importance of truly exempt purposes.

#### **Application of law**

IRC Section 501(c)(3) and Treas. Reg. Section 1.501(c)(3)-1(a)(1) set forth two main tests to qualify for exempt status. An organization must be both organized and operated exclusively for purposes described in Section 501(c)(3). You have failed to meet both requirements as explained below.

Your Constitution and Bylaws state the purpose of your organization is to promote the general welfare of your members, protect and advance their interests, protect, and promote human civil rights of your members, advance the employment status and circumstances of your members, and establish and maintain helpful, friendly relations among all persons involved with your local. Because your Constitution and Bylaws do not limit your purposes to those described in Treas. Reg. Section 1.501(c)(3)-1(b)(1)(i) and dedicate your assets upon dissolution to exempt organizations as described in Treas. Reg. Section 1.501(c)(3)-1(b)(4) you fail the organizational test under IRC Section 501(c)(3).

You also fail the operational test as described in Treas. Reg. Section 1.501(c)(3)-1(c)(1) because your organization is furthering exclusively non-exempt purposes. You are not described in Treas. Reg. Section 1.501 (c)(3)-1(d)(1)(ii) because you are serving the private interest of your membership, and you are furthering the interest of your members in a collective bargaining unit which constitutes a substantial non-exempt purpose.

You are not described in Treas. Reg. Section 1.501 (c)(3)-1(d)(3) as there is no indication that you provide any educational activities that are open to the public that would benefit the community. Your educational activities, if any, are incidental and open only to your members to advance their employment status and circumstances.

Similar to the organization described in Revenue Ruling 59-6 your activities are not exclusively educational within the meaning of Section 501(c)(3). Your principal purpose and your activities appear to be directed towards the general welfare of your members and advancing their employment status and circumstances.

You're promoting the general welfare of your members and advancing their employment status. These activities and circumstances do not further "exclusively" exempt purposes. Thus like the organization in Better Business Bureau, you have a substantial non-exempt purpose that destroys exemption regardless of the number and importance of truly exempt purposes.

### **Conclusion**

Based on the information you have submitted you do not qualify for exemption under IRC Section 501(c)(3). You do not meet the organizational test because your articles do not limit your purposes to one or more exempt purposes. You do not meet the operational test because you are operated for a substantial non-exempt purpose.

### **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](http://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](http://www.taxpayeradvocate.irs.gov) or call 877-777-4778.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements