



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

Number: **202102013**
Release Date: 1/15/2021

UIL Number: 501.00-00, 501.03-00, 501.03-30

Date:
October 20, 2020
Employer ID number:

Form you must file:

Tax years:

Person to contact:
Name:
ID number:
Telephone:

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 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.

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:

Notice 437

Redacted Letter 4034

Redacted Letter 4038



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

Date:
August 18, 2020
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

E = Date
F = State
G = Region
H = Vehicle

UIL:

501.00-00
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 attested on Form 1023-EZ that you are organized and operated exclusively to further charitable and educational purposes. You also attested that you have not conducted and will not conduct prohibited activities under IRC Section 501(c)(3).

During review of your Form 1023-EZ, detailed information was requested supplemental to your attestations. You were formed as a nonprofit corporation on E in the State of F. Your Articles state that you were established to promote recreation in the G area of F and to preserve/restore older H. Your Articles further state that notwithstanding any other provision, you shall not carry on any other activities not permitted to be carried on by a corporation exempt under IRC Section 501(c)(3).

Your specific activities include an _____ H show, an H _____ and quarterly meetings. Participants in your activities include your members and the general public. The show includes displays of _____ H which are judged by your members. Trophies are given for winners of various categories. You assert that you are a family friendly club and are open to all in the community. The H _____ involves members, along with the general public, meeting up to go on a _____ together.

You hold quarterly meetings for your members and conduct the H show and H once a year. Most of your time and resources are spent on the H show and H .

Law

IRC Section 501(c)(3) 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.

Treasury Regulation Section 1.501(c)(3)-1(a)(1) provides that, for an organization to be exempt under IRC Section 501(c)(3), it 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 or operational test, it is not exempt.

Treas. Reg. Section 1.501(c)(3)-1(b)(1)(i) provides that an organization will be regarded as 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)(1)(ii) provides that, to meet the organizational test, the organization's purposes must be specified in its articles. They may be as broad as, or more specific than, the purposes stated in Section 501(c)(3).

Treas. Reg. Sec. 1.501(c)(3)-1(b)(1)(iv) provides that in no case an organization shall be considered to be organized exclusively for one or more exempt purposes, if, by the terms of its articles, the purposes for which such organization is created are broader than the purposes specified in Section 501(c)(3).

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

Revenue Ruling 64-275, 1964-2 C.B. 142, describes an organization that was created for the purpose of providing advance training to suitable candidates in the techniques of racing small sailboats in national and international competition through classroom lectures, seminars and practical training sessions and improving the caliber of the candidates for preparation of the recognized game competitions and other international racing events. The purpose of its activities is to improve the individual student's capability for sailing and racing and increase the number of qualified candidates for possible Olympic participation. The organization was recognized as an organization described in IRC Section 501(c)(3).

Rev. Rul. 70-4, 1970-1 C.B. 126, describes an organization engaged in promoting and regulating a sport for amateurs. The organization's stated purposes were to promote the health of the general public by encouraging all persons to improve their physical condition and fostering public interest in a particular sport. Its activities were directed toward promoting sport tournaments, exhibitions, and instructive clinics. The organization did not qualify for exemption under IRC Section 501(c)(3).

Rev. Rul. 77-365, 1977-2 C.B. 192, describes an organization that was organized and operated to instruct and educate individuals of all ages and skill levels in a particular sport. It conducts clinics, workshops, lessons, and

seminars. The organization was recognized as an educational organization described in IRC Section 501(c)(3).

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279 (1945), the Supreme Court determined the activities of that organization were aimed at promoting the prosperity and standing of the business community and therefore, served a substantial private purpose. It concluded that the presence of a single nonexempt purpose, if substantial in nature, will preclude exemption regardless of the number or importance of statutorily exempt purposes.

In Hutchinson Baseball Enterprises, Inc. v. Commissioner, 696 F.2d. 757 (1982), the court held that an organization that promoted recreational and amateur sports was exempt as a charitable organization under IRC Section 501(c)(3). The organization undertook numerous activities to promote the sport of baseball and the court found that the purpose of promoting sports predominated over subsidiary purposes, such as members' recreational or social benefit.

In Media Sports League, Inc. v. Commissioner, T.C. Memo 1986-568 (1986), the court ruled that an organization that sponsored sports competitions for adults in the community was not exempt under IRC Section 501(c)(3). The court found that the organization had the substantial nonexempt purpose of promoting the social and recreational interests of its members.

In Wayne Baseball, Inc. v. Commissioner, T.C. Memo. 1999-304 (1999), the court held that the organization's nonexempt social and recreational activities were substantial in comparison to the organization's promotion of baseball in the community. The Court found that the only activity sponsored by the organization was the operation of an adult amateur baseball team and that the primary beneficiaries of the organization were the individual team participants.

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 organizing document does not limit your purposes to exclusively IRC Section 501(c)(3) purposes. As a result, you do not meet the requirements of Treas. Reg. Sections 1.501(c)(3)-1(b)(1)(i) and (ii). Your articles state your purpose is to promote recreation in the G area of F and preserving/restoring older H vehicles. You cannot be considered to be organized exclusively for one or more exempt purposes if the purposes stated in your articles of incorporation are broader than the purposes specified in Section 501(c)(3), as prohibited by Treas. Reg. Sec. 1.501(c)(3)-1(b)(1)(iv). Although you have a notwithstanding clause, that cannot cure your non-exempt statement of purpose, since the specific purposes named are inherently incompatible with Section 501(c)(3) purposes.

Your activities are primarily recreational and social. You do not meet the operational test of Treas. Reg. Sec. 1.501(c)(3)-1(c)(1) because you do not engage primarily in activities which accomplish one or more of such exempt purposes specified in IRC Section 501(c)(3).

You are not like the organization described in Rev. Rul. 64-275 because your activities are devoted to organizing recreational and social events. Therefore, your activities are not exclusively charitable or educational.

Like the organization described in Rev. Rul. 70-4, you do not engage primarily in activities that accomplish one or more of exempt purposes specified in IRC Section 501(c)(3).

You are not like the organization described in Rev. Rul. 77-365. You do not instruct individuals of all skill levels in a particular sport through clinics, workshops, or lessons. Rather, you organize recreational and social events for your members.

Most of your activities are devoted to organizing recreational H and conducting an H show. Because you are operating for substantial non-exempt purposes, as described in Better Business Bureau of Washington, D.C., Inc., you are precluded from exemption.

You are unlike the organization described in Hutchinson Baseball Enterprises, Inc. because you operate for substantial recreational and social purposes of the participants. You are like the organizations described in Media Sports League, Inc. and Wayne Baseball Inc. because your social and recreational activities are substantial and preclude exemption under IRC Section 501(c)(3).

Conclusion

Based on the above facts and analysis, you do not qualify for exemption under IRC Section 501(c)(3) because you are neither organized nor operated exclusively for exempt purposes within the meaning of Section 501(c)(3). Your purposes described in your formation document are beyond of the scope of Section 501(c)(3) causing you to fail the organizational test. You fail the operational test because your recreational and social events are substantial non-exempt purposes. Accordingly, you do not qualify for exemption under Section 501(c)(3).

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 Decision 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
P.O. 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