



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

Date:  
02/12/2024  
Employer ID number:

Form you must file:  
1120

Tax years:  
All

Person to contact:

Release Number: 202419017  
Release Date: 5/10/2024  
UIL Code: 501.13-00,  
501.13-30

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)(13). 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](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:



**Department of the Treasury  
Internal Revenue Service**

PO Box 2508  
Cincinnati, OH 45201

**Date: November 20, 2023**

**Employer ID number:**

**Person to contact:**

Name:  
ID number:  
Telephone:  
Fax-

**Legend:**

B = Date  
C = Statement  
D= Geographic Area  
E= Geographic Area  
F= Date

**UIL:**

501.13-00  
501.13-30

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

**Facts**

You were incorporated on B in the state C and applied for exemption under IRC Section 501(c)(13). There is no indication that you were formed or are operated for the purpose of providing and maintaining a cemetery. There is no indication that you are conducting any activity so closely related to burial purposes that those activities are incident to those purposes. There is no indication you formed for receiving and administering funds for the perpetual care of a nonprofit cemetery or like burial area.

Your Articles of Incorporation state your purpose is to foster, develop and promote activities and the development of D \_\_\_\_\_ Site Subdivision in E.

According to your by-laws, your purpose is to improve the \_\_\_\_\_ community through civic and social activities. Your bylaws further state you are a membership organization. Membership is limited to those persons owning property in D \_\_\_\_\_ Site Subdivision in E.

Your activities consist of annual meetings to discuss recommendations on repair and replacement for structures, retaining walls, piers, and boat ramps of the D \_\_\_\_\_ Site Subdivision. You will also have a picnic and cook-out

for members. You will manage the common areas of the neighborhood and provide funding to the volunteer fire department. You are supported by membership dues.

### **Law**

IRC Section 501(c)(13) provides exemption for organizations whose purpose is the operation, maintenance, and improvement of the cemetery, the acquisition of cemetery property, and accumulation of surpluses from investment to provide a source of income for the maintenance and care of a cemetery.

Rev. Rul. 72-17; 1972-1 C.B. 151 describes an organization that was formed and is operated for the purpose of providing and maintaining a cemetery which qualified for exemption under IRC Section 501(c)(13). The organization sold cemetery lots, provided burial services, erected monuments, and maintained the cemetery grounds. In addition, it sold monuments, markers, vaults, and flowers solely for use in the cemetery. All profits realized from these sales were used to maintain the cemetery as a whole.

Rev. Rul. 78-143, 1978-1 C.B. 161 describes an organization that was created as a nonprofit organization by citizens of a community to provide for the perpetual care and maintenance of a burial area. No cemetery company was ever formed and no provision for care and maintenance of the area was ever made. A contiguous church maintained the area for many years. When it could no longer do so, the present organization was formed to provide for the perpetual care and maintenance of the area. The organization qualified for exemption under IRC Section 501(c)(13).

### **Application of law**

You are not described under IRC Section 501(c)(13) because you are not formed or operated for the purpose of providing and maintaining a cemetery. You are also not formed for the purpose of the acquisition of cemetery property, and accumulation of surpluses from investment to provide a source of income for the maintenance and care of a cemetery.

You are not like the organization in Rev. Rul. 72-17 because you are not formed or operated for the purpose of maintaining a cemetery nor are you conducting any activity so closely related to burial purposes that those activities are incident to those purposes. You are formed and operated to foster, develop and promote activities and the development of D Site Subdivision in E.

You are not like the organization in Rev. Rul. 78-143 because, in the absence of not providing and maintaining a cemetery, you are not formed for receiving and administering funds for the perpetual care of a nonprofit cemetery or like burial area. You are formed and operated to promote activities and the development of D Site Subdivision in E. You will manage the common areas and provide funding to the volunteer fire department.

### **Conclusion**

Based on the information submitted you have failed to show how you are described in IRC Section 501(c)(13). You do not operate, maintain, or improve a cemetery nor are you acquiring cemetery property. You are also not accumulating surpluses from investments to provide a source of income for the maintenance and care of a cemetery. Therefore, you do not qualify for exemption under Section 501(c)(13).

### **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