



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

Date:
02/12/2024
Employer ID number:

Person to contact:

Release Number: 202419019
Release Date: 5/10/2024
UIL code: 501.03-00,
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.

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



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

Date: 12/19/2023

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

B = Date

C = State

X = Name

Y = Name

UIL:

501.03-00

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, *Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*.

You attest that you were incorporated on B, in the state of C. 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 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 IRC 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

- 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

The Form 1023EZ states your main purpose is to serve and reach out to others so they can keep their hair healthy. You also have educational purposes that include instruction for personal development and for your community's benefit. Detailed information was requested.

You were founded by X, who is a licensed stylist and educator. You are collocated with Y, a for profit state board approved hair salon which was also founded by X.

Your bylaws state:

- Your stylist will make educational videos about hair care
- You will provide recommendations, instructions, and procedures to keep families hair care manageable
- You will provide facilities equipment and licensed cosmetology instructors for clients to engage in the promotion of healthy hair styles and hair hygiene
- Your stylist will provide private classes and consultations about hair care to provide for participants to engage in recreational, rejuvenating, stress relieving, and self-esteem building performances of hair and skin services
- You will award one scholarship to a cosmetology student funding to pay for their cosmetology kit that they need for their career.

Your bylaws further indicate that you will serve to reach out to human beings so they can keep their hair healthy. Appointments for shampooing, conditioning and natural basic hair styles are not compensated. The bylaws also state all other services like updos, weaves, chemical services, etc. are to compensate Y and facilitate your operations. Further anyone who wishes to donate can receive services. Anyone can also make an appointment for a free service.

A copy of your webpages was sent to you. Prices and services that Y offers are listed on the website as well as details about your operations. Information about your governing body and Y's staffing was also found on the website. Further, all members of your governing body are employees of Y.

You also stated all rights to publishing, literature, recordings, or other intellectual property belongs to your board members and their heirs.

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. 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) states 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(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 which 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.

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

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279 (1945), the Supreme Court held that the presence of a single non-exempt purpose, if substantial in nature, will destroy a claim for exemption regardless of the number or importance of truly exempt purposes.

In Church by Mail, Inc. v. Commissioner, 765 F. 2d 1387, (9th Cir. 1985), affg. TCM 1984-349, Tax Court, the court found that a church was operated with a substantial purpose of providing a market for an advertising and mailing company owned by the same people who controlled the church. The church argued that the contracts between the two were reasonable, but the Court of Appeals pointed out that "the critical inquiry is not whether the particular contractual payments to a related for-profit organization are reasonable or excessive, but instead whether the entire enterprise is carried on in such a manner that the for-profit entity benefits substantially" from the operation of the exempt organization, even if that organization is furthering some exempt purpose.

In International Postgraduate Medical Foundation v. Commissioner, 56 T.C.M. 1140, 1989-36, the Tax Court held that the exempt status of a corporation under IRC Section 501(c)(3) was properly revoked because the corporation was not operated exclusively for exempt purposes. The corporation conducted continuing medical educational tours abroad. The purposes of the corporation consisted of 1) providing benefits to a for-profit travel agency that arranged tours for the corporation's seminars, and 2) providing sightseeing and recreational activities. The corporation was formed by the owner of the travel agency to obtain customers for his business. The owner controlled the corporation and exercised that control to benefit his travel agency. This relationship created a captive market for the travel agency in the business generated by the exempt organization. Because of this substantial benefit, exemption was denied.

Application of law

IRC Section 501(c)(3) sets forth two main tests for qualification for exempt status. As stated in Treas. Reg. 1.501(c)(3)-1(a)(1), an organization must be both organized and operated exclusively for purposes described in IRC Section 501(c)(3).

You do not meet the operational test under IRC Section 501(c)(3) because you are not operating exclusively for charitable purposes as required under Treas. Reg. Section 1.501(c)(3)-1(c)(1). A substantial purpose of your organization is to serve the private interests of Y. This is illustrated by the fact that you share resources with Y,

and Y is compensated for specific services such as updos, weaves, chemical services even though your services such as shampooing, conditioning and natural basic hair styles are not compensated. This is in contravention to Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii)

Like the organization described in Church by Mail, Inc., you are operated for the substantial nonexempt purpose of providing a market for Y's services. The classes and consultations attract new business to Y. Therefore, you are not operating exclusively for exempt purposes described in Section 501(c)(3).

You are similar to the organization described International Postgraduate Medical Foundation, where the Court found that a substantial purpose of the organization was benefiting a related for-profit entity through an increase in income. Because Y benefits substantially from the manner in which your activities are carried on, you are not operated exclusively for exempt purposes within the meaning of IRC Section 501(c)(3), even if you further other exempt purposes. As held in Better Business Bureau of Washington, D.C., a single non-exempt purpose, if substantial, will preclude tax exemption under Section 501(c)(3).

Conclusion

Based on the information provided, we conclude that you are not operated as an organization described in IRC Section 501(c)(3). You are operated for a substantial nonexempt purpose and are serving the private interests of Y. 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 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