



**Department of the Treasury
Internal Revenue Service**

P.O. Box 2508
Cincinnati, OH 45201

Release Number: **201511024**
Release Date: 3/13/2015
UIL code: 501.03-30
501.07-00
501.35-00

Date: December 16, 2014

Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

Dear _____ :

This letter is our final determination that you don't qualify for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code (the Code). 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 Section 501(c)(3) of the Code, donors can't deduct contributions to you under Section 170 of the Code. You must file federal income tax returns for the tax years listed at the top of this letter using the required form (also listed at the top of this letter) within 30 days of this letter unless you request an extension of time to file.

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection (as required under Section 6110 of the Code) after deleting certain identifying information. Please 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.

We'll also notify the appropriate state officials of our determination by sending them a copy of this final letter and the proposed determination letter (under Section 6104(c) of the Code). You should contact your state officials if you have questions about how this determination will affect your state responsibilities and requirements.

If you have questions about this letter, you can contact the person listed at the top of this letter. If you have questions about your federal income tax status and responsibilities, call our customer service number at 1-800-829-1040 (TTY 1-800-829-4933 for deaf or hard of hearing) or customer service for businesses at 1-800-829-4933.

Sincerely,

Director, Exempt Organizations

Enclosures:

Notice 437

Redacted Letter 4036, *Proposed Adverse Determination Under IRC Section 501(c)(3)*

Redacted Letter 4038, *Final Adverse Determination Under IRC Section 501(c)(3) - No Protest*



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: October 14, 2014

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

LEGEND:

- X = date incorporated
- Y = State of incorporation
- Z = date exemption was automatically revoked

UIL:

501.03-30, 501.07-00, 501.35-00

Dear _____ :

We have considered your application for recognition of exemption from federal income tax under Internal Revenue Code ("Code") section 501(a). Based on the information provided, we have concluded that you do not qualify for exemption under Code section 501(c)(3). The basis for our conclusion is set forth below.

Issues

- Do you qualify for exemption under section 501(c)(3) of the Code? No, for the reasons set forth below.

Alternative issue

- Do you qualify for exemption under section 501(c)(7) of the Code? No, for the reasons set forth below.

Facts

You were incorporated on X (date) in the state of Y. Your exempt status was automatically revoked as of Z (date). Prior to that date you were recognized as exempt under section 501(c)(7) of the Code. You applied for reinstatement of your exempt status by filing Form 1023 requesting recognition of exemption under section 501(c)(3) of the Code.

Letter 4036 (CG) (11-2011)
Catalog Number 47630W

According to your submission, you are a local umpire association who assigns umpires to softball leagues and tournaments. You also provide training to registered umpires and coordinate all activities regarding the umpire program in your local area.

Your members must be certified and be in good standing with paid dues. Umpires can also register for certification through you. Registration by an umpire does not establish an employer/employee relationship and no umpire is considered to be your employee, but instead is acting as an independent contractor.

You listed your members as subcontractors in your application. You reported that these member/subcontractors are paid for umpire services.

Since you have not reported any fundraising efforts, it appears that your income comes from membership dues and fees associated to training and providing umpires for local softball leagues and tournaments.

Law

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

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations ("Regulations") states that in order to qualify under section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more exempt purposes. If an organization fails to meet either the organizational or operational test, it is not exempt.

Rev. Rul. 55-656, 1955-2 C.B. 262, A community nursing bureau operated as a community project, which maintains a nonprofit register of qualified nursing personnel, including graduate nurses, unregistered nursing school graduates, licensed attendants and practical nurses, for the benefit of hospitals, health agencies, doctors and individuals, which received its primary financial support from various community organizations and public contributions, was granted exemption under section 501(c)(3) of the Code.

Rev. Rul. 61-170, 1961-2 C.B. 112, An association of professional private duty nurses and practical nurses which supported and operated a nurses' registry primarily to afford greater employment opportunities for its members was not exempt under Code section 501(c)(a) as an organization described in section 501(c)(3).

Section 501(c)(7) of the Code provides for the exemption from federal income tax of clubs organized for pleasure, recreation, and other non-profitable 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.

Section 1.501(c)(7)-1(b) of the Regulations states, in part, that a club which engages in business is not organized and operated exclusively for pleasure, recreation and other non-profitable purposes, and is not exempt under section 501(a) of the Code.

Rev. Rul. 69-527, 1969-2 C.B. 125, A social club formed to assist its members in their business endeavors through study and discussion of problems and other activities at weekly luncheon meetings did not qualify for exemption under section 501(c)(7) of the Code.

Application of Law

You are not organized or operated exclusively for any exempt purpose. Your purpose is not limited to one that is considered exempt under section 501(c)(3) of the Code, rather your purpose is to promote umpires and their work. You operate mainly to certify umpires and provide them with employment. As noted in Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations, this precludes exemption under section 501(c)(3) of the Code.

You do not receive your income from the general public but rely on membership dues and fees for services. At least a portion of your income comes from collecting fees from softball leagues and tournaments to provide umpires. This provides your umpire members with employment, for which they get paid as subcontractors. This situation does not resemble the organization granted exemption in Rev. Rul. 66-565, but instead is similar to the organization denied exemption in Rev. Rul. 61-170.

By matching member umpires to jobs where they are paid, you are engaging in a business. As noted in Section 1.501(c)(7)-1(b) of the Regulations, you are not operated exclusively for pleasure, recreation and other non-profitable purposes. The service you provide assists your members in their personal business ventures (of finding employment as umpires). Similarly, in Rev. Rul. 69-527, the organization was denied exemption for assisting its members in their business endeavors.

Applicant's Position

When we called to discuss the reasons why you do not meet the standards of exemption under section 501(c)(3) of the Code, you requested that we consider your previous exempt status under 501(c)(7) of the Code.

Service Response to Applicant's Position

As noted in the previous Application of Law section, you do not meet the standards of exemption under either section 501(c)(3) or 501(c)(7) of the Code.

Conclusion

You have not demonstrated any exempt purpose which would qualify you for exemption under section 501(c)(3) of the Code. Further, by providing employment for your members, you are engaging in a business that is beyond the scope of exemption under section 501(c)(7). Accordingly, you cannot be granted exemption under either section 501(c)(3) or 501(c)(7) of the Code. Contributions to your organization are not deductible under section 170 of the Code.

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of why you disagree. Your protest statement must be filed within 30 days of the date of this letter and should include:

- Your organization's name, address, EIN number and a daytime phone number.
- A statement that the organization wants to protest the proposed determination.
- A copy of this letter showing the findings that you disagree with (or the date and IRS office symbols from the letter.
- An explanation of your reasons for disagreeing including any supporting documents.
- The law or authority if any, on which you are relying.

The protest statement may be signed by one of your officers or your representative. We will consider your statement and decide if the information affects our determination. If your statement does not provide a basis to reconsider our determination, we will forward your case to our Appeals Office. You can find more information about the role of the Appeals Office in Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*.

The protest statement should also include the following declaration.

"Under penalties of perjury, I declare that I have examined this protest including accompanying documents and, to the best of my knowledge and belief, the statement contains all relevant facts, and such facts are true, correct, and complete."

The declaration must be signed by an officer or trustee of the organization who has personal knowledge of the facts.

Your protest will be considered incomplete without this statement.

If an organization's representative signs and submits the protest, a substitute declaration must be included stating that the representative prepared the protest and any accompanying documents; and whether the representative personally knows (or does not know) that the statement of facts in the protest and any accompanying documents are true, correct.

An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you. In that case you must file a Form 2848, *Power of Attorney and Declaration of Representative*, if you have not already done so. You can find more information about representation in Publication 947, *Practice Before the IRS and Power of Attorney*. All forms and publications mentioned in this letter can be found at www.irs.gov, Forms and Publications.

If you do not file a protest within 30 days, you will not be able to seek a declaratory judgment in court at a later date because the court requires that you first exhaust administrative remedies at the IRS. Code section 7428(b)(2) provides, in part, that a declaratory judgment or decree shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted all of the administrative remedies available to it within the IRS.

If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848, and any supporting documents to the applicable address:

Mail to:

Internal Revenue Service
EO Determinations Quality Assurance
Room 7-008
P.O. Box 2508
Cincinnati, OH 45201

Deliver to:

Internal Revenue Service
EO Determinations Quality Assurance
550 Main Street, Room 7-008
Cincinnati, OH 45202

You may fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Director, Exempt Organizations

Enclosure: Publication 892