



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

Release Number: **201706019**
Release Date: 2/10/2017
UIL Code: 501.03-30
501.29-00

Date: November 18, 2016

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,

Jeffrey I. Cooper
Director, Exempt Organizations
Rulings and Agreements

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**

P.O. Box 2508
Cincinnati, OH 45201

Date: September 20, 2016

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Category:

Legend:

Y = Date
Z = State

UIL:

501.03-30
501.29-00

Dear

We considered your application for recognition of exemption from federal income tax under Section 501(a) of the Internal Revenue Code (the Code). Based on the information provided, we determined that you don't qualify for exemption under Section 501(c)(3) of the Code. This letter explains the basis for our conclusion. Please keep it for your records.

Issues

1. Do you meet the requirements under Section 501(j) of the Code as a qualified amateur sports organization? No, for the reasons described below.
2. Do you meet the organizational test under Treasury Regulation § 1.501(c)(3)-1(b)? No, for the reasons described below.
3. Do you meet the operational test under Treas. Reg. § 1.501(c)(3)-1(c)? No, for the reasons described below.

Facts

You submitted Form 1023-EZ, *Streamline Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, on date Y

You attest that you were incorporated on date Y, in the state of Z. 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 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 further attest that you are organized and operated exclusively to foster national or international amateur sports competitions. You attest that you have not conducted and will not conduct prohibited activities under 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

During the review of your Form 1023-EZ, detailed information was requested to supplement the above attestations. This information confirms you were incorporated in the State of Z on date Y. Article III of your bylaws state:

(t)he purposes which the corporation is authorized to pursue are:

- To encourage, promote and advance information and knowledge concerning rodeos, including the dates of rodeos, names of contestants, prize money and other particulars in which the members are interested
- To promote the *professional sport of rodeo* through the organization of rodeo participants for their mutual benefit [emphasis added.]
 - To ensure a just amount of prize money
 - To require that all entrance fees be added to prize money
 - To secure competent, honest judges and officials in all rodeo events
 - To encourage cooperation between rodeo contestants and management of all rodeos at which members participate
 - To protect against unfairness in the *sport of professional rodeo* [emphasis added.]
 - To preserve the historical integrity of the *sport of professional rodeo* [emphasis added.]
- To raise the standards of cowboy contests so they shall rank among the foremost of American sports
- To bring about honest advertising by the rodeo committees, so that the public may rely upon the truth of advertised events in which it is claimed that members of the Association participate
- To work for the betterment of conditions and of rules governing rodeo events in which members of the Association participate
- To establish a central place of registration for the convenience of members
- To undertake any activity which, in the opinion of the Board of Directors of the corporation, will facilitate the participation of its members in the *professional sport of rodeo* [emphasis added.]

Article XIV, section 4 of your bylaws indicate you are a membership organization and states your board of directors will be elected by the popular vote of the membership body.

You provide a rodeo venue for participants to participate and the community to attend. You conduct approximately fourteen rodeos per year from April through September. Entry fees are charged for each participant that is competing in the various rodeo events. Spectators pay a fee to attend the rodeo events.

You did not provide proposed revenues or expenses for your organization. Based on the provided schedule of events and general information in your brochure, your revenues appear to include event entry fees and gate receipts. Rodeo participants pay entry fees to compete for championship buckles and cash prizes. Membership in the organization is open to anyone who participates in an event, with no membership fee.

Cash prizes for first place finishers can range from a few hundred dollars to up to several thousand based on a set percentage of the entry fee collected for that event.

Law

Section 501(c)(3) of the Internal Revenue Code (Code) exempts from federal income tax: corporations, and any community chest, fund, or foundation, organized and operated exclusively for:

- religious,
- charitable,
- scientific,
- testing for public safety,
- literary, or
- educational purposes, or
- to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or
- for the prevention of cruelty to children or animals,

no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

Section 501(j)(2) of the Code defines the term "qualified amateur sports organization" to mean any organization organized and operated exclusively to foster national or international amateur sports competition if such organization is also organized and operated primarily to conduct national or international competition in sports or to support and develop amateur athletes for national or international competition in sports.

Treas. Reg. § 1.501(c)(3)-1(a)(1) provides that in order to be exempt as an organization described in section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more 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. § 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 its purposes to one or more exempt purposes and do not expressly empower it to engage, otherwise than as an insubstantial part, in activities which in themselves are not in furtherance of one or more exempt purposes.

Treas. Reg. § 1.501(c)(3)-1(b)(1)(iii) provides that an organization is not organized exclusively for one or more exempt purposes if its articles expressly empower it to carry on, otherwise than as an insubstantial part of its activities, activities that are not in furtherance of one or more exempt purposes.

Treas. Reg. § 1.501(c)(3)-1(c)(1) provides that an organization operates exclusively for exempt purposes if it engages primarily in activities that accomplish exempt purposes specified in section 501(c)(3) of the Code. An organization must not engage in substantial activities that fail to further an exempt purpose.

Treas. Reg. § 1.501(c)(3)-1(d)(3)(i) states that the term “educational” as used in section 501(c)(3) relates to: (a) The instruction or training of the individual for the purpose of improving or developing his capabilities; or (b) The instruction of the public on subjects useful to the individual and beneficial to the community.

Rev. Rul. 70-4, 1970-1 C.B. 126, provides that an organization whose activities consisted primarily of the promotion and regulation of a sport for amateurs is not exempt as a section 501(c)(3) educational organization because the promotion and regulation of a sport for amateurs as described neither improve nor develop the capabilities of the individual nor instruct the public on subjects useful to the individual and beneficial to the community.

In *Better Business Bureau v. United States*, 326 U.S. 279 (1945), the court held that an organization is not operated exclusively for exempt purposes, and thus will not qualify for exemption under section 501(c)(3), if it has a single non-charitable purpose that is substantial in nature. This is true regardless of the number or importance of the organization's exempt purposes.

B.S.W. Group, Inc. v. Commissioner, 70 T.C. 352 (1978), describes an organization whose sole activity was to provide consulting services for a fee to nonprofit organizations. It provided qualified persons to perform research projects for its clients. The fees charged by the organization were set at or close to cost but were not less than the organization's full cost of providing its service. The organization was denied exemption because it operated in a commercial, nonexempt manner. The provision of managerial and consulting services on a regular basis for a fee is a trade or business ordinarily carried on for profit. The court held that the organization was not operated exclusively for charitable, educational or scientific purposes within the meaning of section 501(c)(3) of the Code.

In *Hutchinson Baseball Enterprises v. Commissioner*, 73 T.C. 144 (1979), *nonacq.* 1980-2 C.B. 2, *affd.* 696 F.2d 757 (10th Cir. 1982), the organization funded and operated an amateur baseball team, leased and maintained baseball fields for the use of Little League, American Legion teams and a baseball camp, and provided coaches for Little League teams. The court held, and the Tenth Circuit affirmed, that the promotion, sponsorship and advancement of amateur sports is a charitable purpose within the meaning of section 501(c)(3).

In *Wayne Baseball, Inc. v. Commissioner*, T.C. Memo. 1999-304, it was determined that a highly competitive amateur baseball league did not qualify for exemption under 501(c)(3). Team members were recruited from a series of spring tryouts were comprised of players who each possessed a high degree of baseball skills. The

team did not have a formal instructional program. Players relied on informal interaction to seek advice, self-teaching, and hands-on experience during games. No admission was charged to spectators who watched the games. Although spectators were allowed to watch the baseball games for free, the organization's activities did not promote the game of baseball in the surrounding community. Instead, the court found that organization's purpose was to provide a team for the enjoyment, recreation and social interaction of its players.

Application of law

Based on the facts presented in your application, we have concluded that you are not a qualified amateur sports organization. Neither are you organized and operated for exempt purposes as required in section 1.501(c)(3)-1(a)(1) of the Tax Regulations. Accordingly, you do not qualify for exemption as an organization described in section 501(c)(3) of the Code.

You do not meet section 501(j)(2) of the Code because you are a professional rodeo organization as opposed to a qualified amateur sports organization. You are not organized and operated primarily to conduct or to support and develop amateur athletes for national or international competition in sports. Rodeo competition is not a national or international competition such as the Olympics or Pan-American Games, nor does it appear your competitors are in the age group from which Olympic-quality athletes are normally chosen. Finally, it does not appear that you are a member of a national or international committee such as the United States Olympic Committee.

You do not meet the organizational test under Treas. Reg. § 1.501(c)(3)-1(b)(1)(i) because your governing documents do not limit your purposes to one or more exempt purposes and do not expressly empower it to engage, other than as an insubstantial part, in activities which in themselves are not in furtherance of one or more exempt purposes.

You also do not meet the requirements of Treas. Reg. § 1.501(c)(3)-1(b)(1)(iii) because your governing documents expressly permit activities to be carried on that are not in furtherance of one or more exempt purposes.

You do not meet the operational test under Treas. Reg. § 1.501(c)(3)-1(c)(1) because your activities further a substantial non-exempt purpose, namely the promotion of a professional sport. The operational test states that an organization will not be regarded as 'operated exclusively' if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

You do not meet the definition of "educational" as defined in Treas. Reg. § 1.501(c)(3)-1(d)(3)(i) because your activities do not provide instruction or training to the individual nor do you instruct the public on subjects useful to the individual and beneficial to the community.

You are similar to the organization described in Rev. Rul. 70-4 in that your promotion of the sport of rodeo neither improves nor develops the capabilities of the individual nor instruct the public on subjects useful to the individual and beneficial to the community.

Similar to the organization in *Better Business Bureau*, you are operated for a non-exempt purpose that is substantial in nature, i.e., the promotion of a professional sports league.

As in *B.S.W. Group, Inc.*, your sole activity is operating a professional sports league in a manner similar to a commercial enterprise. You charge entry fees for participants competing in your events and also charge patrons to attend your events.

You are not similar to the organization in *Hutchinson Baseball Enterprises* because *Hutchinson* operated an amateur baseball league. In contrast, as you stated in subsequent correspondence, you operate a professional rodeo association.

You are similar to the organization described in *Wayne Baseball, Inc.* in that you do not have a formal instructional program. Your activities also do not promote the sport of rodeo in the community.

Conclusion

Based on the facts and information submitted, you are not organized and operated exclusively for exempt purposes. You are not a qualified amateur sports organization as described in section 501(j)(2). Further, you do not meet the organizational test because your organizing document does not properly limit your purposes to those described in section 501(c)(3). Additionally, you do not meet the operational test because your activities do not further an exempt purpose, such as a charitable or educational purpose. Accordingly, you do not qualify for exemption under section 501(c)(3) of the Code and you must file federal income tax returns. Contributions to you are not deductible under section 170 of the Code.

If you don't agree

You have a right to file a protest if you don't agree with our proposed adverse determination. To do so, you must send a statement to us within 30 days of the date of this letter. The statement must include:

- Your name, address, employer identification number (EIN), and a daytime phone number
- A copy of this letter highlighting the findings you disagree with
- An explanation of why you disagree, including any supporting documents
- The law or authority, if any, you are relying on
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization, or your authorized representative
- One of the following declarations:

For an officer, director, trustee, or other official who is authorized to sign for the organization:

Under penalties of perjury, I declare that I examined this protest statement, 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.

For authorized representatives:

Under penalties of perjury, I declare that I prepared this protest statement, 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.

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 he or she hasn'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 provided a basis for us to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't provided a basis for reconsideration, we'll forward your case to the Office of Appeals and notify you. 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*.

If you don't file a protest within 30 days, you can't seek a declaratory judgment in court at a later date because the law requires that you use the IRS administrative process first (Section 7428(b)(2) of the Code).

Where to send your protest

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

U.S. mail:

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

Street address for delivery service:

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

You can also fax your statement 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 he or she received it.

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.

You can find all forms and publications mentioned in this letter on our website at www.irs.gov/formspubs. If you have questions, you can contact the person listed at the top of this letter.

Sincerely,

Jeffrey I. Cooper
Director, Exempt Organizations
Rulings and Agreements

Enclosure:
Publication 892