



**Department of the Treasury
Internal Revenue Service**

P.O. Box 2508
Cincinnati, OH 45201

Release Number: **201736024**
Release Date: 9/8/2017
UIL Code: 501.03-30

Date: June 12, 2017

Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years: All

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.

We sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,

Stephen A. Martin
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*

[cc: Name]



**Department of the Treasury
Internal Revenue Service**

P.O. Box 2508
Cincinnati, OH 45201

Date: April 7, 2017

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

W = Brand
X = Date
Y = Date
Z = State
b dollars = Amount

UIL:

501.03-30

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

Do you qualify for exemption under section 501(c)(3) of the Code? 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*, on date X.

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 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 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 review of your Form 1023-EZ, detailed information was requested supplemental to the above attestations.

You are a car club whose membership is open to people over 18 years of age who are owners or enthusiasts of W motor vehicles. Your primary activity is hosting car shows open to the general public. Car dealerships/museums will provide space or you will have to rent a venue. The cars at the shows will be comprised of classic cars and other vehicles produced in the American muscle car era and there will be vendors who will sell parts, memorabilia and general merchandise. Furthermore, you plan to have seminars on maintaining and modifying classic cars with assistance from other vendors. Through your shows you also promote public knowledge in purchasing, restoring, maintaining and displaying/showing American muscle cars.

You will be promoting the safe and enjoyable use of automobiles of different makes and models and thus contribute to the betterment of the hobby and the community at the shows. In addition, you will work to provide within yourself a family friendly atmosphere that encourages open communications and good fellowship as well as a willingness to share technical advice and help with mechanical issues with the general public.

Your members will volunteer their time to plan, advertise and operate the shows. Members will set up parking, collect show fees, provide judging on cars by class for awards and provide clean up after the show. You will request other clubs to help man the shows.

Your primary receipts will be from entrance fees to your car shows. Each car participating in the show will be charged a set fee published in the show brochure. Members are also charged an annual fee of b dollars. You do not plan to solicit gifts, grants or contributions from the general public. Possible expenses include show field rental, trash collection, security, trophy cost, advertising, website maintenance, and book keeping. You were asked multiple times to provide budgets and/or actual financial information. You responded that you were unable to provide this information because you stated that this information has not been generated pending outcome of exempt status under Section 501(c)(3).

Your bylaws indicate there is one class of membership that also includes the member's immediate family for purposes of club admission and benefits but the member's immediate family will not be entitled to vote. Each applicant for membership must apply on a form which states the applicant will abide by the bylaws. All applications are filed with your secretary and each application is to be read and voted upon at the first meeting of the board of directors following its receipt. A majority vote is required to select the applicant.

Other club activities will include monthly dinners at member cost, and publishing your club newspaper with announcements and part sales. You stated attending car shows and sponsoring car shows comprise your significant activities and your car show is held twice a year. Initially, you stated that 80% of your time and resources will be spent on this activity but then you stated it would be 100% of your time and resources. Flyers or other literature has not been generated pending outcome of exempt status.

Law

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

Treasury Regulation Section 1.501(c)(3)-1(a)(1) 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.

Treas. Reg. Section 1.501(c)(3)-1(c)(1) states 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 Section 501(c)(3) of the Code. 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 77-366, 1977-2 C.B. 192 describes an organization that was formed to arrange and conduct cruises during which activities to further religious and educational purposes are provided. However, it was found that an extensive amount of time and resources were spent devoted to the conduct of social and recreational activities, and the facts and circumstances indicated these activities served substantial independent purposes of a non-charitable nature. Therefore, this organization did not qualify for exemption under Section 501(c)(3) of the Code because it was not operated exclusively for exempt purposes.

Revenue Procedure 2017-5, 2017-1 I.R.B. 2321, Section 6 (and its predecessors) provides that a favorable determination letter or ruling will be issued to an organization only if its application and supporting documents establish that it meets the particular requirements of the section under which exemption from federal income tax is claimed. Section 3 states that a determination letter or ruling on exempt status is issued based solely upon the facts and representations contained in the administrative record. The applicant is responsible for the accuracy of any factual representations contained in the application.

In Better Business Bureau of Washington D.C., Inc. v. United States, 326 U. S. 279 (1945), the Supreme Court of the United States interpreted the requirement in Section 501(c)(3) of the Code that an organization be "operated exclusively" by indicating that an organization must be devoted to exempt purposes exclusively. This plainly means that the presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number and importance of truly exempt purposes.

In Harding Hospital, Inc. v. United States, 505 F.2d 1068 (6th Cir. 1974), the court held that an organization seeking a ruling as to recognition of its tax-exempt status has the burden of proving that it satisfies the requirements of the particular exemption statute.

In Schoger Foundation v. Commissioner, 76 T.C. 380 (1981) it was held that if an activity serves a substantial nonexempt purpose, the organization does not qualify for exemption even if the activity also furthers an exempt purpose.

In La Verdad v. Commissioner, 82 T.C. 215 (1984), the administrative record did not demonstrate that the organization would operate exclusively in furtherance of an exempt purpose. Therefore, denial of the organization's request for tax-exempt status was reasonable.

Application of Law

You are not described in Section 501(c)(3) of the Code and in Treas. Reg. Section 1.501(c)(3)-1(a)(1) because you are not exclusively operated for charitable purposes.

You are not operating in accordance with Treas. Reg. Section 1.501(c)(3)-1(c)(1) because you are not primarily engaged in activities that accomplish exempt purposes specified in Section 501(c)(3) of the Code. Your primary activity of conducting an annual car show is a significant social and recreational event for your members and other participants as well as the community. The fact that you will be promoting the safe and enjoyable use of automobiles of different makes and models to contribute to the betterment of the hobby and the community also indicates a substantial non-exempt purpose. Therefore, you are precluded from exemption under Section 501(c)(3) of the Code.

You are similar to the organization described in Rev. Rul. 77-366. While certain aspects of your car show may further charitable and educational purposes, a primary goal of the car show is promoting fellowship and social activities among your members and the participants, which is a substantial nonexempt purpose. For example, you wrote that you will work to provide a family friendly atmosphere that encourages open communications and good fellowship as well as a willingness to share technical advice and help with mechanical issues with the general public.

There is not sufficient documentation to establish that you are exempt from taxation as required by Section 501(c)(3) of the Code and Revenue Procedure 2017-5. You initially stated your car shows would comprise 80% of your activities then you changed it to 100%. You also stated you are donating your proceeds from these shows to worthy causes but did not provide any specific names of these worthy causes nor did you provide financial information substantiating this. You also wrote your car shows accomplish educational purposes but did not submit sufficient details such as literature to prove this.

You are like the organization in Better Business Bureau v. United States. Although you may have some educational and charitable purposes including conducting seminars on maintaining and modifying classic cars, this is secondary to hosting the car shows for members and car enthusiasts. The presence of this non-exempt purpose prevents exemption under Section 501(c)(3) of the Code.

You have failed to meet your burden of proving you satisfy the requirements of exemption as required by Harding Hospital, Inc. v. United States. You did not provide financial information and flyers substantiating you are operating for exempt purposes as well as other educational literature. Therefore, you have not shown you are operating exclusively for purposes described in Section 501(c)(3) of the Code.

You are similar to the organization in Schoger Foundation v. Commissioner, because your primary activity of hosting car shows serves a substantial non-exempt purpose even though some of your activities may accomplish exempt purposes.

Your position

You believe you qualify under Section 501(c)(3) of the Code. You were formed so members can enjoy their car hobby and benefit some needy charities. Your members' love for the automobile serves as the drive for your events which will benefit worthy charities under Section 501(c)(3) as well as local families in need through a portion of your generated proceeds. No officer or club member receives compensation for their work.

Our response to your position

You failed to provide any additional information from which it can be concluded that your activities exclusively further or advance a purpose described in Section 501(c)(3) of the Code. Similar to the organization in La Verdad v. Commissioner, the facts you provided do not demonstrate that you will operate exclusively in furtherance of an exempt purpose. Therefore, denial of your request for tax-exempt status is reasonable.

Conclusion

Based on the information submitted, you are not operating exclusively for one or more purposes described in section 501(c)(3) of the Code. Even though some of your activities may be charitable, you are primarily conducting a car show, which serves a substantial non-exempt recreational purpose. Therefore, you are not described in Section 501(c)(3) 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.

We sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,

Director, Exempt Organizations
Rulings and Agreements

Enclosure:
Publication 892

[cc: Name]