



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

Release Number: 201822029
Release Date: 6/1/2018

Date:
March 7, 2018
Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

UIL: 501.00-00, 501.03-00

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,

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*



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

Date:
December 12, 2017
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

C = state
D = date

UIL:

501.00-00
501.03-00

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

Do you qualify for exemption under Section 501(c)(3) of the Code? No, for the reasons stated below.

Facts

You were incorporated under the laws of C on D. You state that your activities

support good sportsmanship among hunters and fishermen throughout Northern C, to foster and develop programs for the youth, disabled, and women hunters and fishermen, to work in connection with existing programs for youth, disabled, and women hunters and fisherman, and to teach and encourage responsible propagation of fish and game, and to aid in the development, propagation and protection of the fish and game in the woods, lakes and streams throughout Northern C.

During review of your Form 1023, detailed information was requested.

In our first Letter 1312 request for information, we asked you for a detailed description of the recreational or social activities that you conduct (or will conduct).

You explained that you "[p]rovide hunters' safety courses and trapper education courses," and that you are "[l]ooking to provide a building allowing for additional social activities for the public, including 3D archery shooting and trap shooting." You build fish cribs for area lakes, raise pheasants to release in the wild, and donate to several other charitable causes including a disabled hunting program for children, the area fire department in your community, and the area high school athletic association.

We asked you to indicate whether your recreational or social activities are (or will be) directed to children, the elderly, or disabled persons, and, if so, the percentage of these participants in each category.

Several of your activities target these groups, but not all. You stated, "Our hunters' safety and trapping education courses are 100% youth based with about participants annually. Our 3D archery and trap shoots are open for all ages but include approximately % youth participation. Our other activities are for the broad public and do not target any particular listed group."

In our first Letter 1312, we asked you to indicate the time and resources you spend (or will spend) on recreational or social activities as a percentage of your total activities.

In your correspondence, you indicated the following: "Approximately % of our time and resources is spent on programming and activities. The remaining % of time will be spent on fundraising activities to support the building of a facility and to provide funding for the listed recreational activities."

We requested additional information, including the percentage of time and funding spent on charitable and educational activities, the percentage of time and funding spent on social and recreational programming and activities, youth participants in your programs, the primary purpose that your facility will serve and the overall percentage of your time and resources that will be dedicated to social and recreational activities after your facility is built. You did not respond to the our request.

Law

Section 501(c)(3) of the Code 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 Section 501(c)(3) of the Code, 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 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.

Treas. Reg. Section 1.501(c)(3)-1(d)(2) defines the term charitable as including the relief of the poor and distressed or of the underprivileged, and the promotion of social welfare by organizations designed to lessen neighborhood tensions, to eliminate prejudice and discrimination, or to combat community deterioration. The Dterm "charitable" also includes lessening of the burdens of government.

Treas. Reg. Section 1.501(c)(3)-1(d)(3)(i) defines the term educational as the instruction or training of the individual for the purpose of improving or developing his capabilities or the instruction of the public on subjects useful to the individual and beneficial to the community.

Rev. Rul. 65-64; 1965-1 C.B. 241, upheld the exemption under Section 501(c)(7) of the Code of a nonprofit membership organization that provided hunting and fishing facilities for its members through the propagation and stocking of fish and game on the club property. The organization's purposes are the maintenance of a club for the promotion of fellowship, recreation, hunting, fishing and similar sports among its members, their families and bona fide guests, and the conservation of fish and game.

Rev. Rul. 66-273; 1966-2 C.B. 222, held that a nonprofit organization may qualify for exemption under Section 501(c)(4) of the Code where it provides a community with facilities for rifle, pistol, and shotgun practice and instructions in the safe handling and proper care of weapons. The general public is permitted full use of the organization's facilities, which are also available free of charge to units of the armed services of the United States and for their use in conducting required training classes, to local law enforcement officers, and to junior rifle organizations. The ruling concluded that providing a community with supervised facilities for firearm shooting, giving instructions in the safe handling and proper care of guns, and teaching better marksmanship are considered activities that promote the common good and general welfare of the community under Section 501(c)(4).

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 Universal Life Church v. United States, 372 F. Supp. 770 (E.D. Cal. 1974), the court concluded that "one seeking a tax exemption has the burden of establishing his right to a tax-exempt status."

Pius XII Academy v. Commissioner, T.C. Memo, 1982-97 provides that an organization must establish through the administrative record that it operates as an exempt organization. Denial of exemption may be based solely upon failure to provide information describing in adequate detail how the operational test will be met.

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 organization's request for tax-exempt status was reasonable.

New Dynamics Foundation v. United States, 70 Fed. Cl. 782 (2006), was an action for declaratory judgment that the petitioner brought to challenge the denial of his application for exempt status. The court, in finding that the actual purposes displayed in the administrative record supported the Service's denial, stated "It is well-accepted that, in initial qualification cases such as this, gaps in the administrative record are resolved against the applicant." The court noted that if the petitioner had evidence that contradicted these findings, it should have submitted it as part of the administrative process. The court also highlighted the principle that exemptions from income tax are matters of legislative grace.

Ohio Disability Association v. Commissioner, T.C. Memo 2009-261 states denial is justified because responses to requests for additional information failed to supplement the initial application or clarify purposes and activities, and generalizations did not provide sufficient detail to determine that the organization would be operated exclusively for exempt purposes.

Application of law

A ruling on exempt status is based solely on facts and representations in the administrative file. You have not provided supporting documentation to establish you meet the requirements of Section 501(c)(3) of the Code. 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 Section 501(c)(3).

You do not meet the operational test under Section 501(c)(3) of the Code because you are not operating exclusively for charitable or educational purposes as required under Treas. Reg. Section 1.501(c)(3)-1(c)(1). You failed to distinguish your fish and game club activities that “support good sportsmanship among hunters and fisherman throughout Northern C” from those that are traditionally found in social and recreational organizations exempt under Section 501(c)(7) described in Rev. Rul. 65-64, or to provide evidence that your stated charitable and educational activities are more than incidental to your social and recreational activities of a noncharitable and noneducational character. Furthermore, certain activities, such as propagating fish and game, are of a dual nature that may also benefit your members for sport and recreation, which is not a charitable or educational purpose. In addition, as stated in Rev. Rul. 66-273, giving instructions in the safe handling of firearms can be viewed as an activity that promotes the common good and general welfare of the community under Section 501(c)(4). As provided in Treas. Reg. Section 1.501(c)(3)-1(d)(2) or 1.501(c)(3)-1(d)(3)(i), you have not established that your operations accomplish exclusively charitable or educational purposes. You presented no arguments regarding how the same may be recognized under Section 501(c)(3).

You have not submitted sufficient information establishing you are operated exclusively for 501(c)(3) purposes. (See Universal Life Church, Pius XII Academy, La Verdad, New Dynamics Foundation and Ohio Disability Association). You did not provide the relative percentages of your time and resources spent on social and recreational activities versus charitable and educational activities, or indicate the primary purpose that your facility will serve. Therefore, 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. As in Universal, you have the burden of establishing that you qualify for tax exemption.

In Pius, La Verdad, and New Dynamics, it was established that an organization must establish, through its administrative record, that it meets the requirements for exemption. Because you failed to provide sufficient details in your initial application and the additional documentation you provided did not meet the statutory and regulatory requirements for exemption, you have not established that you meet the requirements for exemption under Section 501(c)(3) of the Code. As provided in New Dynamics, any gaps in the administrative record will be resolved against the applicant. Similarly, in Ohio Disability Association, the court found that even when additional information was provided, but it contained generalizations and failed to clarify purposes, denial is justified. You did not provide supplemental information; therefore, we are unable to determine that you qualify for exemption.

Conclusion

Based on the information submitted, you have failed to establish that you are organized and operated exclusively for exempt purposes within the meaning of Section 501(c)(3) of the Code and the related income tax regulations. Therefore, based on the administrative record, you fail to qualify for exemption under Section 501(c)(3).

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,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosure:
Publication 892