



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

Number: **201847010**
Release Date: 11/23/2018

Date:
August 29, 2018
Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

UIL Number: 501.03-00, 501.03-30

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:

July 10, 2018

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

X = State

Y = Date

z dollars = Amount

UIL:

501.03-00

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 incorporated in the state of X as a non-profit corporation on Y. Your Articles of Incorporation state that you are formed for the cultivation and promotion of civic and community improvements, to promote social interaction with members, and to promote the sport of fishing in your region. You provided a copy of an Amendment to your Articles which includes a statement that you are organized exclusively for charitable purposes, including for such purposes, the making of distributions to organizations that qualify as exempt organizations under Section 501(c)(3) of the Code.

You described your activities as operating exclusively of the cultivation and promotion of civic and community improvements, to promote, foster and afford the opportunity for social interaction, and to promote the sport of fishing in your region. You went on to say that your primary function is to perform fundraising activities to provide funding for local civic purposes and developments, as well as to provide scholarship funds for individuals hoping to obtain a college education. You raise funds by holding an annual fishing tournament.

Individuals wishing to participate in your tournament can purchase a ticket. The ticket allows them to participate in the weekend-long fishing competition. Participants compete for prizes in various fishing categories. Children do not need to purchase a ticket to enter. You will also seek sponsorships and donations. You assert that you spend all your time on this fishing tournament, as it takes 12 months of planning.

When we asked for more detail about your activities, you described your activities as the gathering of fishermen to compete against one another. There are designated categories of fish and each category is awarded trophies

for specified places. There are also drawings of ticket stubs for a chance at winning monetary prizes and donated door prizes. All ticket holders also receive a cap and a free seafood lunch.

You hire two non-members to perform the duties of weighmaster and fish cleaner for the three-day event. The fish are then used for the seafood lunch.

You promote your fishing tournament through the local tourism commission, posters, radio ads, TV spots and bits in various publications. You submitted a copy of one of the posters. There is no mention of the scholarship in the advertisement. The poster has a lot of information about the tournament, including the dates, location, various categories for trophies, and the prizes. You also submitted a sample of one of the tickets for admission to the tournament. The tickets have a lot of the same information as the poster, but also does not mention the scholarship or other charitable giving.

The scholarship you intend to fund will be z dollars. The cash prizes you give to the top winners of the fishing tournament total three times the amount given for the scholarship. You also give out many trophies for various categories. You indicated that you spend about 75 percent of your funds on the fishing tournament and the rest goes toward your scholarship. This is not in alignment with the budgets you provided. The budgets indicate that your yearly revenue is derived from one annual fishing tournament and about 10 percent of your revenue is used for the scholarship. Most of your expenses are related to the fishing tournament.

Law

Section 501(c)(3) of the Code provides for exemption from federal income tax for organizations organized and operated exclusively for educational purposes.

Treasury Regulation Section 1.501(c)(3)-1(a)(1) states that 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" of 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 charitable as including the following purposes: Relief of the poor and distressed or of the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments, or works; lessening of the burdens of Government; and promotion of social welfare by organizations designed to accomplish any of the above purposes, or (i) to lessen neighborhood tensions; (ii) to eliminate prejudice and discrimination; (iii) to defend human and civil rights secured by law; or (iv) to combat community deterioration and juvenile delinquency.

Revenue Ruling 77-366, 1977-2, C.B. 192, states that a nonprofit organization that arranges and conducts wintertime ocean cruises during which activities to further religious and educational purposes are provided in addition to extensive social and recreational activities is not operated exclusively for exempt purposes and does not qualify for exemption under Section 501(c)(3) of the Code.

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.

Application of law

To qualify for exemption as described in Section 501(c)(3) of the Code, you must be both organized and operated exclusively for one or more exempt purposes, as explained in Treas. Reg. Section 1.501(c)(3)-1(a)(1). You are not operating exclusively for exempt purposes described under Section 501(c)(3) because your primary activity is holding an annual fishing tournament for any interested person. Because your activities are primarily recreational in nature and not exclusively charitable as defined in Treas. Reg. Section 1.501(c)(3)-1(d)(2), you do not qualify for exemption.

You are not described in Treas. Reg. Section 1.501(c)(3)-1(c)(1) because you are operating for the substantial non-exempt purpose of operating a fishing tournament. You spend 100 percent of your time conducting activities related to the fishing tournament. Approximately 10 percent of your revenue is designated for a scholarship. Most of your expenses are for prizes, awards, advertising and various supplies associated with the fishing tournament. None of the advertisements you submitted mention the scholarship to prospective fisherman. Your activities are like those described in Rev. Rul. 77-366. You spend a majority of your time and funds to conduct an annual fishing tournament, and any educational or charitable activities are incidental to your social and recreational activities.

You are like the organization described in Better Business Bureau of Washington, D.C., Inc. because 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. All of your time and most of your funds are devoted to a three-day annual fishing competition. Although you intend to use a small portion of the funds raised to provide a scholarship, most of your efforts and income are directed towards the fishing tournament. Because your fishing tournament is a substantial non-exempt purpose, you are not exempt under Section 501(c)(3) of the Code.

Conclusion

Based on the facts and information provided, you are operated for the substantial non-exempt purpose of holding an annual fishing tournament. Any educational or charitable activities you conduct are incidental to your non-exempt recreational purposes. Therefore, you do not qualify for exemption under 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.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosure:
Publication 892