



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

Release Number: **201852020**
Release Date: 12/28/2018
UIL Code: **501.03-00, 501.03-30**

Date:
October 2, 2018
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,

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:
August 8, 2018
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

C = Formation date
D = Objects related to club purposes
E = Membership criteria
F = Meeting place
H = Particular type of club event

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 are an unincorporated association formed on C as "a social organization that promotes individuality and self-expression of members and the public through education and the display, exhibition and celebration of D in a non-judgmental and encouraging environment."

You are governed by the Council, new members of which are selected from the general membership by the unanimous vote of the Council. Your membership is limited to E. Members must agree to abide by your charter and bylaws and must reside within a -mile radius of the club's home F. They must attend at least one club event each quarter and pay annual dues. Dues are used to cover incidental costs such as website and entry fees for activities such as parades. Members have the right to purchase club patches and pins with the club's insignia.

Club events include H, club socials, club fundraisers or other club sanctioned events. You have monthly socials at a F or other public establishments. It is unclear how H differ from club socials; however, a flyer you shared indicates that H are held monthly. The events are also open to the general public. You charge no fees for the monthly socials. However, you collect donations at the monthly social events and contribute them to selected charities.

You offer hands-on training in certain skills and techniques of interest to your members. Occasionally you provide educational opportunities about community history and you sponsor an annual pageant. H are posted on a public Facebook page; educational events are posted on a private Facebook page. The member hosting the educational event informs H attendees of the event and, after screening those interested in participating, invites participants to the event venue.

You estimate that percent of your total time is devoted to social events and percent of your total time is devoted to educational activities.

Your projected income includes donations from your members, donations received from monthly F socials, and annual fundraising income from educational events.

Law
Section 501(c)(3) of the Code describes corporations organized and operated exclusively for charitable purposes no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that, for an organization to be exempt under section 501(c)(3) of the Code, it 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 or operational test, it is not exempt.

Treas. Reg. Sec. 1.501(c)(3)-1(b)(1)(iv) of the regulations provides that in no case shall an organization be considered organized exclusively for one, or more exempt purposes, if, by the terms of its articles, the purposes for which such organization is created are broader than the purposes specified in section 501(c)(3).

Treas. Reg. Sec. 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 such exempt purposes specified in section 501(c)(3). 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. Sec. 1.501(c)(3)-1(d)(2) provide that the term "charitable" is used in IRC 501(c)(3) in its generally accepted legal sense and includes 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; promotion of social welfare.

Treas. Reg. Sec. 1.501(c)(3)-1(d)(3)(i) defines education as (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."

Revenue Ruling 77-366, 1977-2 C.B. 192 describes a nonprofit organization that arranges and conducts winter cruises during which activities to further religious and educational purposes are provided in addition to extensive social and recreational activities. It did not operate exclusively for exempt purposes and therefore did not qualify for exemption.

Rev. Rul. 78-305, 1978-2 C.B. 172 describes an organization formed to educate the public about homosexuality in order to foster an understanding and tolerance of homosexuals and their problems, which

qualifies for exemption under Section 501(c)(3) of the Code. The organization collects factual information relating to the role of _____ in society and disseminates this information through seminars, forums, and discussion groups to the public. Materials distributed to the public include copies of surveys, summaries of opinion polls, scholarly statements, publications of government agencies, and policy resolutions adopted by educational, medical, scientific, and religious organizations. The organization accumulates factual information through the use of opinion polls and independently compiled statistical data from research groups and clinical organizations. All materials disseminated by the organization contain a full documentation of the facts relied upon to support conclusions contained therein.

In Better Business Bureau v. United States, 326 U.S. 278 (1945), the court held that an organization is not operated exclusively for charitable 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 charitable purposes.

Application of law

You are not described in Section 501(c)(3) of the Code because you are not organized and operated exclusively for charitable or educational purposes as required by Section 1.501(c)(3)-1(a)(1) of the regulations.

Organizational Test

Your charter does not contain the required purpose and dissolution provisions of section 501(c)(3) of the Code. Your stated purpose, to provide social events to promote individuality and self-expression for your membership, are broader than the purposes specified in section 501(c)(3) and section 1.501(c)(3)-1(b)(1)(iv) of the Regulations.

Operational Test

Although you state you contribute any donations you receive during your events to charitable organizations and provide educational opportunities for your membership, more than an insubstantial amount of your total activities, _____ percent, is devoted to social activities. Furthermore, the collection of donations for charity always appears to occur in the context of your social events, as incidental to them. For example, your flyer only promotes attendance at H, making no mention of charitable or educational activities. Your club functions therefore appear to primarily serve a social purpose, any charitable purpose being subordinate. Social activities do not further charitable purposes described in Treas. Reg. Sec. 1.501(c)(3)-1(d)(2) or educational purposes described in Treas. Reg. Sec. 1.501(c)(3)-1(d)(3)(i). Therefore, you are not engaged primarily in activities which accomplish one or more such exempt purposes specified in section 501(c)(3) as required by section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations.

You are like the organization in Rev. Rul. 77-366, which carries on religious and charitable activities, but does not qualify for exemption because a substantial amount of its time is devoted to social activities.

Like the organization in Better Business Bureau, a single non-charitable purpose that is substantial in nature defeats exemption for you, regardless of the number or importance of your charitable and educational purposes.

You are distinguished from the organization described in Rev. Rul. 78-305. The activities you have described as educational are not open to the public. Anyone attending your educational events must go through your social event to be screened and privately invited to the events. The activities have the character of personal instruction, and are not designed to foster understanding and tolerance through public seminars, forums, and discussion groups and publications.

Conclusion

Organizational

Based on the above, we find that you are not organized and operated for exempt purposes within the meaning of section 501(c)(3) of the Code. Specifically, you do not meet the organizational test for exemption because your organizing document does not contain the necessary 501(c)(3) language.

Operational

You do not meet the operational test for exemption because more than an insubstantial amount of your activities is social. In order to qualify for exemption under section 501(c)(3), your activities must be exclusively educational and/or charitable. More than an insubstantial amount of your activities is devoted to social activities. Accordingly, we conclude 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