



Department of the Treasury
Internal Revenue Service
Appeals Office
300 N. Los Angeles Street
Los Angeles, CA 90018

Date: October 31, 2018

Person to contact:
Name:
Employee ID number:
Telephone:
Fax:
Hours:
Employer ID number:

Release Number: **201904016**
Release Date: 1/25/2019

Uniform issue list (UIL):
501.03-00
501.03-05
501.03-30
501.29-00

Certified Mail

Dear .:

This is a final adverse determination that you do not qualify for exemption from federal income tax under Internal Revenue Code (the "Code") Section 501(a) as an organization described in Section 501(c)(3) of the Code.

We made the adverse determination for the following reasons:

You are not organized for one or more exempt purposes as required for tax-exempt organizations described under section 501(c)(3) of the Internal Revenue Code.

Contributions to your organization are not deductible under Section 170 of the Code.

You're required to file federal income tax returns on Forms 1120, U.S. Corporation Income Tax Return. Mail your form to the appropriate Internal Revenue Service Center per the form's instructions. You can get forms and instructions by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676).

We'll make this letter and the proposed adverse determination letter available for public inspection under Section 6110 of the Code after deleting certain identifying information. We provided to you, in a separate mailing, Notice 437, Notice of Intention to Disclose. Please review the Notice 437 and the documents attached that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437.

If you decide to contest this determination, you can file an action for declaratory judgment under the provisions of Section 7428 of the Code in either:

- The United States Tax Court.
- The United States Court of Federal Claims, or
- The United States District Court for the District of Columbia

You must file a petition or complaint in one of these three courts within 90 days from the date we mailed this determination letter to you. Contact the clerk of the appropriate court for rules and the appropriate forms for filing petitions for declaratory judgment. You can write to the courts at the following addresses:

United States Tax Court	US Court of Federal Claims	US District Court for the District of Columbia
400 Second Street, NW	717 Madison Place, NW	333 Constitution Avenue, NW
Washington, DC 20217	Washington, DC 20005	Washington, DC 20001

Note: We will not delay processing income tax returns and assessing any taxes due even if you file a petition for declaratory judgment under Section 7428 of the Code.

Please refer to the enclosed Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status, for more information about the Appeals process.

You also have the right to contact the Taxpayer Advocate Service (TAS). TAS is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 877-777-4778.

TAS assistance is not a substitute for established IRS procedures, such as the formal appeals process. TAS cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States Court.

If you have questions, contact the person at the top of this letter.

Sincerely,

Appeals Team Manager

Enclosures:
Publication 892

cc:



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

Date: January 30, 2018

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

B = Date of formation
C = State
D = Organization

UIL:

501.00-00
501.03-05
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

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

Facts

You were formed on B in the State of C as a Professional Corporation. You were formed and are controlled by D, a Section 501(c)(3) public charity.

You have a sole shareholder, an individual employed and selected by D. The relationship between you, the sole shareholder, and D is subject to a Shareholder Control Agreement. The Agreement provides that the sole shareholder shall hold the shares solely for the benefit of D and exclusively in furtherance of the charitable purposes of D. D shall retain ultimate control over your activities and finances and shall retain sole power and discretion.

Your incorporation document states that your purpose is, in pertinent part, to carry on and conduct the business of practicing medicine and related services pursuant to the laws of the State of C through individuals authorized by law to render such services. It further states that you have the authority to issue shares of stock. Your incorporation document is silent regarding the disposition of your assets upon your dissolution.

You indicated that the State of C would not permit the required Section 501(c)(3) purpose and dissolution language in your incorporation document, so you included the required language in your By-Laws. There is a specific department in the State of C which is the licensing authority for all professional corporations that engage in the practice of medicine. You later provided a printed email and an official rejection letter issued by the State of C's licensing authority showing that the Section 501(c)(3) purpose and dissolution language would not be accepted in your incorporation document because it violates the State of C's business law.

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(b)(1)(i) provides that an organization is organized exclusively for one or more exempt purposes only if its articles of organization:

- (a) Limit the purposes of such organization to one or more exempt purposes; and
- (b) Do not expressly empower the organization engage, otherwise than as an insubstantial part of its activities, in activities that in themselves are not in furtherance of one or more exempt purposes.

Treas. Reg. Section 1.501(c)(3)-1(b)(4) holds that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, for example, if, upon dissolution, such assets would, by reason of a provision in the organization's articles or operation of law, be distributed for one or more exempt purposes.

Application of law

As stated in Treas. Reg. 1.501(c)(3)-1(a)(1), to qualify for exemption under Section 501(c)(3) of the Code an organization must be both organized and operated exclusively for purposes described in Section 501(c)(3). Your incorporation document states that you were formed for the business purpose of practicing medicine. Your formation document does not limit your purposes to one or more exempt purposes, as required by Treas. Reg. Section 1.501(c)(3)-1(b)(1)(i), causing you to fail the organizational test. Additionally, your incorporation document does not have a dissolution provision as required by Treas. Reg. Section 1.501(c)(3)-1(b)(4), which also causes you to fail the organizational test.

Although your By-laws contain proper Section 501(c)(3) language, your By-laws are not your formation document because you are a corporation. As a result, you have not satisfied the organizational test and are not exempt under Section 501(c)(3) of the Code.

Conclusion

Based on the information submitted, you fail the organizational test. 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.

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