



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

Release Number: **201918018**
Release Date: 5/3/2019
UIL Code: 501.00-00, 501.03-19, 501.35-00

Date:
February 5, 2019
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:
November 6, 2018
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

Y = Date
Z = State

UIL:
501.00-00
501.03-19
501.35-00

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 meet the organizational test under Section 501(c)(3) of the Code? No, for the reasons described below.
- Do you meet the operational test under Section 501(c)(3) of the Code? No, for the reasons described below.

Facts

You submitted Form 1023-EZ, *Streamline Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*.

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) of the Code. The description of your activities provided in your application state that you promote the health of local women and girls, promote the sport of roller derby, foster social interaction, and provide resources to the community.

During review of your Form 1023-EZ, detailed information was requested supplemental to the above attestations, including a copy of your organizing document. Your organizing document, your articles of association, states that your purpose is to:

- Promote health of local women and girls
- Promote and foster social interaction, fellowship, and community among members
- Promote the sport of roller derby to youth and adults, and
- Provide resources to the community through volunteering, donations, and time.

Your activities consist of roller derby practice, fundraising, and outreach. You practice _____ hours a week and meet _____ a month for outreach and fundraising planning. Outreach or charitable events occur monthly. Members are required to devote a minimum of _____ hours toward the planning, preparation or conduct of the event. You estimate that _____ percent of your time is devoted to roller derby, _____ percent to charitable activities and _____ percent to administrative activities.

Your current training program consists of endurance and skills training and intermittent skills testing. Participation in your scrimmages requires passing a minimum skills test and practice attendance of _____ percent. You plan to compete in a regional competition in a couple of years. You indicate that you are neither a member of a national or international amateur sports organization nor do you participate in national or international competitions. You are not training elite athletes to contend for national or international competitions, but rather your goal is to provide a healthy sport and physical activity for adult women in your area.

Your financial support comes from membership dues and fundraising activities. Your expenditures include insurance, supplies, equipment, legal fees, advertising, merchandise, donations, supplies, and fees. During this current tax year, approximately one percent of your total expenses went to charitable donations.

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.

Section 501(j)(2) of the Code describes a qualified amateur sports organization as any organization organized and operated exclusively to foster national or international amateur sports competition if organized and operated primarily to: conduct national or international competition in sports or to support and develop amateur athletes for national or international competition in sports.

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 limit its purposes to one or more exempt purposes and do not expressly empower it to engage, otherwise than as an insubstantial part of its activities, in activities which themselves are not in furtherance of one or more exempt purposes.

Treas. Reg. Section 1.501(c)(3)-1(b)(1)(i)(iv) states that in no case shall an organization be considered to be 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. 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.

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.

Revenue Ruling 64-275, 1964-2 C.B. 142, describes an organization that was created for the purpose of providing advance training to suitable candidates in the techniques of racing small sailboats in national and international competition through classroom lectures, seminars and practical training sessions and improving the caliber of the candidates for preparation of the recognized game competitions and other international racing events. It conducted a program between the US and other foreign nations for the exchange and training of suitable candidates in the techniques and practices of the sport. The purpose of its activities is to improve the individual student's capability for sailing and racing and increase the number of qualified candidates for possible Olympic participation. The activities were not limited to few. The organization is described as an educational organization in Section 501(c)(3) of the Code as its activities improved the individual student's capabilities for the sport because it operated like a technical school.

Rev. Rul. 65-2, 1965-1 C.B. 227, describes an organization that is organized and operated for the purpose of teaching a particular sport to children under the ages of 18 by holding clinics conducted by qualified instructors. The organization was recognized as an organization described in Section 501(c)(3) of the Code because it is exclusively charitable and educational.

Rev. Rul. 70-4, 1970-1 C.B. 126, describes an organization engaged in promoting and regulating a sport for amateurs. The organization's stated purposes were to promote the health of the general public by encouraging all persons to improve their physical condition and fostering public interest in a particular sport. Its activities were directed toward promoting sport tournaments, exhibitions and give instructive clinics. The organization did not qualify for exemption under Section 501(c)(3) of the Code.

Rev. Rul. 77-365, 1977-2 C.B. 192, describes an organization that was organized and operated to instruct and educate individuals of all ages and skill levels in a particular sport. It conducts clinics, workshops, lessons, and seminars. The organization was recognized as an educational organization described in Section 501(c)(3) of the Code.

Rev. Rul. 80-215, 1980-2 C.B. 174, describes an organization that was formed to develop, promote and regulate a sport for youth under the ages of 18 and to promote sportsmanlike competition among the players. Additionally, it promulgated rules, organized officials, and presented seminars for players and coaches and referees. The organization combatted juvenile delinquency by providing a recreational outlet for the young people, which is a charitable purpose. Furthermore, the organization was educational because it taught and developed the skills of the youth.

In Better Business Bureau v. United States, 326 U.S. 279 (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

In order 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 of the purposes specified in such Section, as explained in Treas. Reg. Section 1.501(c)(3)-1(a)(1). You fail both the organizational and operational tests under Section 501(c)(3).

Organizational test

Your organizing 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). In fact, the purposes stated in your organizing document are broader than those contemplated for an organization described in Section 501(c)(3) of the Code, which is prohibited as described in Treas. Reg. Section 1.501(c)(3)-1(b)(1)(i)(iv). Also, your formation document is silent regarding the disposition of your assets upon your dissolution, but Treas. Reg. Section 1.501(c)(3)-1(b)(4) requires that assets of an organization exempt under Section 501(c)(3) be dedicated exclusively to charitable purposes. Accordingly, you fail the organizational test and do not qualify for exemption under Section 501(c)(3).

Operational test

You do not meet the operational test under Section 501(c)(3) of the Code because you are not operating exclusively for exempt purposes as required under Treas. Reg. Section 1.501(c)(3)-1(c)(1). You indicated that percent of your activities are charitable in nature, but percent are recreational. An insubstantial amount of your time and your resources are devoted to charity.

You are not described in Section 501(j)(2) of the Code because you are not organized and operated to foster national or international amateur sports competition or to develop amateur athletes for national or international competition in sports.

You are not like the organization described in Rev. Rul. 64-275 because your activities are devoted to preparing players for recreational sports competition. Therefore, your activities are not exclusively charitable or educational.

You are not like the organization described in Rev. Rul. 65-2 or Rev. Rul. 80-215 because your activities are not limited to players below the age of 18. You were formed to promote the sport of roller derby for amateurs of all ages. You are like the organization described in Rev. Rul. 70-4, which did not qualify for exemption under Section 501(c)(3) of the Code.

You are not like the organization described in Rev. Rul. 77-365. You are not operated exclusively to instruct individuals of all skill levels in a particular sport through clinics, workshops, or lessons. You are an amateur sports team that focuses on the participation in the sport of roller derby. You require a certain amount of practice time for your participants and they must be able to pass a minimum skills test. You are not exclusively educational within the meaning of Section 501(c)(3) of the Code.

You are like the organization described in Better Business Bureau. You spend the majority of your time and efforts on recreational activities. You do not qualify for exemption under Section 501(c)(3) of the Code because you engage in more than an insubstantial amount of non-qualifying activities.

Conclusion

Based on the information submitted, you fail both the organizational and operational tests within the meaning of Section 501(c)(3) of the Code and the related income tax regulations. Therefore, 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.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosure:
Publication 892