



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

Release Number: **201932017**
Release Date: 8/9/2019
UIL Code: 501.38-01; 501.35-00

Date:
May 13, 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.

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

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*

cc:



**Department of the Treasury
Internal Revenue Service**

P.O. Box 2508
Cincinnati, OH 45201

Date:
March 20, 2019
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

- E = Political unit
- F = Date
- H = Learned association
- J = City
- K = Proposed legislation
- L = State
- n = Number of DVDs
- q = Number of signatures

UIL:
501.38-01
501.35-00

Dear

We considered your application for recognition of exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a). We determined that you don't qualify for exemption under IRC Section 501(c)(3). This letter explains the reasons 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 law of E on F, to educate the general public about our democracy and the continuing fight for equality by the residents of E, and to promote, through education and advocacy, democracy, voting rights and equality for all Americans. Your Bylaws state that your purpose is to engage in educational, outreach and advocacy activities that help strengthen nationwide support for democracy for E including voting rights and .

Your primary effort thus far has been the development of your website and educational program. You disseminate through the website printed materials and research. You provide resources for teachers and students nationwide to learn about democracy and the ongoing struggle for . By matching the standards for social studies curriculum for secondary schools with information about democracy, your program provides a resource for teaching about democracy with the real time example of the struggle for equality in E.

You have presented before H at its annual three-day conference which brings together thousands of social studies teachers from around the country to discuss issues related to teaching in that field. You presented an hour-long teaching seminar about E in J and an hour-long seminar in E. You created a video which explains how students from E and L are learning about E, their opinions on the issue and how they are advocating for the cause. You have produced and distributed more than n DVDs for classroom use.

You have two websites. The first describes the struggle for E and includes sections on the historic fight for equal rights in E, resources that people can use to learn more, the opportunity to get an E button and a petition in support of E with more than q signatures. The second website is specifically aimed at students to teach them how our government works and why it is important for . There are music, videos, Twitter and Facebook feeds, Instagram, Pinterest, a You Tube channel and a Google Docs feed for students. There is a separate portal for teachers with lesson plans, a library, online resources and teacher feedback so that the site and your resources can be updated and improved.

You have produced a resource guide which you distributed to teachers that uses the non-partisan standards for secondary school civics education. Each standard, which teachers are required to teach, is tied to a specific curriculum idea that uses . Thus far, you have distributed hundreds of these guides.

You distribute items in schools, such as E buttons, which have a website address on the back to drive students to your site, and educational items commemorating notable historic events. You visit schools and civic functions, parades, town hall meetings and lectures to discuss the importance of E

You have urged citizens to contact their Representatives and Senators to support enactment of the K.

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. Sec.1.501(c)(3)-1(c)(3)(i) provides that an organization is not operated exclusively for one or more exempt purposes if it is an action organization as defined in subdivisions (ii), (iii), or (iv) of this subparagraph.

Section 1.501(c)(3)-1(c)(3)(ii) of the regulations states an organization will be regarded as attempting to influence legislation if the organization:

- Contacts, or urges the public to contact, members of a legislative body for the purpose of proposing, supporting, or opposing legislation; or
- Advocates the adoption or rejection of legislation.

Treas. Reg. Sec.1.501(c)(3)-1(c)(3)(iv) provides that an organization is an action organization if it has the following two characteristics: (a) Its main or primary objective or objectives (as distinguished from its incidental or secondary objectives) may be attained only by legislation or a defeat of proposed legislation; and (b) it advocates, or campaigns for, the attainment of such main or primary objective or objectives as distinguished from engaging in nonpartisan analysis, study, or research and making the results thereof available to the public. In determining whether an organization has such characteristics, all the surrounding facts and circumstances, including the articles and all activities of the organization, are to be considered.

Treas. Reg. Sec.1.501(c)(3)-1(d)(3) defines education as (a) the instruction or training of the individual for the purpose of improving or developing the individual's capabilities; or (b) the instruction of the public on subjects useful to the individual and beneficial to the community. It also provides, in part, that an organization may be educational even though it advocates a particular position or viewpoint so long as it presents a sufficiently full and fair exposition of the pertinent facts as to permit an individual or the public to form an independent opinion or conclusion. On the other hand, an organization is not educational if its principle function is the mere presentation of unsupported opinion.

Revenue Ruling 62-71, 1962-1 C.B. 85, holds that an organization does not qualify for exemption under section 501(c)(3) of the Code, since it is an "action" organization and thus is not operated exclusively for any of the exempt purposes specified in that section. Part of the activities of the organization consists of engaging in nonpartisan analysis, study and research and making the results thereof available to the public. When considered alone, these may be classified as educational within the meaning of section 501(c)(3) of the Code. However, the organization is primarily engaged in teaching and advocating the adoption of a particular doctrine or theory. This doctrine or theory is of a nature which can become effective only by the enactment of legislation. Since the primary objective of the organization can be attained only by legislative action, a step which the organization encourages or advocates as a part of its announced policy, as opposed to engaging in nonpartisan analysis, study and research and making the results thereof available to the public, the organization is an "action" organization as that term is defined in Section 1.501 (c)(3)-1(c)(3)(iv) of the Regulations.

Revenue Ruling 70-79, 1970-1 C.B. 17, describes an organization that holds meetings to discuss, identify, and cooperate in developing regional plans and policies for such problems as water and air pollution, waste disposal, water supply, and transportation. A staff of experts engaged by the organization researches and analyzes problems discussed at the meetings and distributes reports to the local governments and news media. Although some of the plans and policies formulated by the organization can only be carried out through legislative enactments, the organization does not direct its efforts nor expend funds in making any legislative recommendations, preparing prospective legislation, or contacting legislators for the purpose of influencing legislation. Since the organization does not advocate the adoption of any legislation or legislative action to implement these findings, it is not an "action" organization as defined in the regulations. Accordingly, it is held that the organization is exempt from Federal income tax under section 501 (c)(3) of the Code.

Application of law

You do not qualify for exemption under Section 501(c)(3) because you do not meet the operational test as required by Treas. Reg. Sec. 1.501(c)(3)-1(a)(1), which provides that in order to be exempt as an organization described in Section 501(c)(3) of the Code, an organization must be operated exclusively for one or more of the purposes specified in such section.

You are not operated exclusively for an exempt purpose because you are an "action" organization described in

Treas. Reg. Sec. 1.501(c)(3)-1(c)(3)(i), as defined in subdivision 1.501(c)(3)-1(c)(3)(iv), your primary objective being statehood for E, which can be effected only by the enactment of legislation.

Since your efforts to urge citizens to contact their Representatives and Senators to support pending legislation, K, thereby seeking to influence legislation as defined in section 1.501 (c)(3)-1 (c)(3)(ii) of the Regulations, do not appear to demand a substantial commitment of your time and resources, it is by virtue of the applicability of Reg. 1.501(c)(3)-1(c)(3)(iv) to you that you are an “action” organization.

You are like the organization described in Revenue Ruling 62-71, denied exemption under Section 501(c)(3), because it advocated a position that could only be put into effect by legislative action. Part of that organization’s activities, when considered by themselves could be classified as educational, but it failed exemption because the organization’s primary objective is the teaching and advocacy of a doctrine that can only become effective through legislation. The primacy of your legislative goal is evident in the fact that you even integrate advocacy of E statehood into your civics education.

Unlike the organization described in Revenue Ruling 70-79, however, you do not develop plans and policies on multiple issues that could be carried out through legislative action, but without directing its efforts to making any legislative recommendations, but you focus all of your efforts on campaigning for a particular legislative objective.

Conclusion

Because you are an ‘action’ organization, you are not operated exclusively for exempt purposes within the meaning of Section 501(c)(3), and in consequence do not qualify for exemption thereunder.

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.

If you don't agree

You have a right to protest if you don’t agree with our proposed adverse determination. To do so, send us a protest within 30 days of the date of this letter. You must include:

- Your name, address, employer identification number (EIN), and a daytime phone number
- A statement of the facts, law, and arguments supporting your position
- A statement indicating whether you are requesting an Appeals Office conference
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization or your authorized representative
- The following declaration:

For an officer, director, trustee, or other official who is authorized to sign for the organization:
Under penalties of perjury, I declare that I have examined this request, or this modification to the request, including accompanying documents, and to the best of my knowledge and belief, the request or the modification contains all relevant facts relating to the request, 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 they haven'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 gave us a basis to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't given us a basis for reconsideration, we'll send your case to the Appeals Office and notify you. You can find more information 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 later because the law requires that you use the IRC administrative process first (IRC Section 7428(b)(2)).

Where to send your protest

Send your protest, Form 2848, if applicable, and any supporting documents to the applicable address:

U.S. mail:

Internal Revenue Service
EO Determinations Quality Assurance
Mail Stop 6403
P.O. Box 2508
Cincinnati, OH 45201

Street address for delivery service:

Internal Revenue Service
EO Determinations Quality Assurance
550 Main Street, Mail Stop 6403
Cincinnati, OH 45202

You can also fax your protest 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 they received it.

You can get the forms and publications mentioned in this letter by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676). If you have questions, you can contact the person listed at the top of this letter.

Contacting the Taxpayer Advocate Service

The Taxpayer Advocate Service (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 if 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.

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

cc: Theodora H Brown