



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

Release Number: **202016029**
Release Date: 4/17/2020
UIL Number: 501.03-00, 501.35-00

Date:
January 21, 2020

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 Internal Revenue Code (IRC) Section 501(c)(3). 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 IRC Section 501(c)(3), donors can't deduct contributions to you under IRC Section 170. 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 IRC Section 6110) 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 IRC Section 6104(c)). 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 4, 2019
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

B = Date
C = Date
D = State
x dollars = Amount

UIL:

501.03-00
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 IRC Section 501(c)(3)? No, for the reasons stated below.

Facts

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

You attest that you were incorporated on C in the State of D. You attest that you have the necessary organizing document, that your organizing document limits your purposes to one or more exempt purposes within the meaning of IRC Section 501(c)(3), that your organizing document does not expressly empower you to engage in activities, other than an insubstantial part, that are not in furtherance of one or more exempt purposes, and that your organizing document contains the dissolution provision required under Section 501(c)(3).

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). Specifically, you attest you will:

- Refrain from supporting or opposing candidates in political campaigns in any way

- Ensure that your net earnings do not inure in whole or in part to the benefit of private shareholders or individuals
- Not further non-exempt purposes (such as purposes that benefit private interests) more than insubstantially
- Not be organized or operated for the primary purpose of conducting a trade or business that is not related to your exempt purpose(s)
- Not devote more than an insubstantial part of your activities attempting to influence legislation or, if you made a Section 501(h) election, not normally make expenditures in excess of expenditure limitations outlined in Section 501(h)
- Not provide commercial-type insurance as a substantial part of your activities

During review of your Form 1023-EZ, detailed information was requested supplemental to the above attestations. You responded that you help your members grow their businesses and networks by providing the knowledge and expertise of existing members as well as referral sources.

You help your members grow their businesses through weekly meetings and other means. Member presentation meetings start with introductions, testimonials, and referrals. The member then presents their business to the group before answering questions from the other members.

In addition, monthly focus sessions are held in which members present issues they are facing in their business and the other members brainstorm ideas to help resolve those issues or improve efficiencies.

You invite non-member speakers, which can be non-profit organizations or for-profit businesses, once per month. The speaker presents issues they are facing in their operations and your members provide free advice to help resolve those issues or improve efficiencies.

You also offer training sessions aimed at helping member businesses thrive in which outside trainers make presentations on topics such as mental exercises, positive thinking strategies, and goalsetting.

Meetings are sometimes held at the location of a local non-profit organization. The organization will typically make a presentation about its mission, values, and program activities before answering questions from your members. Members then volunteer for the organization for a brief period before the meeting is concluded.

Outside of scheduled meetings, one-on-one sessions occur where a member solicits expert advice from another member. You described these sessions as helpful for resolving technical and personal questions without the need to contract with the other member for a fee.

On months with a fifth Wednesday, you dedicate the entire meeting to a volunteering opportunity. You have assisted local charities in various ways, including packaging meals and snacks, labeling books being distributed to children, and cleaning.

Members cannot be affiliated with another referral group and are limited to one individual per profession (e.g., one attorney, one financial planner, etc.) in your area. You require active participation and regular attendance. Members failing to adhere to meeting attendance requirements will have their membership revoked, and the profession they represent would then be open to a new member in that profession.

You are supported by membership fees of x dollars per year per member. Your primary expense is room rental fees, and revenues in excess of your expenses are distributed to a charity voted on by your members annually.

Law

IRC Section 501(c)(3) 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.

Treasury Regulation Section 1.501(c)(3)-1(a)(1) provides that, for an organization to be exempt under IRC Section 501(c)(3), 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. 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 IRC 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. Section 1.501(c)(3)-1(d)(1)(ii) provides that an organization must serve a public rather than a private interest to be determined charitable. The organization must demonstrate that it is not organized or operated for the benefit of private interests. Private benefit will not jeopardize tax-exempt status if it is incidental to the accomplishment of exempt purposes. However, an activity that primarily serves private interests will jeopardize exempt status if it is more than an insubstantial part of the organization's activities.

Revenue Ruling 69-632 1969-2 C.B. 120, describes a nonprofit organization composed of members of a particular industry to develop new and improved uses for existing products of the industry. It was held not to be exempt under IRC Section 501(c)(3) because any public benefit was secondary to the private benefit derived by the organization's members.

Revenue Ruling 71-504, 1971-2 C.B. 231, describes an organization exempt under IRC Section 501(c)(6) that primarily directed its activities to the promotion of the common business purposes of its members. The organization could not be reclassified as an organization described in Section 501(c)(3) because its activities were directed primarily at the promotion of the medical profession and thus furthered the common business purpose of its members.

Revenue Ruling 71-505, 1971-2 C.B. 232, describes an organization exempt under IRC Section 501(c)(6) that primarily directed its activities to the promotion and protection of the practice of law. The organization could not be reclassified as an organization described in Section 501(c)(3) because its activities were directed primarily at the promotion of the law profession and thus furthered the common business purpose of its members.

Revenue Ruling 74-553 1974-2 C.B. 168, describes an organization whose principal activity is directed to establishing and maintaining standards for the quality and costs of medical services. Its primary objective is to maintain the professional standards, prestige, and independence of the organized medical profession and thereby furthers the common business interest of the organization's members. It did not qualify for exemption under IRC Section 501(c)(3), in part, because more than an insubstantial amount of its activities furthered the private interests of its members.

In Better Business Bureau of Washington, D. C., Inc. v. United States, 326 U.S. 279 (1945), the Supreme Court determined the activities of that organization were aimed at promoting the prosperity and standing of the business community and therefore, served a substantial private purpose. It concluded that the presence of a single nonexempt purpose, if substantial in nature, will preclude exemption regardless of the number or importance of statutorily exempt purposes

Application of law

You are not described in IRC Section 501(c)(3) because you do not meet the operational test as required by Treas. Reg. Section 1.501(c)(3)-1(a)(1). You do not meet the operational test because you are not, as Treas. Reg. Section 1.501(c)(3)-1(c)(1) requires, operated exclusively for one or more exempt purposes. You are not operated exclusively for exempt purposes under Treas. Reg. Sec. 1.501(c)(3)-1(d)(1)(ii) because more than an insubstantial part of your activities serves the private interests of your members. Any benefit to the public is incidental to the private benefit accruing to members.

Like the organizations described in Revenue Rulings 69-632, 71-504, 71-505, and 74-553, you conduct activities that result in some measurable public benefit. However, more than an insubstantial part of your activities is directed at helping your members grow their businesses and networks. Accordingly, any public benefit is secondary to the private benefit derived by your members.

Although you conduct some charitable or educational activities, a more than insubstantial part of your activities is directed at helping your members grow their businesses and networks. According to the court in Better Business Bureau of Washington, D.C., Inc., such a single non-exempt purpose, if substantial in nature, will preclude exemption, regardless of the number or importance of exempt purposes the organization serves.

Conclusion

Based on the above facts and analysis, you do not qualify for exemption under IRC Section 501(c)(3) because you are not operated exclusively for exempt purposes within the meaning of Section 501(c)(3). You have the substantial non-exempt purpose of helping your members grow their businesses and networks, which furthers private interests. Accordingly, you do not qualify for exemption under Section 501(c)(3).

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.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements