



**Department of the Treasury
Internal Revenue Service**

P.O. Box 2508
Cincinnati, OH 45201

Number: 202017031
Release Date: 4/24/2020

UIL Code: 501.03-30, 501.33-00

Date: January 30, 2020

Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years: All

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: December 9, 2019

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

W= Date
X = Date
Y = State

UIL:

501.03-30
501.33-00

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 IRC Section 501(c)(3) on W.

You attest that you were incorporated on X, in the state of Y. 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 the 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 IRC 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.

You indicated on the Form 1023-EZ that your mission is to:

- Represent commercial fishers in both local and international fisheries commissions;
- Advocate for sustainable fisheries for highly migratory species; and
- Unite

During review of your Form 1023-EZ, detailed information was requested supplemental to the information provided with your application.

You are a membership organization consisting of fishers. Your goal as stated on your website is to preserve, protect and promote sustainable _____ in the _____. You seek to maintain the health of the species and you are committed to helping solve the overfishing problem by providing sustainably caught _____. You draw attention to the fact that laws concerning _____ fishing are being broken and not enforced. You plan to work with and support research concerning _____.

Your primary activity is to send representatives to every possible regional and international fishery governing agency's meeting that has any impact upon your fishery. At the meetings, the representatives will register complaints about _____ in hopes of achieving a favorable outcome for the fisheries. Furthermore, you will annually host an annual meeting for your membership. You will also provide information to the public concerning the dangers of over fishing.

You are supported by the annual dues assessed on your membership and income from raffle ticket sales. You are also seeking sponsors. You will use 100% of your funds to enable your representatives to attend meetings to represent your fishery.

Law

IRC Section 501(c)(3) provides for the recognition of exemption of organizations that are organized and operated exclusively for charitable, educational, religious purposes 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 to be exempt as an organization described in IRC Section 501(c)(3), 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(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 that 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.

Rev. Rul. 71-504, 1971-2 C.B. 231 describes an organization formed to promote the medical profession. It was determined that while some of the organization's activities were educational and charitable benefitting the public, more than an insubstantial amount of its activities were promoting the medical profession and thus further the common business interests of its members. It was held that the presence of a single noncharitable or noneducational purpose, if substantial in nature, will preclude exemption regardless of the number or importance of truly charitable or education purposes.

In Better Business Bureau of Washington, D. C., Inc. v. United States, 326 U.S. 279 (1945) the Supreme Court 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 under IRC Section 501(c)(3).

Application of law

You are not operated exclusively for one or more exempt purposes under IRC Section 501(c)(3) as described in Treas. Reg. Section 1.501(c)(3)-1(a)(1) because you fail the operational test.

You are not operated in accordance with Treas. Reg. Section 1.501(c)(3)-1(c)(1) because you are not exclusively engaged in activities that accomplish exempt purposes specified in IRC Section 501(c)(3). You are representing commercial fishers in both local and international fisheries commissions as well as advocating for sustainable fisheries. This illustrates you have a substantial non-exempt purpose of promoting the common business interests of your members. Therefore, you are precluded from exemption under IRC Section 501(c)(3).

You are like the organization described in Rev. Rul. 71-504, 1971-2 C.B. 231. For instance, some of your activities may be charitable and educational. However, your primary activity of sending representatives to every possible regional and international fishery governing agency's meeting that has any impact on your members illustrates that a substantial portion of your activities is furthering the common business interests of members. This prevents exemption under IRC Section 501(c)(3).

You are like the organization in Better Business Bureau v. United States. Although you may have some activities that promote educational and charitable purposes, this is secondary to the purpose of operating to promote your members' common business interests. The presence of this non-exempt purpose prevents exemption under IRC Section 501(c)(3).

Conclusion

Based on the information provided, you do not qualify for exemption because you are not operated exclusively for exempt purposes within the meaning of IRC Section 501(c)(3). You conduct substantial nonexempt activities. Therefore, you do not qualify for exemption under IRC 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