



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

Number: 202017035  
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:**

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.

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 21, 2019  
**Employer ID number:**

**Contact person/ID number:**

**Contact telephone number:**

**Contact fax number:**

**Legend:**

M = State  
B = Date  
D = Name  
E = Date  
F = Name  
x = Amount range  
W = Number range

**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 incorporated in the state of M on B. Your Articles of Incorporation state that you are formed exclusively for purposes within the meaning of IRC Section 501(c)(6). They further state your objectives are to:

- promote the D industry;
- coordinate and expand the D Competition;
- support initiatives to enhance D safety; and
- promote careers in the D industry.

Our records show that you are currently recognized as exempt under IRC Section 501(c)(6). You state that you incorrectly requested recognition under Section 501(c)(6).

You amended your Articles of Incorporation on E to state that you are formed exclusively for purposes within the meaning of IRC Section 501(c)(3) but continue to pursue the objectives listed in your original Articles of Incorporation.

You state that most of your time is dedicated to your primary objective of developing, coordinating, and conducting the annual D Competition, which takes place in coordination with a trade show devoted to the D industry. Companies in the D industry help develop the Competition, which consists of competitive events that test the skills and knowledge of -member teams of students, active military members, and maintenance professionals from around the world. Each group comprises about one-third of total teams.

You state that the Competition allows:

- awareness to be raised about the training and skill needed to provide safe F worldwide;
- current and future professionals to test their abilities against those of their peers;
- employers to promote career opportunities; and
- prospective mechanics to learn more about the industry.

You further assert that it educates current and future mechanics about the best methods, practices, and techniques for performing complex repairs by providing a forum where educators, instructors, and students gather to share collective experience and knowledge. You also encourage companies in the D industry to assist local schools with their training and preparation needs for the Competition.

In addition to coordinating the Competition, you will award cash scholarships in the amount of x dollars to be used toward the purchase of tools or tuition. To qualify, applicants must be enrolled in a W school (or foreign equivalent) and be registered to compete in the next D Competition. The number and amount of grants awarded are based on your annual revenues and corporate contribution in support of the scholarship program. Based on the financial data you submitted, scholarship awards are an insubstantial part of your total expenses.

#### **Law**

IRC Section 501(c)(3) exempts from federal income tax organizations organized and operated exclusively for religious, charitable, scientific, 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 qualify under 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 or operational test, it is not exempt.

Treas. Reg. Section 1.501(c)(3)-1(c)(1) states 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). 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) states that an organization is not organized or operated exclusively for one or more of exempt purposes unless it serves a public rather than a private interest.

Revenue Ruling 65-298, 1965-2 C.B. 163, held that a nonprofit organization, organized and operated on a non-membership basis exclusively for the purpose of carrying on research as to diseases and other disorders of the human body and to develop scientific methods for diagnosis, prevention, and treatment thereof, and then to demonstrate the results of such research to other physicians and the public through means of seminars,

qualifies as an organization described in IRC Section 501(c)(3).

Revenue Ruling 71-504, 1971-2 C.B. 231, held that a city medical society exempt under IRC Section 501(c)(6), that primarily directs its activities to the promotion of the common business purposes of its members may not be reclassified as an educational or charitable organization under Section 501(c)(3).

Revenue Ruling 71-505, 1971-2 C.B. 232, held that a city bar association exempt under IRC Section 501(c)(6) that primarily direct its activities to the promotion and protection of the practice of law may not be reclassified as an educational or charitable organization under Section 501(c)(3).

Revenue Ruling 73-567, 1973-2 C.B. 178, held that a medical specialty board that devises and administers written examinations to physicians in a particular medical specialty and issues certificates to successful candidates is exempt from tax as a business league under IRC Section 501(c)(6) but is not exempt as an organization described in Section 501(c)(3).

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) and Treas. Reg. Section 1.501(c)(3)-1(a)(1) because you are not exclusively operated for charitable or educational purposes.

You also fail the operational test as indicated in Treas. Reg. Section 1.501(c)(3)-1(c)(1) and Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) because, like the organizations described in Revenue Rulings 71-504, 71-505, and 73-567, you are primarily operating for the nonexempt purpose of promoting the private interests of the D industry.

You are not like the organization in Revenue Ruling 65-298, because your activities are primarily conducted to promote the D industry rather than further the public interest.

While some public benefit is derived from your activities, a more than insubstantial part of your activities is directed primarily at the promotion of the D industry. 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 promoting the D industry, which furthers private interests. Accordingly, you do not qualify for exemption under Section 501(c)(3).

Your exemption under IRC Section 501(c)(6) remains in effect.

#### **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](http://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](http://www.taxpayeradvocate.irs.gov) or call 877-777-4778.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements