



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

Number: **202022007**
Release Date: 5/29/2020

UIL Number: 501.00-00, 501.03-05,
501.03-30

Date:
March 5, 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 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 4034, *Proposed Adverse Determination Under IRC Section 501(a)*

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:
January 16, 2020
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

X = Date
Y = State
Z = Organization

UIL:

501.00-00
501.03-05
501.03-30

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) of the Code? No, for the reasons stated below.

Facts

You were formed as a corporation on X in the state of Y. You attested that your organizational document, Articles of Incorporation contains proper limitations within IRC Section 501(c)(3) and that it contains a proper dissolution clause for any remaining assets to be used exclusively for Section 501(c)(3) purposes.

Your Form 1023-EZ states that your mission is to "promote greater interest & appreciate the virtues of dogs and other animals. To sponsor, conduct and encourage obedience training of dogs and other animals. To promote, hold and conduct competitive obedience trials."

During review of your Form 1023-EZ, detailed information was requested supplemental to the attestations provided with your application. Your actual filed Articles of Incorporation states that your purposes include:

- To develop greater interest in and appreciation of the virtues of dogs and other domesticated wild animals.
- To sponsor, conduct, and encourage obedience training for dogs and other animals and to promote, hold, and conduct competitive obedience trials and any other type of show, competition or trial for dogs and other animals and, in connection therewith to grant or give awards, prizes or other recognition of merit.

- To teach, train, and develop instructors and handlers capable of training dogs in accordance with the rules and regulations of the Z or any other recognized organization of similar purpose and to develop qualified judges and other official participants for animal shows, trials, and competitions.
- To instill and develop good sportsmanship and showmanship among members and participants in any activity and to encourage the development, in the general public, of respect for and appreciation of dogs and other animals.

You promote the sport of dog obedience under the auspices of Z. Your primary focus is on obedience training, including rally. Your objective is to better the relationship between dog and handler through training and expanded activities. You have recently broadened your activities to include dog agility and scent work.

Your activities include monthly meetings, provision of a practice facility for members, lectures, training exercises, obedience and agility trials, and scent work classes. Trials are held under the auspices of Z.

Your website further provides that your objectives include:

- Teaching and developing instructors and handlers capable of perpetuating the training of dogs in accordance with the rules and regulations of Z
- Instilling good sportsmanship and developing good showmanship in all members, and
- Encouraging and promoting harmonious social relations among dog owners, trainers, and exhibitors.

You receive revenue from annual dues from your members and fees for the various classes you provide. You pay a monthly fee to use a facility to conduct your activities.

Law

IRC Section 501(c)(3) 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, 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(b)(1)(i) provides that an organization is organized exclusively for one or more exempt purposes only if its organizing document limits the purposes of such organization to one or more exempt purposes and does not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of 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 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)(3)(i) defines the term educational as the instruction or training of the individual to improve or develop his/her capabilities or the instruction of the public on subjects useful to the individual and beneficial to the community.

Revenue Ruling 71-421, 1971-2 C.B. 229, held that a dog club, exempt under IRC Section 501(c)(7), formed to promote the ownership and training of purebred dogs which conducted obedience training classes, could not be reclassified as an educational organization exempt under Section 501(c)(3).

Rev. Rul. 73-456, 1973-2 C.B. 342, held that a training center established to instruct the blind to properly function with the aid of guide dogs met the operational test under IRC 501(c)(3). They have programs to train dogs to lead and assist the blind, and to instruct them to function with their dogs. The organization's program, consisting of detailed instruction of blind persons in the use and care of guide dogs, is a 'curriculum' within the meaning of the applicable section of the Code. Furthermore, the organization has a regular group of instructors and an enrolled body of students in regular attendance at a designated place where the instruction of the students is carried on at regular sessions. Accordingly, the organization was found to be exempt as a school under Section 501(c)(3).

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279 (1945), the Supreme Court held that the presence of a single non-exempt purpose, if substantial in nature, will destroy a claim for exemption regardless of the number or importance of truly exempt purposes.

Ann Arbor Dog Training Club, Inc. v. Commissioner, 74 T.C. 207 (1980), describes an organization, the primary purpose of which was to train dogs, did not qualify for exemption. Although the dog owners received some instruction as to the training of the dogs, the dogs were the primary objects of the organization's training classes and evaluation. Since training dogs is not an educational purpose described in IRC 501(c)(3), the organization did not qualify for exemption.

Application of law

You are not described in IRC Section 501(c)(3) because you meet neither the organizational test nor the operational test outlined in Treas. Reg. Section 1.501(c)(3)-1(a)(1).

You do not meet the organizational test under IRC Section 501(c)(3) because your organizing document does not limit your purposes to those which are exempt, and it allows for activities that have been determined to be primarily social and recreational. Accordingly, you do not meet the requirements as described in Treas. Reg. Section 1.501(c)(3)-1(b)(1)(i).

You do not meet the operational test under IRC Section 501(c)(3) because you are not operating exclusively for educational purposes as required under Treas. Reg. Sections 1.501(c)(3)-1(c)(1). Your dog training activities are more than an insubstantial part of your activities, which are primarily social and recreational. Therefore, you do not qualify for exemption under Section 501(c)(3).

Your activities are not devoted exclusively to the education of individuals/persons as required in Treas. Reg. Section 1.501(c)(3)-1(d)(3)(i). Your activities are devoted to training dogs. Unlike the organization described in Rev. Rul. 73-456, you are not training disabled individuals to function with the aid of guide dogs. The object of your training is that of the dogs, not the individual. Your operations are similar to those described in Rev. Rul. 71-421 and Ann Arbor Dog Training Club, Inc. because the dogs are primary objects of the training and evaluation.

As held in Better Business Bureau of Washington D.C., Inc., a single non-exempt purpose, if substantial, will preclude exemption under IRC Section 501(c)(3). Your dog training activities constitute a substantial non-exempt purpose, which precludes you from exemption under Section 501(c)(3).

Conclusion

You do not qualify for tax exemption under IRC Section 501(c)(3) because you are neither organized nor operated exclusively for exempt purposes. Your organizing document does not limit your purposes to one or more exempt purposes and they expressly empower you to engage in activities with are not in furtherance of exempt purposes. Your dog training activities are not exclusively charitable or educational, causing you to fail the operational test. Therefore, 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