



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
PO Box 2508
Cincinnati, OH 45201

Number: **202036008**
Release Date: 9/4/2020

Date:
June 11, 2020
Employer ID number:

Form you must file:

Tax years:

Person to contact:
Name:
ID number:
Telephone:

UIL: 501.00-00, 501.33-00, 501.35-00

Dear :

This letter is our final determination that you don't qualify for exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a) as an organization described in 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 generally can't deduct contributions to you under IRC Section 170.

We may notify the appropriate state officials of our determination, as required by IRC Section 6104(c), by sending them a copy of this final letter along with the proposed determination letter.

You must file the federal income tax forms for the tax years shown above within **30 days** from the date of this letter unless you request an extension of time to file. For further instructions, forms, and information, visit www.irs.gov.

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection after deleting certain identifying information, as required by IRC Section 6110. 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.

If you have questions about this letter, you can call the contact person shown above. If you have questions about your federal income tax status and responsibilities, call our customer service number at 800-829-1040 (TTY 800-829-4933 for deaf or hard of hearing) or customer service for businesses at 800-829-4933.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosures:
Notice 437
Redacted Letter 4034
Redacted Letter 4038



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

Date:
April 16, 2020
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

B = Date
C = State
D = Nationality
E = Country
F = Number

UIL:

501.00-00
501.33-00
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 were formed on B in the state of C. Your Articles of Incorporation state that you are organized exclusively for Section 501(c)(3) purposes and upon dissolution your assets will be distributed for one more exempt purposes within the meaning of Section 501(c)(3). Your Bylaws state that you are a networking group of D-American business owners. Furthermore, your purpose is to help promote D-American businesses, provide business referrals and promotions both online and in your local business club meetings. Membership is open to all D-American and non-D-American owned businesses, family and friends, and any other individuals supporting your purposes.

You conduct various social events such as comedy shows, karaoke nights, dance troops, luaus, and movie nights. You sell tickets to the public and profit about percent of the cost. Businesses can also sponsor the events at different levels based on advertising time. The events are held at various public venues, such as restaurants and theaters. The funds raised are used to help D-Americans that need education and are hungry. You also provide funds to D-American organizations as well as others located in E where you have several affiliated nonprofits.

You currently have F members. Members have the right to advertise on your social media page and present their business ahead of others. Founding members pay a higher annual membership fee than regular members.

We asked you to explain how your purpose as a business networking group for D-Americans whose mission is to promote D-American businesses as well as provide business referrals, promotions and highlights furthers IRC Section 501(c)(3) purposes. You stated that you spend percent of your time on your fundraising events for charity. The rest of your time is dedicated to networking meetings. You also stated all advertising is on your social media business/group page.

Law

IRC Section 501(c)(3) provides, in part, for the exemption from federal income tax of organizations organized and operated exclusively for charitable, religious or educational 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) 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 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 is not organized or operated exclusively for exempt purposes unless it serves a public rather than a private interest. It must not be operated for the benefit of designated individuals or the persons who created it.

Revenue Ruling 67-367, 1967-2 C.B. 188, describes an organization whose sole activity was the operation of a scholarship plan for making payments to pre-selected, specifically named individuals. The organization established a plan whereby it entered into agreements with subscribers. The subscribers deposited a certain amount of money with a designated bank. The subscriber also named a specific child to be the recipient of the scholarship money. The recipient received the scholarship around the time he or she were to begin college. The organization did not qualify for exemption under IRC Section 501(c)(3) because it was serving the private interests of its subscribers rather than serve public charitable and educational interests.

Rev. Rul. 69-175, 1969-1 C.B. 149, describes an organization which was formed by parents of pupils attending a private school. The organization provided bus transportation to and from the school for those children whose parents belong to the organization. The organization did not qualify for exemption under IRC Section 501(c)(3) because it served a private rather than public interest.

Rev. Rul. 76-205, 1976-1 C.B. 154, describes an organization formed to aid immigrants in overcoming social, cultural, and economic problems by providing personal counseling, referrals to helpful agencies, social and recreational activities, instruction in English, and distributing a newsletter containing information on attaining citizenship, securing housing, and obtaining medical care is operated exclusively for charitable and educational purposes and qualifies for exemption under IRC Section 501(c)(3).

In Better Business Bureau of Washington, D.C. v. United States, 326 U.S. 279 (1945), the Supreme Court determined that the presence of a single non-exempt purpose, if substantial in nature, will destroy exemption under IRC Section 501(c)(3) regardless of the number or importance of any other exempt purposes.

Application of law

You were formed primarily to provide networking and business opportunities to your members. This is not an exclusively charitable, educational, or religious purpose consistent with IRC Section 501(c)(3) or Treas. Reg. Section 1.501(c)(3)-1(a)(1). In addition, you conduct an activity that provides direct benefits to members and private individuals that is more than insubstantial in nature. Therefore, you are not operating exclusively for exempt purposes as described in Treas. Reg. Section 1.501(c)(3)-1(c)(1). You do not satisfy the operational test requirement under Section 501(c)(3).

You are similar to the organization described in Rev. Rul. 67-367. Like that organization, your activities serve to benefit your members rather than the public. You are providing business opportunities to your members. The promotion of businesses that operate for a profit serves a private interest rather than a public interest. Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) states that an organization is not operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest.

The group of parents in Rev. Rul. 69-175 provided a cooperative service for themselves and thus served their own private interests. Like that organization, you were formed to provide benefits to your members. In your case, your primary activity consists of providing business opportunities to your members. The payments serve private rather than public interests.

You are unlike the organization described in Rev. Rul. 76-205, because you are not aiding immigrants in overcoming social, cultural, and economic problems in a charitable and educational manner.

The Supreme Court held in Better Business Bureau of Washington., D.C. that a single nonexempt purpose, if substantial in nature, would preclude an organization from qualifying under IRC Section 501(c)(3) no matter the number or importance of truly exempt purposes. Your primary activity, providing business opportunities for your members, is serving private, non-exempt purposes and precludes exemption. You serve the private interests of your members. Accordingly, you are not operated exclusively for one or more exempt purposes.

Conclusion

You are not operated exclusively for exempt purposes within the meaning of IRC Section 501(c)(3). You operate for the substantial non-exempt purpose of providing business opportunities for your members. Therefore, you fail to 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