

Internal Revenue Service
Appeals Office

Department of the Treasury

Employer Identification Number:

Person to Contact:

Date: May 15, 2019

Number: 202053019
Release Date: 12/31/2020

Employee ID Number:
Tel:
Fax:
UIL Code: 0501.03-00, 501.35-00

Certified Mail

Dear

This is a final adverse determination that you do not qualify for exemption from federal income tax under Internal Revenue Code (the "Code") section 501(a) as an organization described in Section 501(c)(3) of the Code.

We made the adverse determination for the following reason(s):

Your organization's operations are not exempt under Section 501(c)(3) of the code because a substantial part of your planned operations violate public policy.

Contributions to your organization are not deductible under section 170 of the Code.

You're required to file Federal income tax returns on Forms [1120, U.S. Corporation Income Tax Return, OR 1041, U.S. Income Tax Return for Estates and Trusts]. Mail your form to the appropriate Internal Revenue Service Center per the form's instructions. You can get forms and instructions by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676).

We'll make this letter and the proposed adverse determination letter available for public inspection under Code section 6110 after deleting certain identifying information. We have provided to you, in a separate mailing, Notice 437, *Notice of Intention to Disclose*. Please review the Notice 437 and the documents attached that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437.

If you decide to contest this determination, you may file an action for declaratory judgment under the provisions of section 7428 of the Code in either:

- United States Tax Court,
- The United States Court of Federal Claims,
- The United States District Court for the District of Columbia.

You must file a petition or complaint in one of these three courts within 90 days from the date we mailed this determination letter to you. Contact the clerk of the appropriate court for rules and the appropriate forms for filing petitions for declaratory judgment. You can write to the courts at the following addresses:

United States Tax Court
400 Second Street, NW
Washington, DC 20217

US Court of Federal Claims
717 Madison Place, NW
Washington, DC 20005

U. S. District Court for the District of Columbia
333 Constitution Ave., N.W.
Washington, DC 20001

Note: We will not delay processing income tax returns and assessing any taxes due even if you file petition for declaratory judgment under section 7428 of the Code.

Please refer to the enclosed Publication 892, How to Appeals an IRS Determination on Tax -Exempt Status, for more information about the Appeals process.

You also have the right to contact the Taxpayer Advocate Service (TAS). 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 you've tried but haven't been able to resolve your problem with the IRS. Advocate assistance, please contact the Taxpayer Advocate for the IRS office that issued this letter. You If you qualify for TAS assistance, which is always free. TAX will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 877-777-4778.

TAS assistance is not a substitute for established IRS procedures, such as the formal appeals process. TAS cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States Court.

If you have any questions, contact the person at the top of this letter.

Sincerely,

Appeals Team Manager

Enclosure: Publication 892



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

Date: **May 15, 2019**

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

X =

Y =

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 Section 501(c)(3) of the Code? 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*. With Form 1023-EZ you attested that you are organized and operated exclusively to further charitable purposes. You attested that you have not conducted and will not conduct prohibited activities under Section 501(c)(3). Specifically, and among other things, you attested that you will not further non-exempt purposes more than insubstantially.

Your Form 1023-EZ was selected for further development. You previously applied for exemption using Form 1023-EZ, but that application was not accepted for processing because your mission/most significant activities statement indicated you were ineligible to file Form 1023-EZ. You resubmitted Form 1023-EZ with a revised description of your mission or most significant activities. Your revised activities narrative states that you are a religious organization providing a means for your members to learn about and practice a universal religious doctrine and to attend faith-based retreats. You foster the development of a

You were incorporated on X in the state of Y. Your stated purpose as indicated in your Articles of Incorporation is charitable, educational, religious, or scientific within the meaning of Section 501(c)(3) of the Code. Your board will dispose of all assets under Section 501(c)(3).

You describe yourself as a nationwide religious organization consisting of people who share a similar religious doctrine or spiritual and scientific perspective that the utilization of Sacraments is a fundamental aspect of not only their personal religion, but of being human. This doctrine predates any major religion or doctrine currently practiced in today's world. You practice traditional aspects of numerous religions and draw upon several religious texts. You said you do not believe it is right for people who want to

You indicated that everybody has the right to utilize Sacraments in any way, shape or form so long as it is responsible and not done in such a way that results in undue harm to themselves or others. You have devoted members and allies in every state in America who depend on you for the Sacraments required to practice their religion, or to "exercise the unalienable right to Life, Liberty, and Happiness."

You accept numerous natural organic plants and fungi and their constituents as Sacraments

You said you operate under the status of a "free church" adhering to the standard operating guidelines of Section 501(c)(3) of the Code. However, you are not seeking exemption as a "church" classified under Sections 509(a)(1) and 170(b)(1)(A)(i); rather, you are seeking classification as a public charity as described in Sections 509(a)(1) and 170(b)(1)(A)(vi).

You are a membership organization. You offer courses, ceremonies/retreats, and counseling for your members. Courses can be taken and viewed on your website. Completion of established courses is required before members may participate in your ceremonies/retreats.

The Sacraments you offer will help advance the human experience and are indisputably an essential piece of what you do. These Sacraments are central to your established religious beliefs and sacred ceremonies. You will insure that those who participate in your ceremonies or personal counseling where controlled substances are present are your members.

You said that those under 18 years old will not be admitted to ceremonies where controlled substances are present unless all the following requirements are fulfilled:

- The Medicine Man/Woman gives specific permission for their attendance
- A parent or legal guardian attends with them and takes full responsibility for their care and well-being
- The minor person is a member, and
- A document stating these (above) things must be signed by all affected parties.

You state you are not a religion. You are a religious organization consisting of people who share a similar religious doctrine, or spiritual and scientific perspective that Sacrament utilization is a fundamental aspect of not only their personal religion, but of being human. You said that many of your members identify as Christian, Hindus, Muslims, Buddhists, etc. and many members choose to not place any title on their beliefs or disbeliefs.

You provide members with Sacraments that can be used for their own religious practices. People are only considered for eligibility after they have completed your Sacrament courses, have agreed to utilize them within the context detailed in the courses, submitted their constitutional and religious proclamation, completed the steps of: _____, uploaded a photo of _____, completed the

online congregation participation requirements in the forum, completed other acts and steps in the courses, and so forth.

Financial support derives from contributions from members.

Law

Section 501(c)(3) of the Code provides for the exemption from federal income tax of corporations organized and operated exclusively for charitable or educational purposes, provided no part of the net earnings inures to the benefit of any private shareholder or individual.

Treasury Regulation Section 1.501(c)(3)-1(a)(1) provides that to be exempt as an organization described in Section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more exempt purpose. 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 operates exclusively for exempt purposes only if it engages primarily in activities that accomplish exempt purposes specified in Section 501(c)(3) of the Code. An organization will not be operated exclusively for exempt purpose if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Tres. Reg. Section 1.501(c)(3)-1(d)(2) defines charitable as it is used in its generally accepted legal sense. It continues to describe the generally accepted legal sense as the relief of the poor and distressed, advancement of religion, advancement of education or science, erection or maintenance of public buildings, lessening the burdens of government, or promoting social welfare if it is an organization designed to accomplish one of the above causes or to lessen neighborhood tensions, defend human and civil rights, or combat community deterioration and juvenile delinquency.

21 United States Code (U.S.C.) Section 802(16)(A) defines marijuana as "all parts of the plant *Cannabis sativa* L. whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds or resin."

21 U.S.C. Section 812(b)(1) Schedule I substance is a substance that (1) has a high potential for abuse; (2) has no currently accepted medical use in treatment in the United States; and (3) there is a lack of accepted safety for use of the drug under medical supervision. Section (c)(10) and (c)(12) of Schedule I lists marijuana and peyote, respectively, as hallucinogenic substances and includes them on schedule I of the Schedules of Controlled Substances.

21 U.S.C. Section 841(a)(1), known as The Controlled Substances Act, states that it is illegal for anyone to knowingly or intentionally manufacture, distribute or dispense or possess with intent to manufacture, distribute or dispense a controlled substance.

42 U.S.C. Section 1996a(b)(1) provides that notwithstanding any other provision of law, the use, possession, or transportation of peyote by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion is lawful and shall not be prohibited by the United States or any State.

Revenue Ruling 71-447, 1971-2 C.B. 230, states that under common law, the term "charity" encompasses all three major categories of religious, educational, and charitable purposes. All charitable trusts, educational or otherwise, including religious trusts, are subject to the requirement that the purpose of the trust may not be illegal or contrary to public policy. Citing Restatement (Second), Trusts (1959) Sec. 377, Comment c: "A Trust for a purpose the accomplishment of which is contrary to public policy, although not forbidden by law, is invalid."

Rev. Rul. 75-384, 1975-2 C.B. 204, provides that an organization that induces or encourages the commission of criminal acts by planning and sponsoring such events cannot be exempt under Section 501(c)(3) since it violates the common understanding of a charitable trust.

In Ould v. Washington Hospital for Foundlings, 95 U.S. 303 (1877), the Court noted that "[a] charitable use, where neither law nor public policy forbids, may be applied to almost anything that tends to promote the well-doing and well-being of social man."

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 nonexempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes.

In Bob Jones University v. United States, 461 U.S. 574 (1983), the Supreme Court held that racially discriminatory education is contrary to public policy and the University therefore could not be viewed as providing public benefit within the charitable concept.

United States v. Oakland Cannabis Buyers' Cooperative, 532 U.S. 483 (2001), reiterates that there is only one exception from the Act for cannabis: Government-approved research projects. "It is clear from the text of the Act that Congress has made a determination that marijuana has no medical benefits worthy of an exception."

In Mysteryboy Inc. v. Commissioner, T.C. Memo 2010-13 (2010), the Tax Court held that the organization that encouraged sexual activity with minors with the goal to repeal child pornography and rape laws was not exempt from federal income taxation; activities of the organization violated public policy as reflected in federal and state laws.

Application of law

As stated in Treas. Reg. Section 1.501(c)(3)-1(a)(1), to qualify for exemption under Section 501(c)(3) of the Code an organization must be both organized and operated exclusively for purposes described in Section 501(c)(3). You are not operated exclusively for exempt purposes as described in Treas. Reg. Section 1.501(c)(3)-1(c)(1) because more than an insubstantial part of your activities involves the provision of federally illegal substances to your members, which does not further an exempt purpose.

To be exempt under Section 501(c)(3) of the Code an organization must be operated for a charitable or educational purpose as they are defined by statute and regulation and interpreted by the Service and the courts. In the tax code, charity is interpreted in its generally accepted legal sense, as defined in Treas. Reg. Section 1.501(c)(3)-1(d)(2). This includes the requirement for all charitable trusts, including religious and educational trusts, that their purposes may not be illegal or contrary to public policy.

Your membership is available to anyone who can access your website and take your courses. You do not require that your members have any particular religious beliefs. Your activities and membership are not limited to people defined in the Code as Indian and who use peyote for traditional ceremonial purposes in connection with their traditional Indian Religion; therefore, your use of peyote is illegal per 42 U.S.C. Section 1996a(b)(1).

Federal law does not recognize any health benefits of cannabis or peyote and classifies them as controlled substances, as detailed in 21 U.S.C. Section 812, Schedule I(c)(10) and (c)(12), respectively. Federal law, under 21 U.S.C. Section 841, prohibits the manufacture, distribution, possession, or dispensing of a controlled substance. You engage in illegal activities by distributing illegal substances across the country, which precludes exemption per 21 U.S.C. Sections 802(16), 812(b), and 841(a) – The Controlled Substance Act. Additionally, as detailed in Oakland Cannabis Buyers' Cooperative, Congress has determined that marijuana, as defined in 21 U.S.C. Section 802(16), has no medical benefits worthy of an exception to the general rule that the manufacture and distribution of cannabis is illegal.

Rev. Rul. 71-447, which cites the Restatement (Second) of Trusts, states that a trust formed for a purpose the accomplishment of which is contrary to public policy, although not forbidden by law, is invalid. This ruling is further clarified by Rev. Rul. 75-384, which provides that an organization that induces or encourages the commission of criminal acts cannot be exempt under Section 501(c)(3) of the Code since it violates the common understanding of a charitable trust. These principles were later upheld in the Supreme Court case Bob Jones University, where in reaching its decision, the Court indicated that entitlement to tax exemption depends

on meeting certain common law standards of charity - namely, that an institution seeking tax-exempt status must serve a public purpose and not be contrary to established public policy.

The Supreme Court noted in Ould, a Section 501(c)(3) organization cannot be formed for a purpose that is illegal. Providing your members across the United States with Sacraments, including illegal ones such as cannabis and peyote, is one of your primary purposes.

Current federal law prohibits the use of cannabis except in limited circumstances; those limited circumstances do not include the use of cannabis for Sacramental purposes. The fact that state legalized distribution of cannabis to a limited extent is not determinative because under federal law, distribution of cannabis is illegal. You are like the organization described in Mysteryboy Inc. because you engage in activities that violate public policy as reflected in federal law. Your activities are illegal and are contrary to public policy because current federal law prohibits the use of cannabis and peyote.

Because you advocate and engage in activities that contravene federal law, you serve a substantial nonexempt purpose. You are like the organization described in Better Business Bureau. The presence of a single nonexempt purpose, if substantial, will preclude exemption regardless of the number of important truly exempt purposes.

Conclusion

Based on the facts and information submitted, you are not operated exclusively for exempt purposes within the meaning of Section 501(c)(3) of the Code. You fail the operational test because your primary purpose furthers a substantial nonexempt purpose because the possession, distribution, and use of controlled substances violates federal law and public policy. Therefore, you are not described in Section 501(c)(3) of the Code.

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

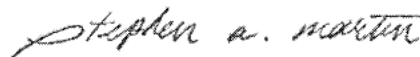
You can also fax your protest and supporting documents to the fax number listed at the top of this letter. If you fax your statement, please contact the person listed at the top of this letter to confirm that they received it.

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