



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

Number: **202103018**
Release Date: 1/22/2021

Date: October 27, 2020

Employer ID number:

Form you must file:

Tax years:

Person to contact:

Name:

ID number:

Telephone:

UIL: 501.03-00, 501.03-30

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: June 23, 2020

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

B = State
 C = Date
 d dollars = Amount

UIL:

501.03-00
 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 section 501(c)(3) of the Code? No, for the reasons stated below.

Facts

You are an unincorporated association formed in the state of B on C. You are a group of friends who has known each other for _____ years whose purpose is to foster home _____ and _____ making education, to learn to appreciate the finer points of _____ and _____ making and the art of tasting. Your focus is the promotion, education and enjoyment of _____ and _____.

The general provisions of your Bylaws state, along with the above purposes, that you are organized as a non-profit unincorporated association under B law, who may also seek non-profit status under IRC Section 501(c)(3). On dissolution, assets remaining shall be distributed according to B law, to another non-profit organization, preferably, to a B non-profit with a purpose similar to yours.

Meetings are held on the first _____ of most months for the purpose of disseminating information about upcoming events, hosting guest speakers and conducting any necessary business. Members mentor first time _____ and _____ makers and encourage entries into state or local competitions. After meeting, you share _____, _____ and a potluck. The months you do not have the general meeting you have special events, such as your annual BBQ and holiday dinners. You also visit local facilities to learn more about making spirits. These activities are held at public places such as parks, local _____ and restaurants. All meetings are open to _____.

members as well as any guests. You have an annual member fee of d dollars, based on expenditures, and derive additional income from your picnics and dinners; also based on cost.

While you have indicated that everything you do has education as the primary purpose, all of your meetings and events are social – members gather and talk, share food, and that the social aspect of your group is important. While you indicated % of the board's time was for program and social activities, 100% of your president's time was social.

Law

IRC Section 501(c)(3) of the Code provides for the recognition of exemption of organizations that are organized and operated exclusively for charitable, educational, or other enumerated 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) provides that, in order 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 articles of organization:

- (a) Limit the purposes of such organization to one or more exempt purposes; and
- (b) Do not expressly empower the organization engage, otherwise than as an insubstantial part of its activities, in activities that in themselves are not in furtherance of one or more exempt purposes.

Treas. Reg. Section 1.501(c)(3)-1(b)(1)(iv) provides that in no case shall an organization be considered to be organized exclusively for one or more exempt purposes, if, by the terms of its articles, the purposes for which such organization is created are broader than the purposes specified in IRC Section 501(c)(3).

Treas. Reg. Section 1.501(c)(3)-1(b)(4) provides that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. Assets will be considered dedicated if, upon dissolution, assets would be distributed for 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 for the purpose of improving or developing his capabilities or the instruction of the public on subjects useful to the individual and beneficial to the community.

Revenue Ruling 77-366, 1977-2 C.B. 192, states that a nonprofit organization that arranges and conducts wintertime ocean cruises during which activities to further religious and educational purposes are provided in addition to extensive social and recreational activities is not operated exclusively for exempt purposes and does

not qualify for exemption under IRC Section 501(c)(3).

In Schoger Foundation v. Commissioner, 76 T.C. 380 (1981), it was held that if an activity serves a substantial non-exempt purpose, the organization does not qualify for exemption even if the activity also furthers an exempt purpose.

In Minnesota Kingsmen Chess Association v. Commissioner, T.C. Memo 1983-495, the organization sponsored chess tournaments, provided chess magazines and books to libraries, offered free chess lessons, and published a newsletter that primarily contained reports of past tournaments and announcements of future ones. The petitioner sought exemption under Section 501(c)(3) because its purposes and activities were described as educational. The court found that the promotion of chess tournaments furthered a substantial recreational purpose, even though individual participants may have received some educational benefits.

In St. Louis Science Fiction Limited v. Commissioner, 49 TCM 1126, 1985-162, the Tax Court held that a science fiction society failed to qualify for tax-exempt status under IRC Section 501(c)(3). Although many of the organization's functions at its annual conventions (the organization's principal activity) were educational, its overall agenda was not exclusively educational. A substantial portion of convention affairs were social and recreational in nature.

Application of Law

IRC Section 501(c)(3) and Treas. Reg. Section 1.501(c)(3)-1(a)(1) set forth two main tests for an organization to be recognized as exempt. An organization must be both organized and operated exclusively for purposes described in Section 501(c)(3). Based on the information you provided in your application and supporting documentation, we conclude that you fail both tests.

Your Articles of Incorporation do not include language that limits your purposes to one or more exempt purposes. The purposes for which you were created are broader than the purposes specified in IRC Section 501(c)(3), including social and recreational purposes. Additionally, you do not have an adequate dissolution clause as required by Treas. Reg. Section 1.501(c)(3)-1(b)(4). Accordingly, you do not satisfy the organizational test required by Treas. Reg. Section 1.501(c)(3)-1(b)(1)(i) and 1.501(c)(3)-1(b)(1)(iv), and you are not organized for exclusively exempt purposes.

You are also not described in IRC Section 501(c)(3) because you fail the operational test. Specifically, you are not operated exclusively for an exempt purpose as described in Treas. Reg. Section 1.501(c)(3)-1(c)(1). The facts show you are not operated exclusively for charitable and educational purposes, but for the social and recreational purpose of promotion and enjoyment of _____ and _____. Similar to Revenue Ruling 77-366, while you do offer certain educational aspects this is addition to extensive social and recreational activities.

Treas. Reg. Section 1.501(c)(3)-1(d)(3)(i) provides, in part, that the term "educational" as used in IRC Section 501(c)(3) relates to the instruction of the public on subjects useful to the individual and beneficial to the community. While you invite guest speakers occasionally during meetings, and do educate members or their guests on methods for production and tasting of _____ or _____, this activity is not exclusive. As stated, all of your meetings and events are social – members gather and talk, share food, and that the social aspect of your group is important. Your focus is the promotion, education and enjoyment of _____ and _____. Accordingly, you are not serving exclusive educational purposes as defined by the Regulations.

Although an organization may carry on activities that further one or more tax-exempt purposes, it will not be treated as operated exclusively for an exempt purpose if it has a single non-charitable purpose that is substantial in nature. (See Schoger Foundation). More than an insubstantial amount of non-501(c)(3) purposes will defeat exemption under IRC Section 501(c)(3), even if participants receive educational benefits. Similar to the cases in Minnesota and St Louis, while members at your events are receiving education on and making, or on the points of tasting, the recreational and social purposes you have indicated outweigh any Section 501(c)(3) purpose. As stated above, while you do conduct some activities and serve purposes that are exempt under Section 501(c)(3) you also serve more than insubstantial purposes that do not qualify under Section 501(c)(3).

Conclusion

Based on the facts and circumstances presented, you do not qualify for exemption from federal income tax as an organization described in IRC Section 501(c)(3). You are not organized or operated exclusively for exempt purposes as set forth in Section 501(c)(3), and have more than an insubstantial amount of social and recreational activities.

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