



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

Number: **202107012**
Release Date: 2/19/2021

Date:
November 24, 2020
Employer ID number:

Form you must file:

Tax years:

Person to contact:

Name:
ID number:
Telephone:

UIL: 501.00-00, 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:
09/29/2020
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

B = State

C = Brand

D = Date

e percent = Number

f percent = Number

g percent = Number

UIL:

501.00-00

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 IRC Section 501(c)(3)? No, for the reasons stated below.

Facts

You are an unincorporated association formed in the state of B on D. Your Articles of Association states that your purposes are exclusively charitable and educational, including the making of distribution to organizations that qualify as exempt organization under IRC Section 501(c)(3). Additionally, your Articles state that your purpose is to promote the C, a model of car, by planning road trips, social gatherings, supporting charity events and giving back to your community. You are dedicated to having fun and driving the C.

Your Bylaws state that you were formed in order to promote the interest in C automobile ownership and operation, and to further establish an organized effort to encourage others to participate in the ownership and enjoyment connected with the use of said automobile.

You are a membership organization. Members are required to be owners or principal operators of a C. Members cannot be members in other C clubs, and they are required to attend meetings, events or social activities. Individuals are required to pay a fee to join. Primary members must own a C. Secondary members are associated with a Primary member and must be related to the Primary member. Associate members are

limited to anyone who does not own a C but are interested in the C hobby. Associate members must be sponsored by an active member.

Approximately e percent of your overall activities are charitable and include collecting food, clothing and toiletry items for other charitable organizations; collecting toys for donations to organizations; offering scholarships for local high school graduates; and participating in local events like parades.

The majority of your activities are social and recreational. These activities include holiday parties, monthly dinners, automobile car shows, gatherings at local bars and restaurants, etc. At least monthly, your members take their cars on day cruises or overnight cruises. Some of the cruises are to regional car shows where your members display their cars for public viewing.

Your primary sources of revenue are from fundraising activities such as auctions, charity drives, raffles, and payments for events like the annual banquet and holiday parties. You also receive funding from annual dues paid by your members. The percentage of expenses dedicated to charitable activities vary from year to year. Approximately f percent to g percent of your annual expenditures are dedicated to charitable activities. The remaining expenditures are dedicated to social and recreational activities conducted by your members.

Law

IRC Section 501(c)(3) exempts from federal income tax a corporation organized and operated exclusively for charitable, educational, and other purposes, provided that no part of its net earnings inures to the benefit of any private shareholder or individual.

Treasury Regulation Section 1.501(c)(3)-1(a)(1) states that to be described in IRC Section 501(c)(3) an organization must be both organized and operated exclusively for purposes specified in the regulations. If an organization fails to meet either 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 IRC Section 501(c)(3) exempt purposes only if its creating document limits the purposes of such organization to one or more exempt purposes and does not expressly empower the organization to engage, other than as an insubstantial part of its activities, in activities which 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(c)(1) states that an organization will be regarded as operated exclusively for exempt purposes only if it engages primarily in activities which accomplish one or more of the 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.

Rev. Rul. 77-366, 1977-2 C.B. 192, provides that a nonprofit organization that arranges and conducts winter-time 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). The organization accomplished both charitable and non-charitable purposes through its cruises.

Better Business Bureau v. United States, 326 U.S. 279 (1945), held that the presence of a single nonexempt purpose, because it was substantial in nature, precluded tax exemption under IRC Section 501(c)(3).

In St. Louis Science Fiction Limited v. Commissioner, T.C. Memo 1985-162 (1985), 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 have failed both tests.

Your organizing document does not limit your purposes to those which are exempt as required by Treas. Reg. Section 1.501(c)(3)-1(b)(1)(i). Rather, your purposes as stated in your organizing document are broader than those contemplated for an organization described in IRC Section 501(c)(3), which is prohibited as described in Treas. Reg. Section 1.501(c)(3)-1(b)(1)(i)(iv). Accordingly, you do not satisfy the organizational test.

You are also not described in IRC Section 501(c)(3) because you fail the operational test. Treas. Reg. Section 1.501(c)(3)-1(c)(1) provides an organization will not be regarded as exempt under Section 501(c)(3) or "operated exclusively" for one or more exempt purposes if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. Your social and recreational events are a substantial part of your overall activities. Only an insubstantial amount of your time and your resources are devoted to charity. Therefore, you have not satisfied the operational test.

You are similar to the organization described in Rev. Rul. 77-366. While you do conduct some charitable and educational activities, you have extensive social and recreational activities that are not consistent with the purposes described under IRC Section 501(c)(3).

Your social and recreational activities account for a large percentage of your time and efforts. As explained in Better Business Bureau of Washington D.C., Inc., the furtherance of substantial non-exempt purposes precludes exemption under IRC Section 501(c)(3).

You are like the organization described in St. Louis Science Fiction Limited because you have substantial social and recreational purposes, which precludes you from qualifying for exemption under IRC Section 501(c)(3).

Conclusion

Based on the information provided, you do not qualify for exemption because you are neither organized nor operated for exclusively for exempt purposes described in IRC Section 501(c)(3). Your organizing document does not satisfy the organizational test because your purposes are broader than those described in Section 501(c)(3). You fail the operational test because, while you may conduct some educational and charitable activities, your recreational and social events represent substantial, non-exempt activities. 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