



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities

PO Box 2508
Cincinnati, OH 45201

Number: **202117017**
Release Date: 4/30/2021

Date: **February 2, 2021**

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: December 2, 2020

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

B = Date

C = State

D = Nationality

E = Ethnicity

F = Name

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.

Issue

Do you qualify for exemption under IRC Section 501(c)(3)? No, for the reasons stated below.

Facts

You were incorporated on B in C. Your corporate purposes include advising D individuals in the community; keeping traditions; social and community work; language classes; workshops; conferences; support; and entrepreneurship. You later attested that you amended your Articles to include the required Section 501(c)(3) language; however, to date there is no evidence of such an amendment on C's Secretary of State website.

Per the Form 1023, your activities will promote:

- The integration of the D and E community in F County;
- Community cultural exchange;
- Personal growth activities through integration activities such as conferences, seminars, workshops, lectures, etc.;
- The solidarity and tolerance between the different foreign communities that live in the local community;
- Art, music, traditions, and sports.

We subsequently requested detailed information about your activities as well as the percentage of time devoted to each activity. In your response, you stated your purpose is to carry out the sport, traditions, the music and customs of D culture. You also indicated that _____ of your activities were devoted to conducting events for various holidays and celebrations including D and E Day, and _____. These events operated by volunteers are held at various venues such as community centers, public libraries, and churches and will be open to the general public. You promote these events on social media.

We then requested additional details concerning your activities. You provided essentially the same information that was previously submitted. Finally, you indicated that you are supported by gifts, grants and contributions and have a volunteer board.

Law

IRC Section 501(c)(3) of the Code 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, in order to be exempt as an organization described in IRC Section 501(c)(3) of the Code, 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.

Revenue Ruling 77-366, 1977-2 C.B. 192 describes an organization that was formed to arrange and conduct cruises during which activities to further religious and educational purposes are provided. However, it was found that an extensive amount of time and resources were spent devoted to the conduct of social and recreational activities, and the facts and circumstances indicated these activities served substantial independent purposes of a non-charitable nature. Therefore, this organization did not qualify for exemption under IRC Section 501(c)(3) because it was not operated exclusively for exempt purposes.

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.

In Harding Hospital, Inc. v. United States, 505 F.2d 1068, 1071 (6th Cir. 1974), the court held that an organization has the burden of proving that it satisfies the requirements of the particular exemption statute. The court noted that whether an organization has satisfied the operational test is a question of fact.

Application of law

IRC Section 501(c)(3) and Treas. Reg. Section 1.501(c)(3)-1(a)(1) set forth two main tests to qualify for exempt status. An organization must be both organized and operated exclusively for purposes described in IRC Section 501(c)(3). You have failed to meet the operational test as explained below.

You are not operating in accordance with Treas. Reg. Section 1.501(c)(3)-1(c)(1) because you are not primarily engaged in activities that accomplish exempt purposes specified in IRC Section 501(c)(3). Your primary activities of conducting events for holidays and hosting other celebrations for members of the community focusing on D individuals serve substantial social and recreational purposes. Therefore, you are precluded from exemption under IRC Section 501(c)(3).

You are similar to the organization described in Rev. Rul. 77-366. While certain aspects of your activities may further charitable and educational purposes, a primary goal of your events is to promote fellowship and social welfare among the community especially those of D heritage, which serves a substantial nonexempt purpose. As provided in Better Business Bureau v. United States the presence of substantial non-exempt purposes precluded exemption under IRC Section 501(c)(3).

Your position

You wrote that you will promote community cultural exchange with the D and E community as well as host events open to the community including sports, conferences, and activities. Your activities are related to your purpose in that they are mainly aimed at the community, giving them the opportunity to participate with the goal of providing social welfare to all members of the community. Your mission is to strengthen the general population and support other foundations and social organizations with innovative, sustainable, and impactful actions, through strategic, technological, social, and communication alliances for social transformation, contributing to the human and social development of the community. You are integrating and empowering the different actors in society in favor of social transformation and seeking to influence social transformation through love, respect, and solidarity.

Our response to your position

You have not provided any additional information from which it can be concluded that your activities exclusively further or advance a purpose described in IRC Section 501(c)(3). As previously described, you are operating for substantial nonexempt social purposes. Similar to the organization in Harding Hospital, Inc. v. United States, you have failed to provide sufficient information to prove to us that you are operating exclusively for purposes described in Section 501(c)(3).

Conclusion

Based on the information submitted, you are not operated exclusively for exempt purposes within the meaning of IRC Section 501(c)(3) of the Code. You are not operating exclusively for exempt purposes because your events appear to be community social and recreational gatherings. Accordingly, we conclude you do not qualify for exemption under IRC 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