



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

Number: **202127040**
Release Date: 7/9/2021

Date:
April 13, 2021
Employer ID number:

Form you must file:

Tax years:

Person to contact:
Name:
ID number:
Telephone:

UIL: 501.03-00, 501.03-05, 501.36-02

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:
February 17, 2021
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

R = country 1
S = country 2
T = country 3
U = geographic region
V = country 4
W = ethnicity
X = state
Y = date

UIL:

501.03-00
501.03-05
501.36-02

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 incorporated in the State of X on Y. You are currently exempt under IRC Section 501(c)(4) and are applying to be exempt under Section 501(c)(3).

Your primary activity is to conduct an annual anime convention. The convention is a pop culture event with the focus consisting of mostly W culture and animation along with multiplatform pop and niche cultures from multimedia; such as video animation, comics, books, costuming, and music from around the world. The convention is generally held over the course of a few days and participants purchase tickets/badges for entry.

The convention educates attendees in not only the social etiquette of pop culture, but in the customs, traditions, and media methods and techniques of: V, V's media (mostly animation and music), U cultures like T, S, and R, and other culture references around the world through internet pop culture.

A typical attendee spends the following amount of time at each of the following convention events:

- participating in cosplay
- attending workshops, panel discussions and viewing exhibits on cultural and educational topics
- being part of panel submissions
- listening to guest speakers
- viewing and purchasing items from vendor stands
- playing video games
- participating in boffer, foam weapon fights
- playing arcade games
- participating in AMV contest
- participating in formal dance

You volunteer and promote your convention at other similar type conventions. Various media personalities within the genre and speakers are invited to participate at your convention and meet guests, sign autographs, etc. You also reserve space for outside vendors and artists to set up booths for merchandise and/or food sales.

Your intention is to include more cultural understanding, discussion, as well as inclusion of not only W based guests and discussion but also LGBTQ. You have also referenced topics involving mental health and even had professionals on hand for convention participants at past events.

Law

IRC Section 501(c)(3) 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), 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(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) provides 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.

Revenue Ruling 67-216, 1967-2 C.B. 180

A nonprofit organization formed and operated exclusively to instruct the public on agricultural matters by conducting annual public fairs and exhibitions of livestock, poultry, and farm products qualified for exemption under IRC Section 501(c)(3).

Rev. Rul. 68-224, 1968-1 C.B. 262

A nonprofit organization that conducted an annual festival centered around regional customs and traditions qualified for exemption under IRC Section 501(c)(4).

Rev. Rul. 71-545, 1971-2 C.B. 235

An organization that conducted an international exposition commemorating certain historical events and cultural achievements, and exhibiting products of various nations, qualifies for exemption under IRC Section 501(c)(3).

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 179 (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.

Application of law

To meet the requirements of IRC Section 501(c)(3), an organization must exclusively further exempt purposes and be able to show it satisfies the organizational and operational tests under Section 501(c)(3) as detailed in Treas. Reg. Section 1.501(c)(3)-1(a)(1). Specifically, an organization that fails to meet either the organizational test or the operational test, or both, is not exempt.

Your Articles of Incorporation do not limit your purposes to exclusive IRC Section 501(c)(3) purposes as described in Treas. Reg. Section 1.501(c)(3)-1(b)(1)(i). Therefore, you do not meet the organizational test.

You do not exclusively provide education and instruction to the public as defined in Treas. Reg. Sections 1.501(c)(3)-1(d)(2) and (d)(3)(i). Instead, your annual anime convention offers a variety of entertainment and recreational events for the community. While some of your activities are educational in nature, these are not exclusive. The majority of your activities still serve social and recreational purposes. Therefore, you fail to meet the operational test as described in Treas. Reg. Section 1.501(c)(3)-1(c)(1).

Rev. Rul. 67-216 granted exemption under IRC Section 501(c)(3) to an organization putting on an educational fair. The principal activities and exhibits of the fair were educational. The purpose of the organization was to educate the public concerning agricultural matters. Unlike this organization, your convention is not exclusively educational, but rather an entertainment event for the community.

Rev. Rul. 68-224 granted exemption under Section 501(c)(4) of the Code to an organization conducting an annual festival depicting regional customs and traditions. The activities at the festival are recreational consisting of a barbecue, parade, rodeo, and various contests. Like this organization, the activities at your convention are recreational where the participants play video games, arcade events, foam weapon fights, cosplay and dance.

Rev. Rul. 71-545 granted exemption under IRC Section 501(c)(3) to an organization conducting a historical exposition. The exposition educated the general public concerning the importance of certain historical events, and cultural achievements. Unlike this organization, your events do not exclusively further educational or

cultural purposes. While portions of your convention do celebrate certain cultures, these activities are not exclusively serving Section 501(c)(3) purposes. Instead, your events primarily feature entertainment and fun for the convention attendees. Further, your event, while open to the public, requires payment for entry and participation rather than providing education for the general public.

Like the organization in Better Business Bureau v. United States, you have a substantial non IRC Section 501(c)(3) exempt purpose. Your conventions are not exclusively serving an exempt purpose, but rather an entertainment event for the community.

Conclusion

To be described in IRC Section 501(c)(3), your activities must exclusively further those exempt purposes. Based on the information in your application, you are organized and operated primarily for social and recreational purposes. You have not satisfied the organizational and operational test. Therefore, you fail to qualify for exemption under Section 501(c)(3).

Your exempt status under IRC Section 501(c)(4) remains in effect.

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