



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

Number: **202131013**  
Release Date: 8/6/2021

Date: May 11, 2021

Employer ID number:

Form you must file:

Tax years:

Person to contact:

Name

ID number

Telephone:

**UIL: 501.03-05, 501.03-33, 501.03-34**

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](http://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: March 16, 2021

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

**Legend:**

B = Date

C = State

D = Area #1

E = Exit Number

F = Exit Number

G = Interstate

H = Area #2

J = City #1

K = City #2

**UIL:**

501.03-05

501.03-33

501.03-34

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 meet the operational test under IRC Section 501(c)(3) ? 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*.

You attest that you were incorporated on B in State of C. You also attest that you have the necessary organizing document, that your organizing document limits your purposes to one or more exempt purposes within the meaning of IRC Section 501(c)(3), that your organizing document does not expressly empower you to engage, otherwise than as an insubstantial part of your activities that in themselves are not in furtherance of one or more exempt purposes, that your organizing document contains the dissolution provision required under Section 501(c)(3), and that your organizing document contains the provisions required by Section 508(e) or that your

**Letter 4034 (Rev. 11-2018)**  
Catalog Number 47628K

organizing document does not need to include the provisions required by Section 508(e) because you rely on the operation of state law in your particular state to meet the requirements of Section 508(e).

You attest that you are organized and operated exclusively to further charitable purposes and that you have not conducted and will not conduct prohibited activities under IRC Section 501(c)(3). Specifically, attest you will:

- Refrain from supporting or opposing candidates in political campaigns in any way
- Ensure that your net earnings do not inure in whole or in part to the benefit of private shareholders or individuals
- Not further non-exempt purposes (such as purposes that benefit private interests) more than insubstantially
- Not be organized or operated for the primary purpose of conducting a trade or business that is not related to your exempt purpose(s)
- Not devote more than an insubstantial part of your activities attempting to influence legislation or, if you made a Section 501(h) election, not normally make expenditures in excess of expenditure limitations outlined in Section 501(h)
- Not provide commercial-type insurance as a substantial part of your activities

During review of your Form 1023-EZ, detailed information was requested to supplement the above attestations. Your supplemental information described the activities of your organization as follows:

You encourage visitors to stop and visit D and the surrounding area by making and distributing literature and pictures describing your points of interest. You produce and distribute flyers and brochures which include a caricature map, community events brochure and tour guide. You also provide local businesses with post cards which they may sell to customers. You plan to develop and conduct social media campaigns, marketing campaigns, recreational events and branded signage to encourage visitors to your area and support local businesses.

Your Strategic Action Plan for \_\_\_\_\_ states you will conduct a sustainable visitor marketing program that generates increased revenue for area small businesses and community economic vitality. You plan to work collaboratively to attract out of region visitors to your events, recreation assets, small business districts, history, and natural beauty.

Your plan mission is to promote the area between Exit E and Exit F of G in such a manner that it becomes a vital travel destination. Your overarching goal or motive is to draw in daily traffic to your area. Your plan vision is to encourage positive and open communication and coordination among nearby communities of D, H, J, and K to increase visitor attraction. You plan to provide technical assistance to businesses opening within your area.

Your organization also plans to improve public parks to promote health and exercise in the area. Your geographic area has not been designated by the government to be a deteriorated or blighted area.

## **Law**

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

Treasury Regulation Section 1.501(c)(3)-1(a)(1) states that in order to qualify under IRC Section 501(c)(3), an organization must be both organized and operated exclusively for one or more exempt purposes. If an organization fails to meet either the organizational or operational test, it is not exempt.

Treasury Regulation Section 1.501(c)(3)-1(c)(1) states 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. Sec. 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized or operated exclusively for purposes specified in IRC Section 501(c)(3) unless it serves a public rather than a private interest. To meet this requirement, an organization must establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or the creator’s family, shareholders of the organizations, or persons controlled, directly or indirectly, by such private interests.

Treas. Reg. Sec. 1.501(c)(3)-1(d)(2) provides that the term “charitable” is used in IRC Section 501 (c) (3) of the Code in its generally accepted legal sense, and includes lessening the burdens of government.

Revenue Ruling 71-505, 1971-2 C.B. 232, holds that a city bar association is not exempt from federal income tax under IRC Section 501(c)(3). The association conducted a number of activities primarily directed at the promotion and protection of the practice of law. These activities were found not to be in furtherance of charitable or educational purposes.

Rev. Rul. 77-111, 1977-1 C.B. 144, holds that organization formed to increase business patronage in a deteriorated area by providing information on the area’s shopping opportunities, local transportation, and accommodations is not operated exclusively for charitable purposes and does not qualify for exemption under IRC Section 501(c)(3) .

Rev. Rul. 85-2, holds an organization lessens the burdens of government if its activities are activities that a governmental unit considers to be its burdens; and the activities actually lessen such governmental burden. The organization provides legal assistance to guardians who represent abused and neglected children before a juvenile court that requires their appointment lessens the burdens of government and, therefore, qualifies for exemption under IRC Section 501 (c) (3) .

In Better Business Bureau of Washington, D.C. v. United States, 326 U.S. 279 (1945), the Supreme Court determined that the presence of a single non-exempt purpose, if substantial in nature, will destroy exemption under IRC Section 501(c)(3) regardless of the number or importance of any other exempt purposes.

In The Schoger Foundation v. Commissioner, 76 T.C. 380 (1981), an organization operating a religious retreat facility did not qualify for exemption under IRC Section 501(c)(3) because it failed to show that the retreat facility was operated exclusively for religious purposes. Although the organization’s mountain lodge offered guests religious, recreational, and social activities; however, none were regularly scheduled or required. The

court concluded that the organization had not met its burden of proof to show that the lodge was operated primarily for an exempt religious purpose and that the recreational and social activities at the lodge were only incidental to a religious purpose.

### **Application of law**

Based on the facts presented in your application and supplemental information, we have concluded that you are not operated for exempt purposes as required in Treas. Reg. Sec. 1.501(c)(3)-1(a)(1). Accordingly, you do not qualify for exemption as an organization described in IRC Section 501(c)(3).

Your activities promote businesses and their common business interests that are more than insubstantial in nature. For this reason, you are not operating exclusively for exempt purposes (Treas. Reg. Sec. 1.501(c)(3)-1(c)(1)). You do not satisfy the operational test requirement to be recognized as exempt under IRC Section 501(c)(3) and are not as described in Section 501(c)(3).

You are not performing an activity that the governmental unit considers to be a governmental function and have not shown that the activity actually benefits a governmental unit. You are not lessening the burdens of government as described in Treas. Reg. Secs. 1.501(c)(3)-1(c)(1) or 1.501(c)(3)-1(d)(2).

Your activities promote businesses and their common business interests that are more than insubstantial in nature. For this reason, you are not serving a public, rather than a private, interest as described in Treas. Reg. Sec. 1.501(c)(3)-1(d)(1)(ii). You are not operated exclusively for purposes specified in IRC Section 501(c)(3) because your activities serve to benefit private interests rather than the public.

You conduct several activities primarily directed at the promotion of businesses and their common business interests. You are similar to the organization in Rev. Rul. 71-505, because your activities are not operated primarily for exempt charitable or educational purposes.

You conduct several activities primarily directed at the promotion of businesses and their common business interests. You are similar to the organization in Rev. Rul. 77-111, because your activities promote businesses, their common business interests, and provide information on the area's shopping opportunities, you are not operated exclusively for charitable or educational purposes and do not qualify for exemption under IRC Section 501(c)(3).

You are not performing an activity that the governmental unit considers to be a governmental function and have not shown that the activity actually benefits a governmental unit. You are different from the organization in Rev. Rul. 85-2, because you have not shown you meet the requirements to be considered lessening the burdens of government.

The Supreme Court held in Better Business Bureau that a single nonexempt purpose, if substantial in nature, precludes an organization from qualifying under IRC Section 501(c)(3) no matter the number or importance of truly exempt purposes. A substantial purpose of your activities is the promotion of small businesses and their common business interests. Thus, you are precluded from being recognized under Section 501(c)(3).

Similar to the organization in The Schoger Foundation, your organization did not show that it primarily operated for purposes exempt under IRC Section 501(c)(3). Your organization has not met its burden of proof

to show that your activities are operated primarily for an exempt purpose and that the promotion of small businesses and their common business interests are incidental to your charitable or educational purposes.

### **Conclusion**

You do not meet the requirements for exemption under IRC Section 501(c)(3). Specifically, you fail to meet the operational test under Treas. Reg. Sec. 1.501(c)(3)-1(c) as your activities do not further an exempt purpose nor have you established that your activities further public interests as opposed to private interests. (Treas. Reg. Sec. 1.501(c)(3)-1(d)(1)(ii).) Accordingly, you are not exempt 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](http://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](http://www.taxpayeradvocate.irs.gov) or call 877-777-4778.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements