



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

Date:  
July 13, 2021  
Employer ID number:

Form you must file:

Tax years:

Person to contact:  
Name  
ID number  
Telephone:

Number: **202140017**  
Release Date: 10/8/2021

**UIL Number: 501.03-00, 501.03-19, 501.33-00,  
501.35-00**

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  
 PO Box 2508  
 Cincinnati, OH 45201

Date:  
 May 18, 2021  
 Employer ID number:

Person to contact:  
 Name:  
 ID number:  
 Telephone:  
 Fax:

**Legend:**

- B = Date
- C = State
- D = Type of Car
- E = Years
- F = Venue
- G = Number
- H = Charitable Organization

**UIC**

- 501.03 00
- 501 03-19
- 501.33-00
- 501.35-00

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 submitted Form 1023-EZ, *Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*.

You attest that you were incorporated on B, in the state of C. You described your specific activities as a vintage racing car club. In addition, you indicated that your purpose is to foster national or international amateur sports competition under IRC Section 501(c)(3). You 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 Section 501(c)(3), that your organizing document does not expressly empower you to engage in activities, other than an insubstantial part, that are not in furtherance of one or more exempt purposes, and that your organizing document contains the dissolution provision required under Section 501(c)(3).

You attest that you are organized and operated exclusively to further charitable purposes. You attest that you have not conducted and will not conduct prohibited activities under IRC Section 501(c)(3). Specifically, you 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 supplemental to the above attestations. Your Articles of Incorporation provide that your purpose is “to preserve

and to fans” In addition, upon dissolution your assets will be distributed to H.

Your goals and objectives are:

- To preserve the vintage image
- To present a safe professional racing program with close competition
- To promote good sportsmanship, respect and camaraderie in a family-oriented environment
- To provide the comprehensive set of construction and competition rules
- To enforce those rules to prevent any individual from having unfair competitive advantage
- To promote the sharing of technical support for new members so they may become competitive in the racing program
- To negotiate race events with established tracks and promoters with the intent of developing reasonable schedules for your family members
- To coordinate with other racing organizations with similar construction and competition rules to provide expanded event opportunities for members desiring a greater number of events
- To enable members to have a safe economical race car

The cars you use are called D which bring back the look of old-time racing. They have original steel car bodies produced during the period F. You have construction rules for participating vehicles, the intent is to benefit the class as a whole and not to create any unfair competitive advantage for a specific individual. You also submitted a racing schedule from F for the current year. Many events were cancelled or dropped, however, some races were held with results. You do not participate in every race event only those that include D.

Your income is from membership dues. Your expenses are for tires, renewal of state documents, website maintenance, trophies and a banquet. You had G members in the current year.

### **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

IRC Section 501(j) provides special rules for certain amateur sports organizations.-- (1) In general.--In the case of a qualified amateur sports organization--

(A) the requirement of subsection (c)(3) that no part of its activities involve the provision of athletic facilities or equipment shall not apply, and

(B) such organization shall not fail to meet the requirements of subsection (c)(3) merely because its membership is local or regional in nature.

(2) Qualified amateur sports organization defined.--For purposes of this subsection, the term "qualified amateur sports organization" means any organization organized and operated exclusively to foster national or international amateur sports competition if such organization is also organized and operated primarily to conduct national or international competition in sports or to support and develop amateur athletes for national or international competition in sports.

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(b)(4) holds that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, for example, if, upon dissolution, such assets would, by reason of a provision in the organization's articles or operation of law, 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)(1)(ii) states that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Revenue Ruling 59-310, 1959-2 C.B. 146, granted exemption under IRC Section 501(c)(3) to an organization that was formed to establish, maintain and operate a public swimming pool, playground and other recreation facilities for the children and other residents of the community. The income derived from charges for admission to the swimming pool was nominal and such charges were purely incidental to the orderly operation of the pool. Since the property and its uses are dedicated to members of the general public of the community and are charitable in that they serve a generally recognized public purpose which tends to lessen the burdens of government, it is concluded that the instant organization is exclusively charitable within the meaning of Section 501(c)(3).

Revenue Ruling 64-275, 1964-2 C.B. 142, describes an organization that was created for the purpose of providing advance training to suitable candidates in the techniques of racing small sailboats in national and

international competition through classroom lectures, seminars and practical training sessions and improving the caliber of the candidates for preparation of the recognized game competitions and other international racing events. The purpose of its activities is to improve the individual student's capability for sailing and racing and increase the number of qualified candidates for possible Olympic participation. The organization was recognized as an organization described in IRC Section 501(c)(3).

Revenue Ruling 70-4, 1970-1 C.B. 126, found that the organization's activities primarily consisted of the promotion and regulation of a sport for amateurs. Promotion and regulation of a sport for amateurs as described neither improve nor develop the capabilities of the individual nor instruct the public on subjects useful to the individual and beneficial to the community within the meaning of the regulations. The organization by promoting and regulating a sport for amateurs is providing wholesome activity and entertainment for the social improvement and welfare of the community. This promotes the common good and general welfare of the people of the community. Accordingly, this organization qualifies for exemption from Federal income tax under section 501(c)(4) of the Code.

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.

Hutchinson Baseball Enterprises, Inc. v. Commissioner, 73 T.C. 144 (1979), aff'd 696 F.2d 757 (10<sup>th</sup> Cir. 1982), the Court held that the organization was entitled to Section 501(c)(3) exemption. The Broncos were an amateur team with a large number of college players who were not paid to play. Proceeds from gate receipts and concessions represented small percentage of total receipts which were mostly from contributions. Training baseball players is an educational activity. "The promotion, sponsorship, and advancement of amateur and recreational sports is a charitable purpose within the meaning of section 501(c)(3)," and "the furtherance of amateur athletics is one of the [organization's] goals."

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.

Wayne Baseball, Inc. v. Commissioner, TC Memo 1999-304, the Court held that an organization that sponsored an amateur baseball team was not operated exclusively for exempt purposes because a substantial part of their activities was social and recreational. The organization sponsors a competitive adult amateur baseball team. The organization's typical player is older than 21 years of age and has either competed or currently competes in collegiate baseball. The organization has no formal instructional program for the team. Allowing people to watch the games for free is incidental to the purpose of providing recreation and social enjoyment for the team players. For these reasons, the Tax Court held that this organization didn't qualify for exemption under Section 501(c)(3).

## **Application of law**

IRC Section 501(c)(3) of the Code 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 Section 501(c)(3). You have failed to meet both requirements, as explained below.

You do not meet the organizational test described in Treas. Reg. Section 1.501(c)(3)-1(b)(1)(i) because your Articles of Incorporation do not limit your purposes to those described in IRC Section 501(c)(3) of the Code. In addition, while your Articles of Incorporation do have a dissolution clause that dedicates your assets to exempt

purposes by distributing them to H there is no provision for distribution in the event that H is not able to accept the assets. As a result, you fail to meet the organizational test under Treas. Reg. Section 1.501(c)(3)-1(b)(4).

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) of the Code. Your primary activity is planning and hosting your racing events for your members. This is a substantial nonexempt social and recreational purpose which precludes you from exemption under Section 501(c)(3) of the Code.

Additionally, you do not meet the requirements of Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) because you are serving the private interests of your members. For example, you are planning and hosting races at racetrack establishments for the benefit and enjoyment of your members. All of your expenses are in support of your members' participation in racing events. This precludes you from qualifying under IRC Section 501(c)(3).

You assert in your application for tax exempt status that your purpose is to foster national or international amateur sports competition under IRC Section 501(c)(3) and that you are a vintage racing car club. You do not meet the requirements under Section 501(j) because you are not organized and operated primarily to conduct national or international competition in sports or to support and develop amateur athletes for national or international competition in sports. While you do facilitate racing competition, you do not support and develop driver athletes for national or international competition. The races are for the recreational and entertainment purposes of your members who enjoy driving and racing vintage cars.

Your activities are not like that described in Rev. Rul. 59-310 where a public pool and other recreational facilities were operated by an exempt organization. You are distinguished from this ruling because you are not maintaining a recreational facility for the general public in a manner that lessens the burdens of the government. Unlike the organization described in the ruling, you are actively involved in the conduct of social and recreational activities such as racing which is encouraging social interaction between members. Social events are not considered charitable or educational purposes under IRC Section 501(c)(3).

You are not like the organization described in Rev. Rul. 64-275 because your activities are devoted to organizing recreational and social events for your members. You do not conduct formal educational programs for the public or your members. Nor are you training athletes for national or international competition. In addition, you are similar to the organization described in Rev. Rul. 70-4, because you are promoting a sport for amateurs that is not educational but rather is providing wholesome activity and entertainment for the social improvement and welfare of the community as described under IRC Section 501(c)(4). Therefore, your activities are not exclusively charitable or educational.

You are like the organization in Wayne Baseball, Inc. because a substantial portion of your activities including hosting races to facilitate fellowship and collaboration among members and to create opportunities to share knowledge and to exchange vintage car artifacts and memorabilia as well as promoting racing of those cars among members shows you are operated primarily for the benefit, pleasure, or recreation of your members. Unlike the organization in Hutchinson Baseball Enterprises, Inc. you are not training drivers for the purpose of improving or developing his or her capabilities. Although you may have some incidental educational activities, you are primarily providing social and recreational activities for your members, which prevents you from qualifying under IRC Section 501(c)(3) of the Code.

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 Better Business Bureau v United States and Schoger Foundation v. Commissioner. As stated

above, your non-charitable purposes are substantial in nature, any activities that further IRC Section 501(c)(3) purposes are incidental. Therefore, you do not qualify under Section 501(c)(3).

## **Conclusion**

Based on the information submitted, you have failed to establish that you are organized and operated exclusively for exempt purposes within the meaning of IRC Section 501(c)(3) and the related income tax regulations because you are operated primarily for the benefit, pleasure, or recreation of your members. Therefore, you fail to 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 Determination 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  
PO 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