



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

Date:
July 20, 2021
Employer ID number:

Form you must file:

Tax years:

Person to contact:
Name:
ID number:
Telephone:

Number: 202141025
Release Date: 10/15/2021

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: 5/18/2021

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

- D = Date
- F = Name
- G = Name
- H = Name
- J = Event Name
- K = Event Name
- x dollars = Amount
- y dollars = Amount

UIC

- 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 submitted Form 1023-EZ, *Streamline Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*. You attested on Form 1023-EZ that you are organized and operated exclusively to further charitable purposes. You also attested that you have not conducted and will not conduct prohibited activities under IRC Section 501(c)(3).

During review of your Form 1023-EZ, detailed information was requested supplemental to your attestations. You were formed as a nonprofit corporation on F in the State of F. Your Articles state that you were established to acquire, administer, hold, invest and reinvest funds received by the corporation, which funds will be used exclusively for its charitable, religious, scientific, literary or educational purposes. In addition, they indicate you will provide competitions, meetings, events and programs for educational purposes to and for the benefit of members and the public in order to enhance the education, common good, general welfare and well-being of such persons, and to protect the ability of said persons to participate in competitive activities through the provision of suitable events and programs.

You are a club composed of members of the community who engage in off-road motorcycle riding. Your specific activities consist of conducting two annual events which are J and K. J is a form of off-road motorcycle competition covering a course of to miles in length consisting of roads, dirt roads, and a single track trail. Scoring takes place at timed checkpoints. Participants are men and women, who have a motorcycle's driver's license and a properly licensed and insured machine. K involves a shorter course timed over multiple laps as well as includes separate competition classes for youth as young as years old and adult classes divided by machine size and rider ability. The K events are held on the property of a private motorcycle/ATV recreation area. You have also hosted a post season awards banquet to thank all those who volunteered to help with these events.

Your events are held around the G area for J. Parking and camping for participants is permitted on the campus of H. The J entry fee is around x dollars and similarly for K with youth fees being much less, typically y dollars. Both J and K are annual events, scheduled in coordination with the schedules of other clubs in the states located near I

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.

IRC Section 501(j)(2) defines a "qualified amateur sports organization" as an organization organized and operated exclusively to foster national or international amateur sports competition if it is also organized and operated primarily to conduct or to support and develop amateur athletes for national or international competition in sports.

Treasury Regulation Section 1.501(c)(3)-1(a)(1) provides that, for an organization to be exempt under IRC Section 501(c)(3), it 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 or 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 that 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.

Rev. Rul. 77-365, 1977 2 C.B. 192, describes an organization that was organized and operated to instruct and educate individuals of all ages and skill levels in a particular sport. It conducts clinics, workshops, lessons, and seminars. The organization was recognized as an educational organization described in IRC Section 501(c)(3).

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279 (1945), the Supreme Court determined the activities of that organization were aimed at promoting the prosperity and standing of the business community and therefore, served a substantial private purpose. It concluded that the presence of a single nonexempt purpose, if substantial in nature, will preclude exemption regardless of the number or importance of statutorily exempt purposes.

In Hutchinson Baseball Enterprises, Inc. v. Commissioner, 696 F.2d. 757 (1982), the court held that an organization that promoted recreational and amateur sports was exempt as a charitable organization under IRC

Section 501(c)(3). The organization undertook numerous activities to promote the sport of baseball and the court found that the purpose of promoting sports predominated over subsidiary purposes, such as members' recreational or social benefit.

In Media Sports League, Inc. v. Commissioner, T.C. Memo 1986-568 (1986), the court ruled that an organization that sponsored sports competitions for adults in the community was not exempt under IRC Section 501(c)(3). The court found that the organization had the substantial nonexempt purpose of promoting the social and recreational interests of its members.

In Wayne Baseball, Inc. v. Commissioner, T.C. Memo. 1999-304 (1999), the court held that the organization's nonexempt social and recreational activities were substantial in comparison to the organization's promotion of baseball in the community. The Court found that the only activity sponsored by the organization was the operation of an adult amateur baseball team and that the primary beneficiaries of the organization were the individual team participants.

Application of law

You do not meet the requirements for recognition of tax exemption under IRC Section 501(c)(3) because you fail the operational test as described in Treas. Reg. Section 1.501(c)(3)-1(a)(1).

You do not meet the provisions in Treas. Reg. Section 1.501(c)(3)-1(c)(1). You are a club whose members engage in off-road motorcycle riding. You are also conducting J and K for your members and those of the community as well as for members from other clubs. This shows you are operated for substantial nonexempt recreational and social purposes and precludes exemption under IRC Section 501(c)(3).

You are not a qualified amateur sports organization, as defined in IRC Section 501(j)(2) because you do not foster national or international amateur sports competition or support and develop amateur athletes for national or international competition in sports. Rather, you are operated to provide recreational activities for members and those of the community.

You are not like the organization described in Rev. Rul. 77-365. You do not instruct individuals of all skill levels in a particular sport through clinics, workshops, or lessons. You organize recreational events for your members and members of the general public. This disqualifies you from exemption under IRC Section 501(c)(3).

Your activities mainly consist of conducting recreational and social activities for members and the general public. Because you are operating for substantial non-exempt purposes, as described in Better Business Bureau of Washington, D.C., Inc., you are precluded from exemption.

You are unlike the organization described in Hutchinson Baseball Enterprises, Inc. because you are operated for substantial recreational and social purposes. You are like the organizations described in Media Sports League, Inc. and Wayne Baseball Inc. because your recreational activities are substantial and preclude exemption under IRC Section 501(c)(3).

Conclusion

Based on the above facts and analysis, you do not qualify for exemption under IRC Section 501(c)(3). You fail the operational test because you are serving a substantial non-exempt recreational

purpose. Accordingly, 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 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