



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

Date: August 17, 2021

Employer ID number:

Form you must file:

Tax years:

Person to contact:

Name:

ID number:

Telephone:

Number: **202145028**
Release Date: 11/12/2021

UIL Number: 501.00-00, 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.

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: June 22, 2021

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

B = State 1
C = Date 1
D = State 2
E = Date 2
F = Grant program
G = Community Program

UIL:

501.00-00
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) of the Code? No, for the reasons stated below.

Facts

You originally incorporated in the State of B on C. You were granted federal tax exempt status under IRC Section 501(c)(6), however, your tax exempt status was automatically revoked on May 15, 2016, for failure to file the required returns for three consecutive years. The B corporation was administratively dissolved by the state. You formed a new entity in the State of D on E. You then filed a Form 1023 Application for Exemption under Section 501(c)(3), as a successor to the Section 501(c)(6) organization. You decided to apply for tax exempt status under Section 501(c)(3) because the critical issues of oral health care are paramount and you are an advocate for excellent oral health in the United States.

Your D Articles of Incorporation, that do not show evidence of being filed with the State, indicate that your purpose is to support member dental therapists to provide the highest quality dental care for patients and communities, to promote the profession and status of your members and increase public awareness, and to be an official channel of communication on behalf of your member. The dissolution clause states that your assets will be distributed to an organization exempt under Section 501(c)(3) or (6) of the Internal Revenue Code. You have taken over the activities of the former organization because you are invested in achieving the same goals and

support the concept that was begun by your predecessor. The B corporation set up a website, conducted national meetings and advocated on behalf of oral health care and dental therapy in the United States. You are using the same employer identification number (EIN) as your predecessor. A new board was elected several years ago when you realized that your tax exempt status under IRC Section 501(c)(6) was revoked.

Your goals for the next five years are to advocate for people, underserved populations and issues that you care about; promote relationships among dental therapists and other allies; inform dental therapists, allies and policy makers; advance and protect the profession and provide services that members value. Some of your activities include the following:

1. Provide a speakers bureau,
2. Support legislation in other states,
3. Promote/provide affiliation among dental therapists, state dental therapy associations and dental therapy students,
4. Provide information to dental therapists about continuing education, dental conferences, online programs,
5. Be a repository for information on dental therapy practice guidance for all states and national policy information,
6. Get and keep dental therapy acknowledged as a profession and advocate for title protection across the country, and
7. Investigate and offer insurance discounts (personal liability, short term/long term disability).

We requested additional information regarding your activities including your change in purposes from IRC Section 501(c)(6) to Section 501(c)(3), your legislative activities, and a detailed description of each of the activities listed in your application. You didn't explain how your activities changed but you did submit a copy of the minutes from one of board meetings where you discussed the change. You believed that to reinstate your Section 501(c)(6) status you would have to file returns for to the current year. On the other hand, under Section 501(c)(3) you would be able to apply for grants and then switch to Section 501(c)(6) in the future. You also submitted board meeting minutes from another meeting that includes some more details regarding your activities. You plan to apply for grants including the F and G as well as obtain a fiscal sponsor. You also have representatives from several State Boards providing information regarding their activities. However, your reply did not provide sufficient details for us to make a determination, therefore you did not establish that you meet the requirements for exemption under Section 501(c)(3).

Law

IRC Section 501(c)(3) of the Code describes corporations organization and operated exclusively for charitable purposes no part of net earnings of which inures to the benefit of any private shareholder or individual.

Treasury Regulation Section 1.501(c)(3)-1(a)(1) of the regulations states that, in order to be exempt as an organization described in 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(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(d)(1)(ii) of the regulations provides that an exempt organization must serve a public rather than a private interest. The organization must establish that it is not organized or operated to benefit private interests such as "designated individuals, the creator or his family, shareholders of the organization or persons controlled, directly or indirectly, by such private interests."

In Universal Life Church v. United States, 372 F. Supp. 770 (E.D. Cal. 1974), the court concluded that "one seeking a tax exemption has the burden of establishing his right to a tax-exempt status."

Pius XII Academy, Inc. v. Commissioner, T.C. Memo. 1982-97, affd. 711 F.2d 1058 (6th Cir. 1983), provides that an organization must establish through the administrative record that it operates as an exempt organization. Denial of exemption may be based solely upon failure to provide information describing in adequate detail how the operational test will be met.

In American Science Foundation v. Commissioner, T.C. Memo 1986-556, the Court held that an organization was not eligible for exemption because it failed to provide sufficient information to permit the conclusion that its activities would be exclusively in furtherance of exempt purposes.

Application of law

IRC Section 501(c)(3) exempts from Federal income tax organizations that are *organized and operated* exclusively for charitable, educational and other enumerated purposes, provided that no part of their net earnings inures to the benefit of any private shareholder or individual. If an organization fails to meet either the organizational or operational test, it is not exempt. Section 501(c)(3) sets forth two main tests for qualification for exempt status. As stated in Treas. Reg. Section 1.501(c)(3)-1(a)(1), an organization must be both organized and operated exclusively for purposes described in Section 501(c)(3).

Your Articles of Incorporation state, in part, that your purpose is to support member dental therapists in an effort to provide the highest quality dental care for patients and communities, promote the profession and status of your members, and to be an official channel of communication on behalf of your members. Your purposes as stated in your Articles of Incorporation, are broader than the purposes specified in IRC Section 501(c)(3). Further, your Articles empower you to engage in activities that do not further exempt purposes. As a result, you have not satisfied the organizational test described in Treas. Reg. Sections 1.501(c)(3)-1(b)(1)(i) and 1.501(c)(3)-1(b)(4).

According to the findings in Pius XII Academy, Inc. v. Commissioner, American Science Foundation v. Commissioner, and Universal Life Church v. United States you have the burden of proving that you satisfy the requirements of the particular exemption statute. Because you failed to provide sufficient details in your initial application and the additional documentation you submitted did not meet the statutory and regulatory requirements for exemption, you have not established that you meet the requirements for exemption under IRC Section 501(c)(3). As in Universal Life Church, you have the burden of establishing that you qualify for tax exemption. You have not provided sufficient details showing your operations can be described under Section 501(c)(3). Finally, your dental therapy activities serve the private interests of your member dental therapists rather than the public interest as required under Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii).

Conclusion

Based on the facts and information provided, you are not operating exclusively for exempt purposes as required by IRC Section 501(c)(3). You are operating for the benefit private interest of your members and members of the dentist therapist industry as a whole. You have not provided information demonstrating that you are operating exclusively for charitable and educational purposes within the meaning of Section 501(c)(3). The facts, as presented, indicate that your primary activity is the promotion of the common interest of the dental therapist industry and your members.

Additionally, to satisfy the organizational test, an organization's Articles of Incorporation must limit its purposes to those listed in IRC Section 501(c)(3). The Articles must not expressly empower the organization to engage, more than insubstantially, in activities that are not in furtherance of those exempt purposes. Your Articles of Incorporation do not limit your purposes to one or more exempt purposes under Section 501(c)(3). Rather your Articles empower you to engage in activities that are not in furtherance of an exempt purpose.

Accordingly, you do not qualify for exemption as an organization described in IRC Section 501(c)(3) you must file federal income tax returns. Contributions to you are not deductible under Section 170.

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