



**Department of the Treasury
Internal Revenue Service
Independent Office of Appeals**

4330 Watt Avenue
SA 7890
Sacramento, CA 95821-7012

Date: Aug 17, 2021

Person to contact:
Name:
Employee ID Number:
Phone:
Fax:

Employer ID number:

Uniform issue list (UIL):
501.03-30, 501.00-00
501.03-05, 501.33-00

Number: 202145031
Release Date: 11/12/2021

Certified Mail

Dear _____ :

This is a final adverse determination that you do not qualify for exemption from federal income tax under Internal Revenue Code (the "Code") Section 501(a) as an organization described in Section 501(c)[Subsection] of the Code.

We made the adverse determination for the following reasons:

Organizations described in section 501(c)(3) of the Internal Revenue Code and exempt from tax under section 501(a) must be both organized and operated exclusively for exempt purposes. Your organization fosters national or international amateur radio sports competition by organizing and conducting expeditions, including expeditions to _____ to operate amateur radio stations to promote communication and international goodwill, and supporting other organizations and individuals involved in similar activities. Because your organizing document does not limit your purposes to exclusively IRC section 501(c)(3) purposes, you do not meet the requirements of Treasury Regulation section 1.501(c)(3)-1(b)(1)(i). Additionally, you do not meet the requirements of Regulation section 1.501(c)(3)-1(b)(4) because your assets are not dedicated exclusively to exempt purposes under section 501(c)(3). Moreover, you do not meet the requirements of Regulation section 1.501(c)(3)-1(c)(1) because your activities could include social activities for pleasure and recreation, which does not sufficiently limit the organization to qualify under section 501(c)(3). Under Treas. Reg. § 1.501(c)(3)-1(d)(1)(ii), an organization is not operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. You operated for the benefit of the private interest of your director by engaging participants to operate amateur radio stations. Accordingly, your organization is not organized and operated exclusively for exempt purposes within the meaning of section 501(c)(3).

Contributions to your organization are not deductible under section 170 of the Code.

You're required to file federal income tax returns on Forms 1120, U.S. Corporation Income Tax Return. Mail your form to the appropriate Internal Revenue Service Center per the form's instructions. You can get forms and instructions by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676).

We'll make this letter and the proposed adverse determination letter available for public inspection under Section 6110 of the Code after deleting certain identifying information. We provided to you, in a separate mailing, Notice 437, Notice of Intention to Disclose. Please review the Notice 437 and the documents attached that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437.

If you decide to contest this determination, you can file an action for declaratory judgment under the provisions of Section 7428 of the Code in either:

- The United States Tax Court,
- The United States Court of Federal Claims, or
- The United States District Court for the District of Columbia

You must file a petition or complaint in one of these three courts within 90 days from the date we mailed this determination letter to you. Contact the clerk of the appropriate court for rules and the appropriate forms for filing petitions for declaratory judgment. You can write to the courts at the following addresses:

United States Tax Court	US Court of Federal Claims	US District Court for the District of Columbia
400 Second Street, NW	717 Madison Place, NW	333 Constitution Avenue, NW
Washington, DC 20217	Washington, DC 20005	Washington, DC 20001

Note: We will not delay processing income tax returns and assessing any taxes due even if you file a petition for declaratory judgment under Section 7428 of the Code.

You also have the right to contact the Taxpayer Advocate Service (TAS). 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 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.

TAS assistance is not a substitute for established IRS procedures, such as the formal appeals process. TAS cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States Court.

If you have questions, contact the person at the top of this letter.

Sincerely,

Charles P Rettig
Commissioner
By

Appeals Team Manager

Enclosure: Publication 892



Department of the Treasury
Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Date:
12/08/2020
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

B = State
C = Date

UIL:

501.00-00
501.03-05
501.03-30
501.33-00

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, Streamline Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code. 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 IRC 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 further 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 Section 501(c)(3).

Your mission or most significant activities were described on Form 1023-EZ as fostering national or international amateur radio sports competition by organizing and conducting expeditions, and supporting other organizations and individuals involved in similar activities.

During review of your Form 1023-EZ, detailed information was requested supplemental to your attestations. You were incorporated in the state of B on C. Your Articles of Incorporation state your purpose is to foster national and international amateur radio sports competition. You organize and conduct expeditions and support

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

other organizations and individuals in similar activities. Upon dissolution you will pay all liabilities and obligations first and distribute the remaining funds to one or more domestic or foreign corporations, societies, or organizations, engaged in substantially similar activities to you. Later you submitted an attestation that you amended the purpose and dissolution clauses in order to meet the organizational test under IRC Section 501(c)(3). However, there is no evidence that this amendment was ever filed with the appropriate state agency.

You will provide expeditions to _____ to operate amateur radio stations for a limited amount of time in order to provide 2-way radio contact to other amateur radio operators. All amateur radio contact confirmations with _____ are listed in a directory published by D. Many _____ listed in this directory are _____ and have _____ or active amateur radio operators.

The general purpose of the expeditions is to make as many contacts as possible with other amateur radio operators worldwide. While emergency communications are what amateur radio is most known for, it is also a tool to promote international goodwill. Amateur radio operators have the capability to communicate around the globe. Many operators have contacted every country in the world from their home station and, accordingly, these expeditions serve a global audience. Standings are maintained and achievements are recognized, so there is an abundance of friendly competition to make contact with remote islands.

You said amateur radio service, in general, provides a critical infrastructure of communication for emergencies. A secondary purpose of amateur radio is to promote international goodwill. You further stated that any relationships engaged in by you would be in the spirit of international goodwill.

When planning the expeditions, you select _____ contact a landowner and obtain permission to visit and operate, obtain a license from a government body responsible for communications spectrum management, and make logistical arrangements to deliver your team and equipment to and from _____.

You do not have a formal application process to find participants for your expeditions. The person must be a licensed amateur radio operator, proficient in operating specific amateur radio modes, a team player, in good health, and able to share expedition expenses.

Gender, nationality, race, religious beliefs, politics views, etc. are not considered. The selection committee consists of participants who have already committed to participate in the expedition. Once a team is in place then fundraising can begin because you said that trips to _____ areas are expensive.

The activities are conducted on the _____ in both the United States and abroad where you can obtain permission from local authorities to operate and visit. The activities are conducted once a year when the participants have vacation time from their regular jobs. After the expedition is completed, presentations are made at radio club meetings. Lessons learned are shared with potential expedition participants and feedback is gathered from amateur radio operators of how the expedition performed.

One of your future activities is to solicit grants and distribute them to other amateur radio organizations conducting expeditions. Upon receiving the requests for funds, you will evaluate the potential recipients for their level of their expertise, the _____ of the destination, ability to obtain the permit from local authorities, budgets, and costs estimates. You will implement a safeguard over the use of the funds, such as reviewing receipts, pictures/videos, and contracts. You indicated that, even though the activity is a hobby, you will not

tolerate any misuse of the funds, and the applicant will not be considered in the future if any misleading information is uncovered.

You operate on a cost sharing basis, where the participants split the transportation and other costs equally. You solicit donations of the equipment and services from manufacturers of the amateur radio equipment and other potential sponsors. The donations are used to subsidize the cost of the expeditions and compensate for the expenses incurred by the participants. You distribute the funds in equal proportions between the participants upon the completion of the expeditions. The funds will help finance the costs for air travel, lodging, food, fuel, etc. The purpose of applying for tax-exempt status is "to scale up support for smaller amateur radio expeditions" to less You hope to support more expeditions and more islands will be on air with new contacts worldwide.

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 limit the purposes of such organization to one or more exempt purposes and 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.

Tres. Reg. 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 engaged primarily in activities which accomplish one or more of such exempt purposes specified in IRS Sec. 501(c)(3). An organization will not be so regarded if more than insubstantial part of its activities is not in the furtherance of an exempt purpose.

Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized or operated exclusively for exempt purposes unless it serves a public rather than a private interest. Thus, to meet the requirements of this subsection, it is necessary for an organization to establish that it is not organized and operated for the benefit of 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 Revenue Ruling 66-179, 1966-1 C.B. 139, the Service held hobby clubs that may achieve service recognition as exempt under IRC Section 501(c)(3) are ones that conduct structured educational programs for member and

the public, issue newsletters or bulletins containing educational material, maintain reference libraries and prepare displays and exhibits for the public.

Rev. Rul. 68-165, 1968-1 C.B. 253, describes a domestic nonprofit corporation that joins with a counterpart group in Latin America to promote student and cultural exchanges and to provide technical and material assistance for self-help projects designed to improve the living conditions of underprivileged people in Latin America. The Service found the organization's activities such as promoting student and cultural exchanges; providing advice and training in administering various social welfare programs; and undertaking studies of and developing solutions to, agricultural, educational, transportation, and water resource problems improve the capabilities of the individual and instruct the public on subjects beneficial to the community. Therefore, these activities are educational. Furnishing the tools and material to help improve living conditions of the underprivileged is charitable within the meaning of IRC Section 501(c)(3).

In Rev. Rul. 69-174, 1969-1 C.B. 149, the organization provides emergency rescue services to stranded, injured, or lost persons. It also provides emergency services to persons suffering because of fire, flood, accident, or other disaster. No charge is made for any of these services. The organization is financed by public contributions and dues from the volunteer members and uses its funds for purchasing equipment and for paying expenses of operation. It is held that, by providing rescue services and emergency aid to distressed persons in the manner described, the organization is serving a charitable purpose by protecting the health, safety, and life of persons.

Rev. Rul. 69-175, 1969-1 C.B. 149, held a nonprofit organization, formed by parents of pupils attending a private school, that provides school bus transportation for its members' children serves a private rather than a public interest and does not qualify for exemption under 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 of the United States interpreted the requirement in IRC Section 501(c)(3) that an organization be "operated exclusively" by indicating that an organization must be devoted to exempt purposes exclusively. This plainly means that the presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number and importance of truly exempt purposes.

In Minnesota Kingsmen Chess Association Inc. v. Commissioner, T.C. Memo. 1983-495 (1983), the organization sponsored chess tournaments, provided chess magazines and books to libraries, offered free chess lessons, and published a newsletter that primarily contained reports of past tournaments and announcements of future ones. The petitioner sought exemption under IRC Section 501(c)(3) because its purposes and activities were described as educational. The court found that the promotion of chess tournaments furthered a substantial recreational purpose, even though individual participants may have received some educational benefits.

Application of law

IRC Section 501(c)(3) 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.

Because your organizing document does not limit your purposes to exclusively IRC Section 501(c)(3) purposes, you do not meet the requirements of Treas. Reg. Section 1.501(c)(3)-1(b)(1)(i). Additionally, your Articles state that upon your disposition your assets will be distributed to organizations similar to yours, but silent as to

whether those organizations must be exempt under IRC Section 501(c)(3), which also causes you to fail the organizational test per Treas. Reg. Section 1.501(c)(3)-1(b)(4).

You do not meet the requirements of the Treas. Reg. Section 1.501(c)(3)-1(c)(1) because you do not operate exclusively for purposes described in IRC Section 501(c)(3). The general purpose of your expeditions is to make as many contacts as possible with other amateur radio operators worldwide. You indicated that the amateur radio contacts can be used in emergency communications, but your main purpose is providing expeditions as a hobby.

You use donations to subsidize the cost for the participants in your expeditions. You do not meet the provisions of Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) because, like the organization described in Rev. Rul. 69-175, your activities serve the private interests of your participants rather than the public.

You are distinguished from the organization described in Rev. Rul. 66-179 because you do not have structured educational programs for the public. You also differ from the organization described in Rev. Rul. 68-165 because you do not coordinate or operate a program that advances cultural education.

You are distinguished from the organization described in Rev. Rul. 69-174 because you are not providing emergency rescue services; rather, you are furthering the hobby interests of your participants. You state that, in general, amateur radio can be used in emergency situations, but your activities largely promote international goodwill, rather than emergency services.

As in Minnesota Kingsmen Chess Association, Inc., participants in your expeditions could have some educational benefit, but overall, you serve substantial recreational purposes for the participants. Because your recreational/hobby activities further a substantial non-exempt purpose, as described in Better Business Bureau of Washington, D.C., Inc., you do not qualify for exemption under IRC Section 501(c)(3).

Conclusion

You fail both the organizational and operational tests. Your organizing document does not limit your purposes to those described in IRC Section 501(c)(3) and your assets are not dedicated exclusively to Section 501(c)(3) purposes upon your dissolution. You fail the operational test because you operate substantially in furtherance of the private interests of your participants and your expeditions further a substantial, non-exempt recreational purpose. Therefore, you are precluded from 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-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