



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

Date:
12/16/2021
Employer ID number:

Form you must file:

Tax years:

Person to contact:

Number: **202210022**
Release Date: 3/11/2022

UIL: 501.03-00

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.

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 Letter 437, Notice of Intention to Disclose - Rulings, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Letter 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.

We sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosures:

Letter 437

Redacted Letter 4034

Redacted Letter 4038

cc:



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

Date: **October 25, 2021**

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

B= State
 C= Date
 D= Religion
 E = Religious Movement

UIL:

501.03-00

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.

Issue

Do you qualify for exemption under IRC Section 501(c)(3)? No, for the reasons stated below.

Facts

You were incorporated in the state of B on C. Your Articles of Incorporation state that you are organized and operated exclusively for religious purposes within the meaning of IRC Section 501(c)(3). Your specific purpose is to teach and expand the church of D, the religion of D, and

Your bylaws state your _____ church blends different religious and philosophical concepts while having a fluid structure that is constantly evolving. The everchanging nature of your church allows it to evolve with science and the spirituality to stay current and relevant for its members.

In your Form 1023 you state that you are inspired by E teachings which is a _____ religious movement. Worship is performed in a group setting when the members are united at the church's religious services. There are two forms of worship:

The first is a more formal service with a set time and place. It is followed by a specific program consisting of _____ Worship includes music and song. This is a traditional style of service.

The second form of worship is a personal and intimate worship exhibiting one's relationship with God. The worship is achieved with the _____ and the knowledge people have gained through the _____. This form of worship is held in a quiet and tranquil indoor/outdoor setting and can be done alone or in a group setting with other members.

The _____ is the method and means for using the _____ . The teachings will prepare members on how to _____ and most importantly, be closer to God. The _____ is when cannabis is consecrated by an ordained minister of the church. It becomes, in reality, the _____ even though the substance has not physically changed.

In response to our request for additional information you stated,

The participation of the _____ is not obligatory to be a member of the Church. When we meet in a communal setting (formal), a Church Minister will consecrate dried fruit and by the Grace of our Creator, it will become the _____ while the outward appearance remains the same.

This is not symbolic or a metaphor, this is the true presence of God. The term for this is transubstantiation. This allows all members and non-members to participate in the _____ if they wish.

PLEASE NOTE: THIS IS JUST 100% DRIED FRUIT AND NO CANNABIS

In a subsequent conversation you stated that you also _____ cannabis and submitted an additional response stating the following:

The _____ is the first step for those who wish to become a member of the Church of D. By reading and watching videos, we will educate future members on the teachings of the Church.

After comprehending the information, they will be ready to become official members and a part of the congregation. We will continue with our teachings and encourage members to play an active role in the church.

From _____ Members of the congregation donate seeds to the Church. The seeds are immersed in Holy Water for 12-24 hours. It is during this time when sanctification occurs. These Sacramental seeds are given to our _____ to cultivate and prepare for _____ of the Church of D.

Upon consecration, the Sacramental cannabis becomes the essence of God while its appearance remains the same. The Sacramental cannabis is now Divine. Exactly the way bread becomes the Body of Christ in the Roman Catholic Church.

Your representations regarding the purchase of the cannabis are inconsistent. At one point, you stated that the Church will not use church funds or member contributions to purchase cannabis. At another point, you stated that members agree to contribute to "pre-consecration costs" but that there is no minimum or suggested amount. In your most recent response to the Service, you indicated that "sacramental seeds" are donated by members and given to "the Granger" to cultivate and prepare for consecration.

Law

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

Treasury Regulation Section 1.501(c)(3)-1(a)(1) provides 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 exempt purposes. 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(c)(1) of the regulations provides that an organization operates exclusively for exempt purposes only if it engages primarily in activities that accomplish exempt purposes specified in IRC Section 501(c)(3). An organization will not be operated exclusively for exempt purposes if more than an insubstantial part of its activities are not in furtherance of an exempt purpose.

Treas. Reg. Section 1.501(c)(3)-1(d)(2) of the regulations provides that the term "charitable" is used in IRC Section 501(c)(3) in its generally accepted legal sense.

Restatement (Second) of Trusts, Sections 368, 372 (1959); 4A Scott and Fratcher, The Law of Trusts, Section 368, 372 (4th ed. 1989). However, a trust is invalid if its purpose is illegal. Restatement (Second) of Trusts, Section 377 (1959).

21 U.S.C. Section 802(16) defines marijuana as "all parts of the plant *Cannabis sativa* L. whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin."

21 U.S.C. Section 821(c), Sch. I(c)(10) lists marijuana as a hallucinogenic substance and includes it on schedule I of the Schedules of Controlled Substances. A schedule I substance is a substance that (1) has a high potential for abuse; (2) has no currently accepted medical use in treatment in the United States; and (3) there is a lack of accepted safety for use of the drug under medical supervision.

21 U.S.C. Section 841(a), known as The Controlled Substances Act, states that it is illegal for anyone to knowingly or intentionally manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense a controlled substance.

Revenue Ruling 75-384, 1975-2 C.B. 204, holds that a nonprofit organization, whose purpose was to promote world peace, disarmament, and nonviolent direct action, did not qualify for exemption under IRC Section 501(c)(3) or (c)(4). The organization's primary activity was to sponsor antiwar protest demonstrations in which demonstrators were urged to violate local ordinances and commit acts of civil disobedience. Citing the law of

trusts, the ruling stated that all charitable organizations are subject to the requirement that their purposes cannot be illegal or contrary to public policy.

In Ould v. Washington Hospital for Foundlings, 95 U.S. 303, 311, 24 L. Ed. 450 (1877), the Court noted that "[a] charitable use, where neither law nor public policy forbids, may be applied to almost anything that tends to promote the well-doing and well-being of social man."

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279, 283, 66 S. Ct. 112, 90 L. Ed. 67, 1945 C.B. 375 (1945), the Supreme Court held that the "presence of a single . . . [nonexempt] purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly . . . [exempt] purposes."

In Harding Hospital, Inc. v. United States, 505 F.2d 1068, 1071 (6th Cir. 1974), the court held that an organization has the burden of proving that it satisfies the requirements of the particular exemption statute. The court noted that whether an organization has satisfied the operational test is a question of fact.

In Bob Jones University v. United States, 461 U.S. 574, 103 S. Ct. 2017, 76 L. Ed. 2d 157 (1983), the Supreme Court held that racially discriminatory education is contrary to public policy and the University therefore could not be viewed as providing public benefit within the charitable concept.

In Mysteryboy Inc. v. Commissioner, T.C. Memo 2010-13 (2010), the Tax Court held that the organization failed the operational test partly because the organization proposed to promote illegal activities.

Application of law

Based on the information you provided in your application and supporting documentation, we conclude that you are not organized and operated exclusively for exempt purposes under IRC Section 501(c)(3). An organization can be recognized as exempt under Section 501(c)(3) only if it shows that it is both organized and operated exclusively for charitable, educational, or other exempt purposes. 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(a)(1).

Federal law classifies cannabis as a controlled substance, as detailed in 21 U.S.C. Sections 802 and 821(c), Schedule I(c)(10). Federal law, under 21 U.S.C Section 841, prohibits the manufacture, distribution, possession, or dispensing of a controlled substance. The consumption of cannabis, while not obligatory, is still a substantial part of your exempt activity and worship services. The consumption and distribution of cannabis is an illegal activity - current federal law prohibits the use of cannabis. Because you engage in activities that contravene federal law, you serve a substantial nonexempt purpose.

You do not satisfy the operational test of Treas. Reg. Section 1.501(c)(3)-1(c)(1). Whether an organization operates exclusively in furtherance of an exempt purpose is a question of fact. An organization seeking tax-exempt status under IRC Section 501(c)(3) carries the burden of proving that it satisfies the requirements of the statute. See Harding Hospital, 505 F.2d at 1071. Only an insubstantial portion of the activity of an exempt organization may further a nonexempt purpose. Because you engage in activities that contravene federal law, you serve a substantial nonexempt purpose. As the Supreme Court held in Better Business Bureau of Washington, D.C., Inc. v. United States, the presence of a single nonexempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes.

The common law of trusts specifies that a charitable trust cannot be created for an illegal purpose. See Restatement (Second) of Trusts, Section 377. Similarly, the Supreme Court noted in Ould v. Washington Hospital for Foundlings, that "[a] charitable use, where neither law nor public policy forbids, may be applied to almost anything that tends to promote the well-doing and well-being of social man." Like a trust, an IRC Section 501(c)(3) organization cannot be created for a purpose that is illegal. You have indicated one of your specific purposes is to teach and expand the Sacrament Divine; this involves, in part, the consumption and distribution of cannabis. Because you engage in activities that contravene federal law, you serve a substantial nonexempt purpose. See Rev. Rul. 75-384, supra; Mysteryboy, Inc. v. Comm'r.

You are not described in Treas. Reg. Section 1.501(c)(3)-1(d)(2) which provides that the term "charitable" is used in IRC Section 501(c)(3) in its generally accepted legal sense. Advancement of religion has long been recognized as a charitable purpose. However, a trust is invalid if its purpose is illegal. The common law of trusts specifies that a charitable trust cannot be created for an illegal purpose. Because you engage in activities that contravene federal law, you serve a substantial nonexempt purpose. See Restatement (Second) of Trusts, Sections 368, 372 (1959); 4A Scott and Fratcher, The Law of Trusts, Section 368, 372 (4th ed. 1989); Restatement (Second) of Trusts, Section 377 (1959).

Conclusion

Based on the facts and information submitted, you are not operated exclusively for exempt purposes. Your substantial activity of cultivating and consuming cannabis violates federal law and furthers a substantial nonexempt purpose. Accordingly, you do not qualify for exemption as an organization described in IRC 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