



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities

Box 2508
Cincinnati, OH 45201

Date:
February 1, 2022
Employer ID number:

Form you must file:

Tax years:

Person to contact:

Name:

ID number:

Telephone:

Check if 501(c)(3) denial

Check if valid POA

Release Number: **202217009**
Release Date: 4/29/2022
UIL: 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 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.

Sincerely,

Director, Exempt Organizations
Rulings and Agreements

Enclosures:
Letter 437

Letter 4038 (Rev. 11-2021)
Catalog Number 47632S



Department of the Treasury
Internal Revenue Service
PO Box 2508
Cincinnati, OH 45201

Date: December 8, 2021

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

B = State

C = Date

D = Portion

f percent = Number

g percent = Number

UIL:

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 formed as a nonprofit corporation in the state of B on C. According to your Articles of Incorporation, the purpose for which you were formed is to promote the medical and _____ benefits of Entheogens, psychedelic plants including Psilocybin, Peyote, Ayahuasca and Ibogaine; fund research into novel uses of these plants; and persuade the public to support re-scheduling cannabis and the entheogens out of Federal Schedule One so they can be more easily studied and used by physicians and _____. Your Articles also state you are organized exclusively for charitable, religious, educational, and scientific purposes, including the making of distributions to organizations that qualify as exempt organizations under IRC Section 501(c)(3) and that, upon dissolution, assets will be distributed for exempt purposes within the meaning of Section 501(c)(3).

According to your application, your exempt purpose activities are to promote the medical and mental health benefits of Cannabis, Entheogens, psychedelic plants including Psilocybin, Peyote, Ayahuasca and Ibogaine; fund research into novel uses of these plants; and persuade the public to support rescheduling cannabis and the entheogens out of Federal Schedule One so they can be more easily studied and used by physicians and the public. You state that these activities further your exempt purposes because they educate the public and make them aware of the medical and mental health benefits of these plants. You explained that f percent of your funds

will be used to fund research, publishing articles and educating the public and g percent will be used for lobbying and influencing lawmakers.

You explained that you will make grants and loans to individual researchers or institutions or private companies who will study and research these plants. Once you have contracts with such individuals or organizations, you will keep records of them with detailed information on who is receiving the grant, the time of payment, the frequency of updates throughout the research period, etc. Before funding any project, the individual, company, or organization will be reviewed by your Board and will make sure that their goals directly correlate with your own. You will implement oversight procedures that include a breakdown of how resources granted will be allocated by research recipients, along with periodic and final reports.

In a response to our request for more information, you indicated you will fund and engage with researchers from top-level academic institutions across the country to conduct research into the potential benefits of the substances you have identified. You stated that preliminary studies show promise in treating many psychiatric disorders including depression, addiction and PTSD. You will create and distribute informational materials and videos of these substances and their benefits to educate the public. You expect the research you fund to be published in high-level academic journals and presented at research conferences around the world. You also propose a D split with the research institutions of all intellectual properties and revenue streams resulting from your funded research. The revenue will then be used to further your usual activities and fund more research.

You will be funded by gifts, grants and contributions from the general public.

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) 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 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) 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 is not in furtherance of an exempt purpose.

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 812(b)(1) defines a Schedule I controlled substance as one 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 812(c), Sch. I (c)(6), (8), (10), (12), and (15) lists Dimethyltryptamine (the active ingredient in the Ayahuasca plant), Ibogaine, Marijuana, Peyote, and Psilocybin, respectively, as hallucinogenic substances and includes them on Schedule I of the Schedules of Controlled Substances.

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.

Rev. Rul. 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 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 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.

The court case, United States v. Oakland Cannabis Buyers' Cooperative, 532 U.S. 483, 490, 121 S. Ct. 1711, 149 L. Ed. 2d 722 (2001), reiterates that there is only one exception for cannabis: Government-approved research projects. "It is clear from the text of the Act that Congress has made a determination that marijuana has no medical benefits worthy of an exception." Id. at 493.

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

You are not 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). 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 Section 501(c)(3) carries the burden of proving that it satisfies the requirements of the statute. See Harding Hospital. Only an insubstantial portion of the activity of an exempt organization may further a nonexempt purpose. As the Supreme Court held in Better Business Bureau, 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.

You are seeking to fund research with controlled substances. Federal law does not recognize any health benefits of Dimethyltryptamine, Ibogaine, Marijuana, Peyote, or Psilocybin and classifies them as Schedule I controlled

substances. 21 U.S.C. Sections 802(16) and 812. You have provided no authority to show that it is legal for any person, institution or company to use any of the substances that are the subject of the research you seek to promote and finance. It is your burden to show that using these controlled substances are permissible. An organization cannot be granted exempt status if its operations promote illegal activities. Furthermore, federal law prohibits the manufacture, distribution, possession, or dispensing of a controlled substance. 21 U.S.C. Section 841(a). Congress has "made a determination that marijuana has no medical benefits worthy of an exception" to the general rule that the manufacture and distribution of cannabis is illegal. Oakland Cannabis Buyers' Coop.

Current federal law prohibits the use of Dimethyltryptamine, Ibogaine, Marijuana, Peyote, and Psilocybin except in limited circumstances; those limited circumstances do not include their use for medicinal purposes. Even if your state has legalized distribution of marijuana and cannabis to a limited extent is not determinative because under federal law, distribution of marijuana is illegal. Because you advocate and engage in activities that contravene federal law, you serve a substantial nonexempt purpose.

While the organization described in Revenue Ruling 75-384 had the goal of educating the public on the benefits of topics such as world peace and disarmament, its primary means of meeting their goals precluded them from receiving exemption under IRC Section 501(c)(3). Their activities were deemed to induce or encourage the commission of criminal acts through civil disobedience by intentionally planning or sponsoring these events . As the ruling states, highlighting the law of trusts, all charitable trusts (and by implication all charitable organizations) are subject to the requirement that their purposes may not be illegal or contrary to public policy. While medical marijuana may currently be legal in the state you reside, it is currently not recognized as legal by federal law. Therefore, despite any educational or charitable purpose you may plan to achieve through your activities, you are promoting an illegal activity under federal law. Therefore, you are not operating exclusively for purposes within the meaning of Section 501(c)(3).

In addition, in the case of Mysteryboy, it was found that the organization was encouraging an activity that violated public policy as reflected in federal and state laws. Therefore, the organization was found not to be exempt from federal income tax. Because your activity of funding research with controlled substances is violating public policy, you do not qualify for exemption under IRC Section 501(c)(3).

Also, United States v. Oakland Cannabis Buyers' Cooperative, further reiterates that federal law prohibits the manufacture, distribution, possession, or dispensing of a controlled substance, except for government-approved research projects. You have not provided any evidence that you are conducting, or promoting, a program of this kind. And while these substances may provide a benefit to those suffering from medical conditions, federal law again currently does not accept the use of controlled substance for medicinal purposes. Therefore, you do not qualify under IRC Section 501(c)(3).

You also intend to negotiate with research grant recipients so as to acquire a D ownership interest in any intellectual property or revenue streams that are generated by your funded research. Granting research funds with the potential to gain valuable intellectual property rights is not a charitable endeavor. Such an arrangement is a for-profit investment which lacks a charitable purpose.

Conclusion

Based on the information provided, you do not qualify for exemption because you are not operated exclusively for IRC Section 501(c)(3) purposes. While some of your activities may be educational and charitable

in nature and may be considered legal by the state you are currently operating in, you are conducting substantial non-exempt activities as you are promoting an activity that is considered illegal by federal law. Therefore, 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 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 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