



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

Box 2508  
Cincinnati, OH 45201

Number: **202230011**  
Release Date: 7/29/2022

Date:  
05/02/2022  
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

UIL: 501.03-00, 501.35-00

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](http://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

Redacted Letter 4034

Redacted Letter 4038

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

Date: February 22, 2022

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

**Legend:**

B = State

C = Name

D = Date

h dollars = Amount

j dollars = Amount

**UIL:**

501.03-00

501.35-00

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*, on B.

You attest on Form 1023-EZ that you are organized and operated exclusively to further charitable and educational purposes as well as to foster national or international amateur sports competition.

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 attest that you have not conducted and will not conduct prohibited activities under IRC Section 501(c)(3). Specifically, you attest you will:

- Refrain from supporting or opposing candidates in political campaigns in any way

- Ensure that your net earnings do not inure in whole or in part to the benefit of private shareholders or individuals
- Not further non-exempt purposes (such as purposes that benefit private interests) more than insubstantially
- Not be organized or operated for the primary purpose of conducting a trade or business that is not related to your exempt purpose(s)
- Not devote more than an insubstantial part of your activities attempting to influence legislation or, if you made a Section 501(h) election, not normally make expenditures in excess of expenditure limitations outlined in Section 501(h)
- Not provide commercial-type insurance as a substantial part of your activities

The Form 1023EZ states that your mission is to promote the sport of disc golf in the local area and to provide and encourage family friendly outdoor disc golf recreation opportunities for all ages.

During review of your Form 1023-EZ, detailed information was requested supplemental to that above. You were incorporated in the state of B on D. Your Amended Articles of Incorporation state you are “organized exclusively for charitable, religious, educational, and scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations described under Section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code.”

You explained that you promote health, diversity, and stewardship in your community and surrounding areas for individuals, families and groups. You encourage the game of disc golf which can be in leagues, casual plays or tournaments. Your activities are held in C and anywhere in the state of B. Your activities are open and available all through the year.

You stated that you are a membership organization, and your membership is open to the public. Fees are charged for membership, tournaments, and group play. Your fees are determined by your board members and the costs of events. Each member pays an annual fee of j dollars while h dollars is charged for league play. The fees to participate in a tournament are determined by the actual cost of the particular tournament.

You explained that you help prepare your members for national or international competition by providing the best courses and equipment that you have available, and the opportunity to participate in regularly scheduled weekly league nights. You further explained that through your activities of hosting tournaments as well providing members the ability to compete will hopefully provide a networking system that allows your advanced players to mentor your beginner and intermediate players to foster relationships that will encourage more members to compete at national and international levels.

You are not members of the United States Olympic Committee and do not have any contenders for the Olympics or Pan-American games. You do not have any special requirements to participate in your activities. All skill levels and abilities are encouraged. You do not provide any training except mentorship to new and upcoming participants.

You did not provide your actual revenues and expenses for the years completed and a projection of your likely revenue and expenses for your current and future years because you are a newly formed organization.

**Law**

IRC Section 501(c)(3) exempts from federal income tax: corporations, and am community chest, fund, or foundation, organized and operated exclusively for charitable, educational purposes and to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment).

IRC Section 501(j)(2) defines the term “qualified amateur sports organization” to mean any organization organized and operated exclusively to foster national or international amateur sports competition if such organization is also organized and operated primarily to conduct national or international competition in sports or to support and develop amateur athletes for national or international competition in sports.

Treasury Regulation Section 1.501(c)(3)-l(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 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(c)(1) provides that an organization will be regarded as “operated exclusively” for one or more exempt purpose only if it engages primarily in activities which 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.

Treas. Reg. Section 1.501(c)(3)-1(d)(3) defines the term ‘educational’ as relating to (a) the instruction or training of the individual for the purpose of improving or developing his capabilities, or (b) the instruction of the public on subjects useful to the individual and beneficial to the community.

Rev. Rul. 70-4, 1970-1 C.B. 126, describes an organization engaged in promoting and regulating a sport for amateurs. The organization's stated purposes were to promote the health of the general public by encouraging all persons to improve their physical condition and fostering public interest in a particular sport. Its activities were directed toward promoting sport tournaments, exhibitions, and instructive clinics. The organization did not qualify for exemption under IRC Section 501(c)(3).

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 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 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**

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 the operational requirement, as explained below.

You fail the operational test because you do not meet the provisions in Treas. Reg. Section 1.501(c)(3)-1(c)(1). Although some of your programs may have an educational component, the manner in which numerous programs are operated show that you have a nonexempt recreational and social purpose which is substantial in nature. Like the organization described in Better Business Bureau, you are operated for substantial nonexempt purposes. The presence of these substantial non-exempt purposes prevents exemption under IRC Section 501(c)(3).

You are not described in IRC Section 501(j)(2) because you are not operated to foster national or international amateur sports competition or to develop amateur athletes for national or international competition in sports. Rather, you are operated to offer to persons of all ages and abilities an opportunity to both learn and play disc golf for social purposes and recreational purposes. Additionally, you do not have any special requirements to participate in your activities. You encourage all skill levels and abilities. You also do not provide any training except mentorship to new and upcoming participants.

You are like the organization described in Rev. Rul. 70-4 that failed to qualify under IRC Section 501(c)(3). You are engaged in promoting the sport of disc golf to individuals of all ages in part by providing tournaments and organizing weekly leagues. This is conducted in a manner that neither exclusively improves nor develops the capabilities of individuals within the meaning of Treas. Reg. Section 1.501(c)(3)-1(d)(3). You are also not exclusively engaged in the instruction of the public on subjects useful to the individual and beneficial to the community within the meaning of the regulations.

You are not like the organization described in Rev. Rul. 77-365 that qualified under IRC Section 501(c)(3). Although you may provide some disc golf instruction to adults and children, you also offer numerous recreational and social opportunities for adults to play disc golf.

You are unlike the organization described in Hutchinson Baseball Enterprises, Inc. because you operate for the substantial recreational purposes of the participants. Rather 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 information submitted, you do not qualify for exemption under IRC Section 501(c)(3) because you are not operated exclusively for exempt purposes. Your purpose is to promote and encourage the game of disc golf in your area which has a social and recreational component and furthers a substantial non-exempt purpose. You are also not exempt as described in Section 501(j)(2) because you do not operate to foster national and international sport competitions or support and sponsor the athletes who participate in such competitions. Therefore, you do not qualify for exemption under 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 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](http://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](http://www.taxpayeradvocate.irs.gov) or call 877-777-4778.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements