



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

Date:
06/06/2022
Employer ID number:

Person to contact:

Release Number: **202235011**
Release Date: 9/2/2022
UIL Code: 501.04-00, 501.36-00

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)(4). 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 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,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosures:
Letter 437
Redacted Letter 4034
Redacted Letter 4038



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

Date: 04/13/2022

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

B = State

C = Date

D = Name

m dollars = Amount Range

n dollars = Amount Range

o dollars = Amount Range

p dollars = Amount Range

x dollars = Amount

UIL:

501.04-00

501.36-00

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)(4). 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)(4)? No, for the reasons stated below.

Facts

You were incorporated in B on C. Your Articles of Incorporation state you are organized for public purposes and your specific purpose is for "Tax & Accountant Consulting."

You did not submit the bylaws with your Form 1024-A application.

Your application stated your sole activity is tax preparation and you further the exempt purpose by helping people. D is the only officer listed on Form 1024-A and is your president. D will spend % free time to conduct your activities.

During review of your Form 1024-A, detailed information was requested. D conducts federal and state tax preparation and e-filing during the tax season. Your clients will be government employees, school employees, police department, and anyone who cannot afford it. You set the fee for x dollars to cover the tax professional cost for . You claim x dollars is below cost. If a client is unable to pay, you will provide the service for free. Initial financial data shows you expect to operate at a loss and D will cover the loss out of pocket.

Further development shows you also provide tax resolution, tax investigation, tax consultation, tax audits and tax collection appeals services. Your tax preparation services will be provided during the tax season which is from January through April of each year. You will advertise your services through social media, in person and mail. You have not started conducting these services yet.

Once you started operating, % of D's time will be allocated to run a for-profit business and the remaining % time to the non-profit service. The for-profit company provides services to all people around the world. In addition to the tax related services, the for-profit company also provides bookkeeping services. You will share the facility, utilities, and phone number with the for-profit company.

You provided information on your fee schedule and the fee charged by for profit in your area as follow:

	Your Fees	Your Area For-Profit Fees
Tax Preparation:	m dollars	n dollars
Tax Resolution:	o dollars	p dollars

Subsequent information shows you expect % of fees will be your net income. Your business hours are to . You also stated your services are no different from the services provided by for-profit tax and accounting companies.

Law

IRC Section 501(c)(4) provides for the exemption from federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes. Further, exemption shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

Treasury Regulation Section 1.501(c)(4)-1(a)(1) states a civic league or organization may be exempt as an organization described in IRC Section 501(c)(4) if it is not organized or operated for profit and it is operated exclusively for the promotion of social welfare.

Treas. Reg. Section 1.501(c)(4)-1(a)(2)(i) provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterment and social improvements.

Revenue Ruling 70-535, 1970-2 C.B. 117, describes an organization formed to provide management, development and consulting services for low- and moderate-income housing projects for a fee. The revenue ruling held that the organization did not qualify under IRC Section 501(c)(4). The ruling stated "Since the organization's primary activity is carrying on a business by managing low and moderate income housing

projects in a manner similar to organizations operated for profit, the organization is not operated primarily for the promotion of social welfare. The fact that these services are being performed for tax exempt corporations does not change the business nature of the activity.”

Revenue Procedure 2022-5, 2022-1 I.R.B. 256, Section 3 states that a determination letter or ruling on exempt status is issued based solely upon the facts and representations contained in the administrative record. The applicant is responsible for the accuracy of any factual representations or attestations contained in the application. Section 6 (and its predecessors) provides that a favorable determination letter or ruling will be issued to an organization only if its application and supporting documents establish that it meets the particular requirements of the section under which exemption from federal income tax is claimed.

In Commissioner v. Lake Forest, Inc., 305 F.2d 814 (4th Cir. 1962), a corporation was organized by World War II veterans for the purpose of purchasing a government housing project and converting it to cooperative, nonprofit housing for its members. Individuals became members in the corporation by purchasing an apartment unit and, as such, the number of members was limited to the number of units available. The court held that the organization was not described in IRC Section 501(c)(4) because it was “a public-spirited but privately-devoted endeavor” that provided only incidental benefit to the community. The organization did not promote social welfare because it furnished housing only to a certain group of individuals, rather than on a community basis, and did not offer a service or program for the direct betterment or improvement of the community as a whole.

In Universal Life Church, Inc. 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 La Verdad v. Commissioner, 82 T.C. 215 (1984), the administrative record did not demonstrate that the organization would operate exclusively in furtherance of an exempt purpose. Therefore, denial of organization’s request for tax-exempt status was reasonable.

New Dynamics Foundation v. United States, 70 Fed. Cl. 782 (2006), was an action for declaratory judgment that the petitioner brought to challenge the denial of his application for exempt status. The court, in finding that the actual purposes displayed in the administrative record supported the Service’s denial, stated “It is well-accepted that, in initial qualification cases such as this, gaps in the administrative record are resolved against the applicant.” The court noted that if the petitioner had evidence that contradicted these findings, it should have submitted it as part of the administrative process. The court also highlighted the principle that exemptions from income tax are matters of legislative grace.

Ohio Disability Association v. Commissioner, T.C. Memo 2009-261 (2009), states denial is justified because responses to requests for additional information failed to supplement the initial application or clarify purposes and activities, and generalizations did not provide sufficient detail to determine that the organization would be operated exclusively for exempt purposes.

Application of law

Based on the information submitted, you have failed to establish that you are operated exclusively for exempt purposes within the meaning of IRC Section 501(c)(4) and the related income tax regulations. As such, we are unable to determine you are primarily engaged in promotion of social welfare described in Treas. Reg. Sections 1.501(c)(4)-1(a)(1) and 1.501(c)(4)-1(a)(2)(i).

Social welfare organizations are not precluded from engaging in business activities as a means of financing their social welfare programs. However, the regulations provide that an organization is not operated exclusively for the promotion of social welfare if its primary activity is carrying on a business with the general public. In Rev. Rul. 70-535, an organization that provided various services for low and moderate income housing projects for a fee was not exempt under IRC Section 501(c)(4) because its primary activity was carrying on a business in a manner similar to organizations operated for profit. In the same manner, your primary activity is carrying on a tax preparation and tax related services business, and not promoting social welfare.

Your primary activity is the provision of tax preparation and tax related services to government employees, school employees, police department and anyone who cannot afford. This type of business activity is commonly conducted to produce a profit. The Tax Court in Commissioner v. Lake Forest, Inc., concluded the organization did not qualify for exemption because they did not propose to offer a service or program for the direct betterment or improvement of the community as a whole. You are not promoting social welfare because your provision of tax preparation and tax related services to certain group of individuals does not have any direct betterment or improvement of the community as a whole.

A ruling on exempt status is based solely on facts and representations in the administrative file. You did not provide sufficient facts in your application and the additional information you provided did not establish that you are entitled to exempt status. You are not able to distinguish your operation from the for-profit business operated by D in the same facility. In addition, you have not demonstrated how your services provide any direct improvement of the community as a whole. Therefore, there is not sufficient documentation to establish that you meet the requirements of IRC Section 501(c)(4) as required by Revenue Procedure 2022-5. As in Universal Life Church, you have the burden of establishing that you qualify for tax exemption.

In Pius XII Academy, Inc., La Verdad, and New Dynamics Foundation, it was established that an organization must establish, through its administrative record, that it meets the requirements for exemption. Because you failed to provide sufficient details in your initial application and the additional information you provided 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)(4). As provided in New Dynamics Foundation, any gaps in the administrative record will be resolved against the applicant. Similarly, in Ohio Disability Association, the court found that even when additional information was provided, but it contained generalizations and failed to clarify purposes, denial is justified. You did not provide supplemental information; therefore, we are unable to determine that you qualify for exemption.

Conclusion

Based on the information submitted, you have failed to establish that you are operated exclusively for exempt purposes within the meaning of IRC Section 501(c)(4) and the related income tax regulations. Therefore, based on the administrative record, you fail to qualify for exemption under Section 501(c)(4).

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