



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

Date:
06/23/2022
Employer ID number:

Person to contact:

Release Number : 202237011
Release Date: 9/16/2022
UIL Code: 501.00-00,
501.03-05, 501.04-06,
501.35-00, 501.36-02

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,

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: 04/18/2022

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

B = State
C = Date
D = Event
E = City, County, State
F = Organization
G = Date
H = Date
J = Organization
K = Event
L = Event
M = County
N = City
x dollars = Amount Range

UIL:

501.00-00
501.03-05
501.04-06
501.35-00
501.36-02

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 were incorporated in B on C. You are currently exempt under IRC Section 501(c)(4) and now seeking exemption under Section 501(c)(3).

Article II of your Articles of Incorporation stated you were formed to promote the D annually in the City of E, to bring recognition and create good will to the City of E by means of said annual D, to bring recognition to the automotive heritage of the City of E, to earn funds to be paid over to F, a not for profit IRC Section 501(c)(3) corporation recognized by the Internal Revenue Service, and it is intended that the specific designations of the purposes for which the corporation is organized shall not limit the general purposes for which the corporation is

organized and the corporation shall have such powers and authority as may be necessary to accomplish the general purposes for which it is organized. Article IX (b) provided that you are organized exclusively for social welfare purposes pursuant to Section 501(c)(4).

You filed an Articles of Amendment on G to amend Article II. Your amended Article II stated you were formed to promote automotive events in the City of E and surrounding area, to bring recognition and create good will to the City of E by means of said automotive events, to bring recognition to the automotive heritage of the City of E, to earn funds to be paid over to any automotive museum within the City of E which is a non-for-profit IRC Section 501(c)(3) corporation recognized by Internal Revenue Service, and it is intended that the specific designations of the purposes for which the corporation is organized shall not limit the general purposes for which the corporation is organized and the corporation shall have such power and authority as may be necessary to accomplish the general purposes for which is organized.

Your most recent Articles of Amendment was filed with B on H. You replaced Article IX (b) with an adequate dissolution clause by permanently dedicate your assets for IRC Section 501(c)(3) purposes.

Your Bylaws stated your specific purpose is to operate events, programs and educational activities focusing on local contributions to art, science, and history.

You are formed to coordinate and conduct the annual D in the City of E. Your mission is to celebrate and promote City of E's unique heritage. The D includes a parade, a pageant, and many other events that are run entirely by volunteer labor including members of the board of directors. All your time is spent on planning, conducting, and implementing the various activities of the D. You are funded by donations from the community, corporate sponsorships, a fundraising event, and merchandise sales. You create and distribute an annual C magazine throughout B to promote your events and you also promote the sponsorship businesses via your social media pages and the magazine. You estimated you bring to visitors and generate about x dollars of business to M annually.

J brings approximately each year from all over the United States which participates in your parade and . Some of the in the showcase are made in your town. You are evolving from events to approximately events each year. Events include concerts, an additional , live music, family entertainment, local garage tours, K tour, L event, other community tours, and antique experiences and much more. You also list other events that conduct by other entities in your website to bring in additional visitors. Almost all of your activities are free to the public. Some events that bring in income include ice cream social, beer tent, ticket sales, merchandise sales, entrance fees, food vendor fees, partnerships like drink tents, garage cruise and , etc.

Majority of your expenses are broken down into the following main categories:

- Payroll and Office - percent
- Advertising/Marketing - percent
- Fundraising and Award Events/Luncheons - percent
- K Car Tour- percent
- Entertainment - percent
- Downtown Event Tents and General Expenses - percent

You will work towards promoting the D year-round. You took over the Downtown N Summer from local business association and chamber of commerce. You also add year-round family friendly community outreach events. Currently, local owners and local museums take to your community schools before the D to share cars and local history with school-aged children. You also facilitate historical presentations to the public throughout the year.

Depends on the income of your endowment fund, one scholarship can be awarded annually to local student who pursues a two or four-year degree in an automotive related field of study with demonstration of financial need. You make recommendations to the Community Foundation of M and the Community Foundation of M ultimately selects the final recipient.

You make just enough each year to offer D the following year. You also offer donations to local groups who volunteer during the D. You included years of financial data in Form 1023 but there is no indication of any contributions were made to other non-profit organizations.

Your current exemption under IRC Section 501(c)(4) keeps you from being eligible for certain grants. You believe a recognition of exemption under Section 501(c)(3) will enable you to secure additional grants and donations.

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 or 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:

- (a) Limit the purposes of such organization to one or more exempt purposes; and
- (b) 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(c)(1) states that an organization will be regarded as operated exclusively for one or more exempt purposes 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.

In Revenue Ruling 67-216, 1967-2 C.B. 180, a nonprofit organization formed and operated exclusively to instruct the public on agricultural matters by conducting annual public fairs and exhibitions of livestock, poultry, and farm products may qualify for exemption from federal income tax under IRC Section 501(c)(3). The organization's activities and exhibits were planned and managed by or in collaboration with persons whose business it was to inform and instruct farmers and the general public on agricultural matters (*i.e.*, home

demonstration agents, county agricultural agents), and the resulting displays were designed to be instructive. The presence at the fair of recreational features such as midway shows, refreshment stands, and a rodeo are incidental to the fair's overall educational purpose.

In Rev. Rul. 68-224, 1968-1 C.B. 262, a nonprofit organization that conducted an annual festival centered around regional customs and traditions was found to be qualified for exemption from federal income taxes under IRC Section 501(c)(4). The festival took place in an agricultural region where interest in horses and Western traditions ran high and enjoyed the broad involvement of local citizens. It typically featured a banquet or barbecue, a parade made up of local organizations and floats depicting community history, various contests relating to dress and costumes traditional of the area, and a rodeo. The revenue ruling held that, in carrying on these activities, the organization provided recreation for the community and generally promoted civic betterments and social improvements.

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279 (1945), the Supreme Court stated that the presence of a single nonexempt purpose, if substantial in nature, will preclude exemption under IRC Section 501(c)(3) regardless of the number or importance of statutorily exempt purposes.

Spanish American Cultural Association of Bergenfield v. Commissioner, T.C. Memo 1994-510 (1994), describes an organization which was created in order to foster the cultural heritage of the local Spanish-American residents. Except for the charitable donations and scholarships, the organization primarily engaged in social activities designed to provide Spanish-American residents with a sense of community. They were granted exempt status under IRC Section 501(c)(4), but then applied for exempt status as a charitable organization described in Section 501(c)(3). It was found that they did not qualify under Section 501(c)(3) because their social activities were more than insubstantial in comparison to its charitable activities. The organization spent approximately 75% of their time preparing events, recruiting and carrying on cultural activities and fundraisers. Although the court did not wish to establish percentage thresholds for purposes of applying the operational test, the percentages in this case are persuasive in demonstrating the insubstantiality of petitioner's charitable and educational activities in comparison with its social activities.

Application of law

You do not meet the two main tests set forth in IRC Section 501(c)(3) and Treas. Reg. Section 1.501(c)(3)-1(a)(1). 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.

The purposes in your Articles of Amendment state you promote _____ events, bring recognition and create good will to the City of E. Your purpose also include earning funds to be paid over to other IRC Section 501(c)(3) organizations. Because your Articles of Amendment do not limit your purposes to those described in Treas. Reg. Section 1.501(c)(3)-1(b)(1)(i), you fail the organizational test under Section 501(c)(3).

You are not described in IRC Section 501(c)(3) because you fail the operational test as indicated in Treas. Reg. Section 1.501(c)(3)-1(a)(1). Your primary activity is organizing and holding an annual event for the community which consists of _____, a parade, a pageant, concerts, live music, and family entertainment. Although you have some educational presentations to the public, your application shows that your educational presentations are not your primary activity. You are not operating exclusively for Section 501(c)(3) purposes as described in Treas. Reg. Section 1.501(c)(3)-1(c)(1), because you are organized and operating as for substantial social and recreational purposes. The possible contributions to other Section 501(c)(3) organizations do not override your

substantial non-exempt purposes.

You are dissimilar to the organization discussed in Rev. Rul. 67-216. The organization in the ruling was found to be exempt under IRC Section 501(c)(3) because they offered substantial instructional and educational opportunities. Any charitable or educational elements of your activities are incidental to your social and recreational purposes.

You are similar to the organization described in Rev. Rul. 68-224, which was found to be exempt under IRC Section 501(c)(4) rather than Section 501(c)(3). That organization conducted an annual festival centered around regional customs and traditions. It typically featured a banquet or barbeque, a parade and various contests. Like that organization, you provide recreation for the community and generally promote civic betterments and social improvements. Therefore, like that organization, you are best qualified under Section 501(c)(4) rather than Section 501(c)(3).

As noted in Better Business Bureau of Washington, D.C., Inc., the presence of a single non-exempt purpose, if substantial, will prevent an organization from being recognized from exemption under IRC Section 501(c)(3). Your social and recreational activities are substantial in nature. Thus, you are precluded from being recognized under Section 501(c)(3).

You are very similar to the organization described in Spanish American Cultural Association of Bergenfield. While you have some charitable and or educational elements, you are operated substantially for non-exempt social and recreational purposes, which preclude you from exemption under IRC Section 501(c)(3).

Conclusion

You are not organized and operated exclusively for charitable or educational purposes as described in Section IRC 501(c)(3). Any charitable activities you conduct are incidental to your overall non-exempt purpose of operating multiple social and recreational events for the community. Your exemption under Section 501(c)(4) remains in effect.

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