



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

Date:
07/25/2022
Employer ID number:

Person to contact:

Number: **202242012**
Release Date: 10/21/2022

UIL: 501.00-00, 501.03-00, 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,

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: 5/23/2022

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

B = Date

C = Date

D = State

E = City

F = Date

G = Organization

UIL:

501.00-00

501.03-00

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 submitted Form 1023-EZ, Streamline Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code on B.

You attest that you were incorporated on C, in the state of D. 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 the 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 are organized and operated exclusively to further educational purposes. 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

Your mission on the Form 1023-EZ states that you exist for the sole purpose of promoting business activities in E community.

Detailed information was subsequently requested. Your Articles of Incorporation state you are organized as "civic service through the organized efforts of the members of the organization, to promote the welfare of the community and its citizens through active constructive projects, to promote better relations among the people in the community and to promote business and economic development within the community." You submitted Articles of Correction on F with D agency to change the corporation type from mutual benefit to public benefit and to include adequate purpose and dissolution clauses. However, there is no evidence that this correction was accepted and approved by the D agency.

You described you sponsor several popular activities and events as follow during the year. You encourage the businesses to participate in these events.

1. _____ day - an event that recognizes the teachers in the community, fosters pride and encourages support for those who work with the youth.
2. Children's _____ - an annual that usually conducts the Saturday before _____ with participation of children and parents. It is an event to encourage recognition of the businesses of the community.
3. _____ celebration- an annual event which includes 2 to 3 days free community events. Also, the celebration includes a fund raising 5K walk-run event to support school function decided by your members.
4. _____ sales - you promote the _____ sales and encourage downtown businesses to have sales.
5. _____ sales -you promote this annual event which will be held first Saturday of _____. This event brings people to the community which benefits local businesses.
6. Children's _____ -you conduct this annual event for the children in a safe _____ or _____ and you encourage businesses to participate by _____ out _____ and _____.

7. kick-off- this event includes local church at different businesses and downtown park area, of a in the park area, drawings of free motive matinees and throughout the . Businesses are encouraged to open on the before to promote buying locally.

Your website described a history remark of your organization including the previous name, G. Your website also includes a business directory of your members, a listing of your local events and community attractions, current at the local , and your latest newsletter.

Your revenues include dues, misc. gift cert and newsletter. Your expenses are mainly categorized by your sponsored events and some administrative and office expenses.

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 test or the 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(b)(4) holds that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, for example, if, upon dissolution, such assets would, by reason of a provision in the organization's articles or operation of law, be distributed for one or more exempt purposes.

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 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.

Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest.

Treas. Reg. Section 1.501(c)(3)-1(d)(2) defines the term charitable as the relief the poor and distressed or the underprivileged, and the promotion of social welfare by organizations designed to lessen neighborhood tensions, to eliminate prejudice and discrimination, or to combat community deterioration. The term "charitable" also includes lessening of the burdens of government.

Revenue Ruling 77-111, 1977-1 C.B. 144, Situation 1, held that an organization formed to increase business patronage in a deteriorated area by providing information on the area's shopping opportunities, local transportation, and accommodations was not operated exclusively for charitable purposes and did not qualify for exemption under IRC Section 501(c)(3). The overall thrust is to promote business rather than to accomplish Section 501(c)(3) objectives exclusively.

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. The presence of a single non-exempt purpose, if more than insubstantial in nature, will destroy the exemption regardless of the number and importance of truly exempt purposes.

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.

Application of law

IRC Section 501(c)(3) sets forth two main tests for qualification of exempt status. As stated in 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).

There is no evidence that your Articles of Correction have been accepted and approved by D agency. As a result, you have not satisfied the organizational test described in Treas. Reg. Sections 1.501(c)(3)-1(b)(1)(i) and 1.501(c)(3)-1(b)(4).

You are not operated in accordance with Treas. Reg. Section 1.501(c)(3)-1(c)(1) because you are operated for a substantial nonexempt private purpose. The facts show you are operated for the benefit of your business members. Your sole purpose is to promote business and economic development in the community by serving as a sponsor of the community events in which you encourage the businesses participation. These activities as described does not further an exclusively charitable purpose as described in Treas. Reg. Section 1.501(c)(3)-1(d)(2). These facts also illustrate that you are operated to serve the private interests of your member businesses in contravention to Treas. Reg. Section 1.501(c)(3)-1(d)(ii).

You are like the organization described in Rev. Rul. 77-111 because your overall purpose is to promote business which disqualifies you from exemption under IRC Section 501(c)(3).

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. The sponsoring community events that you provided did not establish that you operate exclusively for the purposes described in IRC Section 501(c)(3). While some of your community events, such as _____ Day, Children's _____, _____ 5K Walk-Run, and Children's _____ may have further charitable purpose within the meaning of Section 501(c)(3), your primary purpose is promotion of business in the community. As discussed in Better Business Bureau of Washington D.C., Inc., a single non-exempt purpose if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes.

Conclusion

Based on the information submitted, you do not qualify for exemption under IRC Section 501(c)(3). You do not meet the organizational test and operational test. You are operated for the private interests of your business members.

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