



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

Date:
08/01/2022
Employer ID number:

Form you must file:

Tax years:

Person to contact:

Release Number: 202243019
Release Date: 10/28/2022
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: June 6, 2022

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

X = Retirement community

Y = Date

Z = State

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

Your Articles of Incorporation were filed on Y in the state of Z. Your Articles state that you are organized and operated exclusively for charitable and educational purposes under Section 501(c)(3) of the Internal Revenue Code.

You are the successor to an LLC formed in Z bearing a similar name to your corporate name. The LLC has been administratively dissolved, and you will continue to operate with the same activities previously conducted by the LLC.

Your Bylaws state that membership is open to any resident of X retirement community, or a guest who possesses a current X identification card, who can legally _____, completes a member application, and pays annual dues.

Your Bylaws also state that any member who fails to pay their dues by the due date will be dropped from the club registry and no longer be able to participate in any club events exclusively reserved for members.

Your mission statement declares you are a social organization that brings together residents of X who have a common interest in collecting or shooting a variety of firearm types, for their own enjoyment, and who are interested in promoting the safe use of firearms in general.

Your mission statement also says you may provide or arrange for educational opportunities for shooters relating to firearm safety and licensing, firearms training, care and maintenance, swap-type get-togethers, and a social atmosphere where members can “talk & ” and other mutual interests.

In your application for exemption, you indicated you were formed as a social organization for residents of X who have a common interest in collecting and . You stated you provide your members with a variety of educational, training, and events. Meetings and seminars are held at the resident recreation center, and training is done at a local . When asked to select the Code that best described your activities, you selected the designated code for a social club. You listed your activities as follows:

- Basic training
- Advanced training
- Personal and home classes
- Monthly seminars related to the sports
- Daily events
- Twice monthly member meetings

Your website reiterates that membership in your club is reserved exclusively for residents of X. Your website offers many discounts, services, and events for members. For example, it offers Civilian Program sales and services, club events, License transfer services, a laser bore sight loan program, discounted athletic club memberships, a bulk program, etc.

Your primary sources of revenue are from class fees, shooting events, and member sales of and accessories, followed by membership fees and donations. Expenses include insurance, administrative costs, cost of goods sold to members, educational expenses, events, and meeting and membership 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(c)(1) states that in order to meet the operational test, 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) states that an organization is not organized or operated exclusively for one or more exempt purpose unless it serves a public rather than a private interest. It must not be operated

for the benefit of designated individuals or the persons who created it.

Revenue Ruling 65-64, 1965-1 C.B. 241, upheld the exemption under IRC Section 501(c)(7) of a nonprofit membership organization that provided hunting and fishing facilities for its members through the propagation and stocking of fish and game on the club property. The organization's purposes were the maintenance of a club for the promotion of fellowship, recreation, hunting, fishing and similar sports among its members, their families and bona fide guests, and the conservation of fish and game.

Revenue Ruling 66-273, 1966-2 C.B. 222, held that a nonprofit organization may qualify for exemption under IRC Section 501(c)(4) where it provides a community with facilities for rifle, pistol, and shotgun practice and instructions in the safe handling and proper care of weapons. The general public was permitted full use of the organization's facilities, which were also available free of charge to units of the armed services of the United States and for their use in conducting required training classes, to local law enforcement officers, and to junior rifle organizations. The ruling concluded that providing a community with supervised facilities for firearm shooting, giving instructions in the safe handling and proper care of guns, and teaching better marksmanship are considered activities that promote the common good and general welfare of the community under Section 501(c)(4).

Revenue Ruling 69-175, 1969-1 C.B. 149, describes an organization created to provide bus transportation for school children to a tax-exempt private school. The organization was formed by the parents of pupils attending the school. The organization provided transportation to and from the school for those children whose parents belonged to the organization. Parents were required to pay an initial family fee and an additional annual charge for each child. The Service determined that "when a group of individuals associate to provide a cooperative service for themselves, they are serving a private interest."

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279 (1945), the Supreme Court determined the activities of the organization were aimed at promoting the prosperity and standing of the business community, and therefore served a substantial private purpose. It concluded that the presence of a single non-exempt purpose, if substantial in nature, will preclude exemption regardless of the number or importance of statutorily exempt purposes.

In Old Dominion Box Co. v. United States, 477 F.2d 340 (4th Cir. 1973), the court held that operating for the benefit of private interests constitutes a substantial non-exempt purpose.

In Schoger Foundation v. Commissioner, 76 T.C. 380 (1981), it was held that if an activity serves a substantial non-exempt purpose, the organization does not qualify for exemption even if the activity also furthers an exempt purpose.

In Media Sports League, Inc. v. Commissioner, T.C. Memo 1986-568, the Tax Court addressed an organization that arranged football, softball, volleyball, and other games among its members with membership open to all persons over age twenty-one without regard to their skills in the sport. The organization offered members informal instruction in the fundamentals of each sport, but members were not required to receive instruction or to participate in any athletic activities. The Tax Court held that the organization was not exempt from federal income tax under IRC Section 501(c)(3) because the social and recreational interests of its members constituted a substantial purpose, which is not an exempt one under Section 501(c)(3).

Application of law

A ruling on exempt status is based solely on facts and representations in the administrative file. You have not provided supporting documentation to establish you meet the requirements of IRC Section 501(c)(3). 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 requirements, as explained below.

You do not meet the operational test under IRC Section 501(c)(3) because you are not operating exclusively for exempt purposes as required under Treas. Reg. Section 1.501(c)(3)-1(c)(1). More than an insubstantial part of your activities consists of organizing and operating a limited membership club for the benefit of your members, which is neither exclusively educational nor charitable.

You do not meet the provisions of Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) because you are not operating exclusively for public purposes; rather, you are serving the private interests of your members. You collect dues and use that revenue to provide your members with social and recreational events. Although you provide educational classes, they are for the benefit of your members and are only a small part of your overall activities. Your members benefit more than incidentally from the events, training, discounts, and social activities you provide.

You failed to distinguish your activities from those that are traditionally found in social and recreational organizations exempt under IRC Section 501(c)(7) as described in Rev. Rul. 65-64, or to provide evidence that you are doing more than maintaining a club serving the private interests of your members.

You are like the organization described in Rev. Rul. 66-273. By providing residents of X with facilities for , and practice and instructions in the safe handling and proper care of , you are doing more to promote the common good and general welfare of the community under IRC Section 501(c)(4) than operating exclusively for Section 501(c)(3) purposes.

You are like the organization described in Rev. Rul. 69-175 because you are bringing together residents of X who have a common interest in collecting or . Members are required to pay dues to participate in your programs and events. If any member fails to pay their dues they will no longer be able to participate. Furthermore, your members have access to benefits such as discounted athletic club memberships and purchase programs. By associating together and providing a cooperative service among your members, you are furthering the mutual interests of your members and thus serving a private rather than a public interest.

As held in Better Business Bureau of Washington, D.C., Inc., a single non-exempt purpose, if substantial, will preclude tax exemption under IRC Section 501(c)(3). The operation of a social club limited to members of a private community, a substantial part of your activities, is a non-exempt purpose. Furthermore, as clarified in Old Dominion Box Co., operating for the benefit of private interests constitutes a substantial non-exempt purpose. As explained in Schoger Foundation, if an activity serves a substantial non-exempt purpose, the organization does not qualify for exemption even if the activity also furthers an exempt purpose. You do provide some educational classes, but your activities are only open to your members. You serve a substantial non-exempt purpose of serving the private interests of your members.

You are similar to the organization described in Media Sports League, Inc. You offer training in which members can enroll at their convenience, however members are not required to receive instruction. Your social and recreational events constitute a substantial purpose not described within IRC Section 501(c)(3).

Conclusion

Based on the above facts and analysis, you do not qualify for exemption under IRC Section 501(c)(3) because you are not operated exclusively for exempt purposes within the meaning of Section 501(c)(3). You fail the operational test because your social and recreational activities further a substantial non-exempt purpose. You further the interests of the members of your private community, which serves private interests and also constitutes a substantial non-exempt purpose. Accordingly, 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.

We sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

cc: