



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

Date:  
01/04/2023  
Employer ID number:

Form you must file:  
1120  
Tax years:  
All  
Person to contact:

Release Number: 202313009  
Release Date: 3/31/2023  
UIL Code: 501.31-00,  
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,

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: 11/09/2022

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

**Legend:**

W =Date of Incorporation

X = State of Incorporation

Y = Related Organization

Z = Related Country

x = Percent of Time Spent

**UIL:**

501.31-00

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 *Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*.

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 charitable 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

During review of your Form 1023-EZ, detailed information was requested supplemental to your attestations.

You were formed as corporation on W in the state of X. You indicate that you are a fraternity of men & women who believe in democracy, freedom and equal justice under law, the same values and principles espoused by the Y in Z. Since your organizational document did not sufficiently limit your purposes or dedicate your assets to those described in IRC Section 501(c)(3), you attested that you would amend the document to include proper language. However, there is no evidence that any amendment was filed with X.

You indicate x% of your activities include the celebration of holidays, both American and those commemorating the modern history of Z, such as \_\_\_\_\_, Independence Day and other important dates. The events are designed to spread awareness about the specific holiday and your purpose. These events take place at rented venues, where your members meet to share meals. The general public is welcome to attend.

You state that all your events are conducted for the sole purpose of gathering as a community and any donations collected are used to support charitable programs. When asked to clarify and to expound on your support of charitable programs, you state that donations gathered at your events are used toward organizing blood drives and to provide “food and warm clothes to homeless people, providing education grants, providing religious grants, etc.” However, you didn’t provide any evidence of funds being distributed for any charitable purposes when asked for documentation on how you financially support those activities.

During the determination process, we located an article on the internet that discussed your involvement in political campaigning in Z. You state in the article that “(You), a group from the \_\_\_\_\_ are campaigning in Z to assure the victory of the Y party candidates in the ongoing elections.” You also stated your “campaign activities aim towards promoting the idea of democracy among the people of the society.” When asked, you confirmed the article was indeed referring to you.

All your revenue comes from donations and contributions collected for your events. All money collected is used to cover costs of the events and some administrative costs (office expense, accounting fees, etc.). Your budgets show no evidence of any distributions to any charitable cause or exempt purpose. You submitted no evidence of any ongoing charitable program or participation.

#### **Law**

IRC Section 501(c)(3) provides for the exemption from federal income tax of organizations organized and operated exclusively for charitable or educational purposes, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation and which does not participate in, or intervene in any political campaign on behalf of or in opposition to any candidate for public office.

Treasury Regulation (Treas. Reg.) Section 1.501(c)(3)-1(a)(1) states that in order to qualify under IRC Section 501(c)(3), an organization must be both organized and operated exclusively for one or more exempt purposes. 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) states that an organization is organized exclusively for one or more exempt purposes only if its organizational document:

- (a) Limits the purposes of such organization to one or more exempt purposes; and
- (b) Does not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of 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.

Section 1.501(c)(3)-1(c)(3)(i) of the Income Tax Regulations states that an organization is not operated exclusively for one or more exempt purposes if it is an “action” organization.

Section 1.501(c)(3)-1(c)(3)(iii) of the regulations defines an “action” organization as an organization that participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office. The term “candidate for public office” is defined as an individual who offers himself, or is proposed by others, as a contestant for an elective public office, whether such office be national, State, or local. The regulations further provides that activities that constitute participation or intervention in a political campaign on behalf of or in opposition to a candidate include, but are not limited to, the publication or distribution of written statements or the making of oral statements on behalf of or in opposition to such a candidate.

Rev. Rul. 2007-41, 2007-25 I.R.B. Situation 21. Church P, an IRC Section 501(c)(3) organization, maintains a web site that includes such information as biographies of its ministers, times of services, details of community outreach programs, and activities of members of its congregation. B, a member of the congregation of Church P, is running for a seat on the town council. Shortly before the election, Church P posts the following message on its web site, “Lend your support to B, your fellow parishioner, in Tuesday’s election for town council.” Church P has intervened in a political campaign on behalf of B which is contrary to the standards of exemption under IRC Section 501(c)(3).

In Minnesota Kingsmen Chess Association, Inc v. Commissioner, T.C. Memo. 1983-495, the organization was formed to broaden and develop chess as art and recreation and solicit donations from the general public to conduct chess matches and tournaments to award trophies and prizes to successful contestants. The court concluded that while the tournaments may have provided some educational benefit, the tournaments were more recreational in nature. Consequently, the court found the serving of recreational interests by these tournaments is a substantial purpose for the existence of the organization, and thus fails the operational test for exemption under IRC Section 501(c)(3)

#### **Application of law**

Your organizational document doesn’t state your purpose. You describe yourself as a fraternity of people who believe in democracy, freedom and equal justice. Your primary program is celebrating holidays. Such

celebrations appear to be social in nature and have no exempt purpose. Thus, you are not organized or operated exclusively for any exempt purpose. [See Treas. Regs. Sections 1.501(c)(3)-1(a)(1), 1.501(c)(3)-1(b)(1)(i) and 1.501(c)(3)-1(c)(1)]

You are an “action” organization. You indicate that you will directly campaign to ensure members of a certain political party in Z are elected to office. You confirm this is an ongoing activity. “Action” organizations are not operated exclusively for one or more exempt purposes. Therefore, you do not meet the operational test for exemption under IRC Section 501(c)(3). [See Treas. Regs. Sections 1.501(c)(3)-1(c)(3)(i) and 1.501(c)(3)-1(c)(3)(iii)]

Similar to Situation 21 in Rev. Rul. 2007-41, you are intervening in a political campaign on behalf of a specific party. This is contrary to exemption under IRC Section 501(c)(3).

You are similar to the organization described in Minnesota Kingsmen Chess Association v. Commissioner. Your main activities are social in nature, and you have not established how these social activities and celebrations serve a clear exempt purpose under IRC Section 501(c)(3). Although you indicate that donations are collected at these events, you have not provided any evidence that your donations are distributed for charitable purposes within the definition of the Section. Thus, you do not meet the operational test for exemption under IRC Section 501(c)(3).

### **Your position**

You submitted a written response to our determination providing additional information. You indicate you were created to provide charity to those in need, however, any activities developed to meet these goals have not yet begun. You further state you are formed as a fraternity of people of Z who believe in democracy, freedom, and equal justice. You are an independent entity and not associated with any political party in Z. You state that you are not involved in any political campaign intervention, and that if anyone associated with you travels to Z to do so, they are doing so of their own volition and not as your representative. You further indicate that your website will be modified to reflect your independent stance.

### **Our response to your position**

While you indicate that you will not be involved in any political campaign intervention, you still have not provided sufficient evidence that you now meet the organizational and operational tests for exemption under IRC Section 501(c)(3). Your primary activities are still substantially social in nature and do not serve a clear exempt purpose. Your organizing document does not limit your purpose to one or more purposes described in IRC Section 501(c)(3), and you have provided no evidence that this has been adjusted.

### **Conclusion**

Based on the information you provided, you fail both the organizational and operational test to qualify for exemption under IRC Section 501(c)(3). Your organizing document does not limit your purpose to one or more exempt purposes described in IRC Section 501(c)(3). Regarding the operational test, you have failed to establish that you are operated exclusively for exempt purposes. Therefore, we cannot grant exemption under IRC Section 501(c)(3). Donations to you are not deductible by the donor.

**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