



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

Date:  
05/17/2023  
Employer ID number:

Form you must file:

Tax years:

Person to contact:

Number: **202332018**  
Release Date: 8/11/2023

**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](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: March 15, 2023**

**Employer ID number:**

**Person to contact:**

**Name:**

**ID number:**

**Telephone:**

**Fax:**

**Legend:**

B = Date

C = Date

D = State

E = Location

F = Location

**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 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 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

You described your mission or most significant activity on the Form 1023EZ is to increase the knowledge of members to promote best practices and develop higher business standards, to represent members throughout the community and to partner with the local Chamber/Visitor Bureau to promote the local area.

During review of your Form 1023-EZ, detailed information was requested supplemental to the above attestations. You submitted your Articles of Incorporation which indicate your purposes as follows:

- To improve and advance business conditions for E establishments,
- To promote higher business standards and better business methods,
- To associate members together for their mutual benefit as owners, managers, or operators of E establishments,
- To provide a forum for members,
- To represent members' point of view to legislative and regulatory agencies with respect to the common business interests of the members,
- To foster the trade, commerce, and interests of members,
- To provide nonpecuniary systems and services which enhance the membership,
- To promote the programs and services of the F.

In addition, the submitted Articles of Incorporation are silent concerning the disposition of assets upon dissolution.

You explained in your response that you represent members throughout the community and partner with the local Chamber/Visitor Bureau to promote the G area. You collaborate with local colleges and universities to provide "real world" opportunities to apply branding, and marketing theories to improve your membership offerings. You represent member properties with a strong social media presence for marketing and business development.

You explained that you spend seventy percent of your time on holding in person and virtual membership meetings. These meetings support the ongoing success of individual small businesses through like-minded community building and education in which you discuss essential topics of interest as best practices for adoption for your members' establishments. You discuss changes required to improve your website as well as identify advertising and marketing opportunities.

You further explained that you spend thirty percent of your time on maintaining a website which helps with search engine optimization and increases the collective online presence of your members. The goals of the website are to:

- Generate potential customer traffic to member businesses
- Serve as a referral tool between properties
- Provide information about the local area to promote tourism and economic growth of your area

The website also contains an interactive map of your member properties available for vacation rentals and provides a link to each member property's individual website.

You further indicated that your members provide business referrals to other member businesses in order to collectively benefit your members. To promote yourself and members, you purchased a digital advertisement from the local chamber of commerce.

Your membership has two categories. These consist of:

1. The Voting membership which is only available to persons, firms or corporations owning, managing, or operating one or more J establishment(s) that do business on a regular basis in E and the immediately surrounding counties within a                    mile radius of F. Only they may vote at your regular meetings. There is one vote per establishment.
2. The Non-Voting membership which is only available to persons, firms or corporations owning, managing, or operating one or more establishment(s) that do business on a regular basis in E and the immediately surrounding counties within a                    mile radius of F. Non-voting members are expected to attend the            meetings each year. They may vote for the election of officers at the annual meeting. There is one vote per establishment. They may attend other meetings as observers, but they cannot vote on motions presented at the meeting other than the annual meeting. They must comply with all requirements of membership and must pay the dues set.

You charge annual membership fees. You indicated that your fees are voted annually to balance the cost of the expenses with making them affordable to attract new members to provide increased positive impact within the community.

Your income is primarily generated from membership fees. Your annual expenses include the cost of hosting your website, the cost of digital advertisements and other administrative expenses such as new checks order and filing fees.

Finally, you maintain industry involvement by offsetting limited travel expenses for members to attend national industry events that highlight legislative issues, regulatory issues, and industry changes. The attendee is required to provide an educational session for all members following their return.

#### **Law**

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

Treas. Reg. Section 1.501(c)(3)-1(b)(1)(i) provides that an organization is organized and operated exclusively for one or more exempt purposes of organization:

- (a) Limit the purpose of such organization to one or more exempt purposes; and

- (b) Do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities that in themselves are not in furtherance of one or more exempt purpose.

Treas. Reg. Section 1.501(c)(3)-1(b)(4) which requires the dedication of remaining assets exclusively for purposes in IRC Section 501(c)(3).

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).

Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) provides an applicant must show that it serves a public rather than a private interest and specifically that it is not organized or operated for the benefit of private interests, such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Rev. Rul. 61-170, 1961-1 C.B. 112 describes an association composed of professional private duty nurses and practical nurses which supported and operated a nurses’ registry primarily to afford greater employment opportunities for its members was not entitled to exemption under IRC Section 501(c)(3). Although the public received some benefit from the organization’s activities, the primary benefit of these activities was to the organization’s members.

Rev. Rul. 68-504, 1968-2 C.B. 211 describes a nonprofit organization formed and operated to conduct an educational program for bank employees in a particular urban area qualifies for exemption.

Rev Rul. 71-505, 1971-2 C.B. 232 describes a city bar association, exempt under IRC Section 501(c)(6), cannot be reclassified as an organization described in Section 501(c)(3). Specifically, a substantial portion of the organization’s activities were directed at the promotion and protection of the practice of law and thus further the common business purpose of its members. These activities were substantial and reflect noncharitable and noneducational purposes.

Quality Auditing Company, Inc. v Commissioner, 114 T.C. 498 (2000) describes an organization whose activities consisted of performing quality audits of steel fabricators. It was held the organization more than incidentally served private interests of the owners and developers and therefore did not qualify for exemption under IRC Section 501(c)(3).

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 179 (1945), the Supreme Court held that the presence of a single non-exempt purpose, if substantial in nature, will destroy a claim for exemption under Section 501(c)(3) of the Code regardless of the number or importance of truly exempt purposes.

### **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). You fail both tests.

You attested that your Articles of Incorporation meet the organizational test for IRC Section 501(c)(3). However, the submitted Articles of Incorporation state in part that your purpose is “To improve and advance

business conditions, provide a forum to your members and to promote higher business standards and better business methods". Because your Articles of Incorporation 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). Furthermore, your Articles of Incorporation do not contain a dissolution clause as required by Treas. Reg. Section 1.501(c)(3)-1(b)(4). This also causes you to fail the organizational test under Section 501(c)(3).

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. Your purposes are focused on improving and advancing business conditions of your members business. You promote higher business standards and better business methods to serve your members. You operate an interactive map on your website to promote members' businesses. These activities as described do not further an exclusively educational purpose. 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. 61-170 in that the primary beneficiaries of your activities are your members and not the general public.

You are not like the qualifying organization described in Revenue Ruling 68-504. You are not operated exclusively for educational purposes within the meaning of IRC Section 501(c)(3). Rather you are like the organization described in Revenue Ruling 71-505. Your activities are directed toward the common business purpose of your members. These activities are substantial and reflect noncharitable and noneducational purposes.

Like the organization in the court case, Quality Auditing Company, you are more than incidentally serving private interests. As explained in the court case, Better Business Bureau, although you may have some educational and charitable purposes, you are operated for substantial nonexempt 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 because your organizing document does not limit your purposes to those described in Section 501(c)(3). You also do not meet the operational test for Section 501(c)(3) because you are operated to further the private interests of your members and are operated for 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](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