



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

Date: 07/03/2023

Employer ID number:

Form you must file:
1120

Tax years:
All

Person to contact:

Release Number: 202339037
Release Date: 9/29/2023
UIL Code: 501.03-00

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.

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: 05/03/2023

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

- J = Date
- K = State
- L = Place
- M = People
- N = Drug
- O = Drug
- p dollars = \$
- q dollars = \$
- r dollars = \$

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 were formed on J in the state of K. Your Articles of Incorporation state your purpose as exclusively charitable, religious, educational, and scientific which includes making distributions to organizations who are also 501(c)(3) organizations under the IRC. Your powers are limited to serving public purposes and you are limited to conducting activities that only 501(c)(3) organizations can conduct. Your articles contain a dissolution clause to ensure your assets are dedicated to 501(c)(3) public purposes if the organization should dissolve.

You state that your mission is from an ancient religious practice. You state that using these ancient rituals, healing practices, and the natural plants/substances that have been used by M for many years (including N, O,

and other similar hallucinogenic drugs), you will provide spiritual journeys and therapeutic sessions for individuals suffering from a wide variety of mental health issues and spiritual injuries.

You plan to increase these healing practices in the future by helping others who are in need. Your organization is in K, but you plan to serve individuals in the entire country. Your primary support will be from donations to your organization in addition to ceremonial charges. These activities comprise all of your organization's current and planned activities.

Your organization was founded by one of your board members who developed some health issues after a long . He searched for a long time for ways to treat his health issues. He met a M who was able to help him with the services he needed. Now he serves as a M for your organization and shares his gifts of healing with other people who have similar health issues. At present he is not compensated for use of his land, but later there may be a lease agreement adopted to compensate him for land use. Your organization plans to educate law makers regarding the medicinal uses of the plants used in your rituals, and many are presently illegal under federal law.

Your plant-based healing ceremonies begin by

. Next

The ceremonies last for hours each for consecutive days. Any time during the ceremonies you may use instruments, music, and singing to guide the healing energy. You pray at the end of each ceremony. Every individual is charged p dollars per person whether individual or group.

The non-plant-based healing services involve

. These healing services are always one-on-one with the lead M. The lead M follows his training and

You indicate the charge for these sessions per participant ranges from q dollars to r dollars.

We requested additional information regarding your church activities because you requested classification as a church under IRC Sections 509(a)(1) and 170(b)(1)(A)(i). You refer to yourself as L. You stated that you have a regular congregation of 100 to 150 members. You meet for church monthly on and on major holidays at a minimum for church meetings. Your worship incorporates religious practices which include hallucinogenic sacraments. You conduct plant based and non-plant-based ceremonies. You have developed appropriate protocols and procedures to ensure that N sacraments are not diverted from religious to non-religious use. No one under 18 years of age is allowed to participate in your ceremonies. Your ministers must train in an apprenticeship with a senior minister.

N is a Schedule I drug under the Controlled Substances Act (CSA). The CSA contains a provision authorizing the US Attorney General to waive the requirement for DEA registration of certain manufacturers, distributors, and dispensers of controlled substances. The DEA provides guidance regarding petitions for religious exemptions from CSA under the Religious Freedom Restoration Act (RFRA). The guidance states in #7 that the petitioner may not engage in any activity prohibited under the CSA or its regulations unless the petition has been granted and the petitioner has applied for and received a DEA Certificate of Registration. You have not asserted that your religious exercise has been burdened in violation of 42 U.S.C. Section 2000bb-1(a) as a claim or defense in a judicial proceeding in any federal or state court.

We asked you if you had applied for and received exemption from the Drug Enforcement Association (DEA) to use N in your religious ceremonies. We also requested a copy of your application to the DEA and a copy of their ruling received. We received your response that stated, "As I understand it, this question is unconstitutional. No comment at this time." You informed us that you would provide a more detailed answer as soon as possible. We never received any additional details.

Law

IRC Section 501(c)(3) provides for the exemption from federal income tax of corporations organized and operated exclusively for charitable or educational purposes, provided no part of the net earnings inures to the benefit of any private shareholder or individual.

Treasury Regulations Section 1.501(c)(3)-1(a)(1) states in order to be exempt as an organization described in 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 test or the operational test, it is not exempt.

Treas. Reg. Section 1.501(c)(3)-1(c)(1) provides that an organization operates exclusively for exempt purposes only if it engages primarily in activities that accomplish exempt purposes specified in Section 501(c)(3) of the Code. An organization will not be operated exclusively for exempt purposes if more than an insubstantial part of its activities are not in furtherance of an exempt purpose.

21 U.S.C. Section 812(c), Sch. I(c)(15) lists N as a hallucinogenic substance and includes it on Schedule I of the Schedules of Controlled Substances. A Schedule I substance is a substance that (1) has a high potential for abuse; (2) has no currently accepted medical use in treatment in the United States; and (3) there is a lack of accepted safety for use of the drug under medical supervision.

21 U.S.C. Section 841(a), known as The Controlled Substances Act, states that it is illegal for anyone to knowingly or intentionally manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense a controlled substance.

Article VI, Clause 2 of the United States Constitution states that federal laws prevail over conflicting or inconsistent state laws.

Rev. Rul. 75-384, 1975-2 C.B. 204, holds that a nonprofit organization, whose purpose was to promote world peace, disarmament, and nonviolent direct action, did not qualify for exemption under IRC Section 501(c)(3) or (c)(4). The organization's primary activity was to sponsor antiwar protest demonstrations in which demonstrators were urged to violate local ordinances and commit acts of civil disobedience. Citing the law of trusts, the ruling stated that all charitable organizations are subject to the requirement that their purposes cannot be illegal or contrary to public policy.

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279(1945), the Supreme Court held that the "presence of a single...[nonexempt] purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly...[exempt] purposes."

In Harding Hospital, Inc. v. United States, 505 F.2d 1068, 1071 (6th Cir. 1974), the court held that an organization has the burden of proving that it satisfies the requirements of the particular exemption statute. The court noted that whether an organization has satisfied the operational test is a question of fact.

In Mysteryboy, Inc. v. Commissioner, T.C. Memo 2010-13 (2010), the Tax Court held that the organization failed the operational test partly because the organization proposed to promote illegal activities.

In Iowaska Church of Healing v. United States, Civil Action 21-02475 (BAH) (D.D.C. March 31, 2023), the court held an organization promoting the use of an illegal substance, without a Controlled Substance Act exception, violates public policy and is not operated exclusively for exempt purposes. As a result, the organization was not entitled to exemption from income tax under IRC Section 501(c)(3).

Application of law

An organization can be recognized as exempt under Section 501(c)(3) only if it shows that it is both organized and operated exclusively for charitable, educational, or other exempt purposes. If an organization fails to meet either the organizational test or the operational test, it is not exempt as stated in Treas. Reg. Section 1.501(c)(3)-1(a)(1). Your articles of incorporation have the language needed for the organizational test. However, you are not operated exclusively for exempt purposes under IRC Section 501(c)(3) because you are conducting illegal activities by distributing N in your healing services which is a hallucinogenic substance. Under federal law, N distribution and use is illegal. Rev. Rul. 75-384 states that all charitable organizations are subject to the requirement that their purposes cannot be illegal or contrary to public policy. Also, an organization will fail the operational test when the activities are illegal, see Mysteryboy, Inc.

You do not satisfy the operational test of Treas. Reg. Section 1.501(c)(3)-1(c)(1). More than an insubstantial part of your activities is not in furtherance of an exempt purpose. Your primary activity is to conduct religious ceremonies using N sacred sacrament. As noted above, the distribution of N is illegal. Federal law does not recognize any health or other benefits of N and classifies it as a controlled substance, 21 U.S.C. Section 812(c), Schedule I(c)(15). Federal law prohibits the manufacture, distribution, possession, or dispensing of a controlled substance under 21 U.S.C. Section 841(a). By advocating and engaging in activities that contravene federal law, and by enabling individuals to engage in an activity illegal under federal law, you serve a substantial nonexempt purpose. Like Better Business Bureau of Washington, D.C. regardless of the number or importance of your truly exempt purposes, the presence of a single nonexempt purpose, substantial in nature, has destroyed your exemption. You have failed to carry your burden of proving that these activities are in furtherance of an exempt purpose, or else are insubstantial. See Harding Hospital Inc.

You are similar to the organization described in Iowaska Church of Healing. You promote the use of an illegal substance without evidence of a Controlled Substance Act exception. Therefore, you are in violation of public policy and are not operated exclusively for exempt purposes. Therefore, you are not entitled to exemption from income tax under IRC Section 501(c)(3).

Conclusion

Based on the facts and information submitted you are not operated exclusively for exempt purposes. Your primary purpose of conducting activities using N violates federal law and furthers a substantial nonexempt purpose.

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