



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

Date:
08/14/2023
Employer ID number:

Person to contact:
Telephone: :

Release Number: 202345010
Release Date: 11/10/2023
UIL Code: 501.05-00,
501.05-01

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)(5). 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.

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: 6/20/2023

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Legend:

B = formation date

C = state of formation

x percent = food and beverage sales

UIL:

501.05-00

501.05-01

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)(5). 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)(5)? No, for the reasons stated below.

Facts

You were formed on B in the state of C as a Limited Liability Company. You applied on Form 1024 for exemption under IRC Section 501(c)(5), as an agricultural organization. You state that you house and care for rescued cats that come from a local non-profit animal shelter. As part of your operations, you also operate a cat café, where you provide food and beverage sales, which constitute a small percentage of your income. In addition, you sell jewelry on consignment in your café. You charge entry fees that enable you to feed, house, and care for the cats until they get adopted. These fees are your main source of revenue. Your state recognizes you as an animal shelter facility.

In your response to our letter requesting additional information, you state that you are a non-member organization, though considering offering membership. You clarify that the food and beverage sales are x percent or less of your total revenue, and prices are similar to what people could find in other retail establishments.

At your café, people can visit with your adoptable cats in a relaxed and fun environment. They may choose to adopt a cat, or just come for the therapeutic benefit of spending quality time with cats. Your main concern is providing care for the cats that improves their well-being and educating the public about the ongoing homeless pet problem.

Law

IRC Section 501(c)(5) provides for exemption of labor, agricultural, or horticultural organizations.

Section 501(g) states that for purposes of Section 501(c)(5), agricultural refers to the art or science of cultivating land, harvesting crops or aquatic resources, or raising livestock.

Treasury Regulation Section 1.501(c)(5)-1 provides that the organizations contemplated by IRC Section 501(c)(5) as entitled to exemption from income taxation are those which (1) have no net earnings inuring to the benefit of any member, and (2) have as their objects the betterment of the conditions of those engaged in such pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occupations.

Revenue Ruling 73-520 , 1973-2 C.B. 180, describes an organization formed to promote and protect a particular breed of dog. The organization's members do not raise or use the dogs as farm animals. Using the dictionary definitions of "agriculture" as the art or science of cultivating the ground, including preparing the soil, planting seeds, raising crops, and rearing, feeding, and managing livestock, which is a definition consistent with IRC Section 501(g) , and of "livestock" as "the horses, cattle, sheep, and other useful animals kept or raised on a farm or ranch," it reasons that "Since the dogs are not used as farm animals, they cannot be considered livestock." It concludes that, by promoting and protecting this particular breed of dog, the organization does not have as its object the betterment of conditions of persons engaged in agriculture and therefore is not exempt from federal income tax under Section 501(c)(5) .

Application of law

You are not an organization described in IRC Section 501(c)(5) and Treas. Reg. 1.501(c)(5)-1 because your objective is not the betterment of conditions of persons engaged in agriculture as Section 501(g) defines that word, the improvement of the grade of their products, or the development of a higher degree of efficiency in their respective occupations. Your stated purpose is to care for homeless cats in the hopes of having them adopted and to educate the public about the homeless cat problem, while allowing the public to visit the cats through your cat cafe.

You are similar to the organization described in Rev. Rul. 73-520 in that your cats are not raised as farm animals. The ruling emphasizes that "livestock" refers to animals typically considered to be farm animals. Since dogs are not used as farm animals, then in the same sense domestic cats would also not be considered farm animals. If cats are not farm animals, then they cannot be considered livestock, thus your activity is not agricultural in nature. You also do not fit other definitions of agricultural, including the art or science of cultivating land or harvesting crops or aquatic resources.

Though the public does benefit from the educational and humanitarian aspects of the cat care and adoption activity, none of your activities have, as a purpose, the betterment of the conditions of persons engaged in the raising or improvement of livestock, or the development of a higher degree of efficiency in their raising of livestock. Your activity is therefore not agricultural in nature.

Conclusion

Based on the facts above, we conclude that you are not operated as an organization described in IRC Section 501(c)(5) of the Code. Your activity is not agricultural, nor are you a labor or horticultural organization. Therefore, you do not qualify for exemption under IRC Section 501(c)(5).

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