



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

Date:
09/25/2023
Employer ID number:

Tax years:
All
Person to contact:

Release Number: 202351016
Release Date: 12/22/2023
UIL Code: 501.03-00,
501.03-19

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: August 1, 2023

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

B = date 1

C = date 2

D = state

E = date 3

X = number 1

Y = number 2

r percent = number 3

UIL:

501.03-00

501.03-19

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 are currently exempt under IRC Section 501(c)(4). You submitted Form 1023 on B to request exemption under IRC Section 501(c)(3). You were formed as a corporation on C under the state law of D.

Your purposes in your Restated Articles of Incorporation are to foster national or international amateur competition in shooting sports, develop and support amateur shooters for national or international competition in the shooting sports, enhance the education and marksmanship skills of those who wish to participate in the shooting sports, educate hunters about firearms and firearms safety, educate the public about firearms and firearms safety, provide firearms training facilities to federal and state law enforcement officers and officials, and conduct and promote all other charitable and educational shooting sports activities that are consistent with the purposes as long as they are allowed by the federal and state law. Your Articles of Incorporation further state that you are organized exclusively for charitable purposes.

You operate a shooting range for the benefit of the public and law enforcement personnel. Your facility is a

safe, inclusive, and friendly place for responsible gun owners, friends, families, and law enforcement officers to learn, practice, and challenge marksmanship skills.

You are non-discriminatory and allow equal space and opportunity for all shooters despite their experience level. Additionally, athletes of any caliber are allowed to train at your facility if they abide by all safety rules. You are devoted to offering shooting ranges and training for the general public; you are not devoted to a small number of elite athletes. You currently do not sponsor an Olympic youth team because it is not allowed by the law of your state.

You indicated that law enforcement uses your facility r percent of the time and non-members/public uses your facility r percent of the time. Your membership is open to any member of the public who is of good moral character, has the legal ability to lawfully own, purchase, receive, possess, and use a firearm in the state of D, and completes the prescribed range safety orientation. You offer family memberships, where the head of the household can bring their spouse and children. Your facility is opened to the public X days per week, while members have access Y days per week.

Your activities will be funded by revenue from dues, shooting fees, and the sale of ammunition. Your expenses include salaries, facility expenses, and the cost of ammunition purchased for resale.

Law

IRC Section 501(c)(3) exempts from federal income tax “corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals.” No part of the net earnings may inure to the benefit of any private shareholder or individual.

IRC Section 501(j)(2) defines a “qualified amateur sports organization” as an organization organized and operated exclusively to foster national or international amateur sports competition if it is also organized and operated primarily to conduct or to support and develop amateur athletes for national or international competition in sports.

Treasury Regulation Section 1.501(c)(3)-1(a)(1) provides that, in order for an organization to be exempt under IRC Section 501(c)(3), it 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 or operational test, it is not exempt.

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 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)(3) defines “educational” as instruction or training of the individual for the purpose of improving or developing his capabilities and/or the instruction of the public on subjects useful to the individual and beneficial to the community.

Revenue Ruling 64-275, 1964-2 C.B. 142 held that an organization formed to train suitable candidates in the techniques of racing sailboats in national and international competition- thereby improving the caliber of candidates representing the United States in Olympic and Pan-American games- may qualify for exemption under IRC Section 501(c)(3).

Rev. Rul. 66-273, 1966-2 C.B. 222 held that a nonprofit organization may qualify for exemption from federal income tax 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.

Rev. Rul. 70-4 1970-1 C.B. 126 held that an organization was formed for the stated purposes of promoting the health of the general public by encouraging all persons to improve their physical condition and of fostering by educational means public interest in a particular sport for amateurs. The organization engaged in promoting and regulating a sport for amateurs is not exempt under IRC Section 501(c)(3) but is exempt under IRC Section 501(c)(4).

Rev. Rul. 77-365, 1977-2 C.B. 192, held an otherwise qualifying nonprofit organization that conducts clinics, workshops, lessons, and seminars at municipal parks and recreational areas to instruct and educate individuals in a particular sport is operated exclusively for educational purposes and qualifies for exemption. The instant organization's instruction program was open to anyone in the community for a nominal fee. The organization did not establish rules, set standards for equipment, or sponsor league competition for the sport in which it provided instruction. No compensation was paid to its directors or officers, and instructional activity was performed by volunteers without pay. The organization's income is used principally for the purchase of equipment necessary for the sport. Any difference between income and expenses is made up by contributions from interested members of the community.

Rev. Rul. 80-215, 1980-2 C.B. 174 held that an organization formed to develop, promote, and regulate a sport for individuals under 18 years of age by organizing local and statewide competitions, promulgating rules, organizing officials, presenting seminars, distributing a newsletter and otherwise encouraging growth of the sport qualified for exemption under IRC Section 501(c)(3).

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 non-exempt purpose, if substantial in nature, will destroy a claim for exemption regardless of the number or importance of truly exempt purposes.

In Minnesota Kingsmen Chess Association Inc. v. Commissioner, T.C. Memo. 1983-495, the organization sponsored chess tournaments, provided chess magazines and books to libraries, offered free chess lessons, and published a newsletter that primarily contained reports of past tournaments and announcements of future ones. The petitioner sought exemption under IRC Section 501(c)(3) because its purposes and activities were described as educational. The court found that the promotion of chess tournaments furthers a substantial recreational purpose, even though individual participants may have received some educational benefits.

In St. Louis Science Fiction Limited v. Commissioner, 49 TCM 1126, 1985-162, the Tax Court held that a science fiction society failed to qualify for tax-exempt status under IRC Section 501(c)(3). Although many of the organization's functions at its annual conventions (the organization's principal activity) were educational, its overall agenda was not exclusively educational. A substantial portion of convention affairs were social and recreational in nature.

Application of law

You are not described under IRC Section 501(c)(3) or Treas. Reg. Section 1.501(c)(3)-1 (a)(1) because you fail the operational test.

You do not meet the provisions in Treas. Reg. Section 1.501(c)(3)-1(c)(1). Although some of your activities are educational in nature, your facility is used by the general public, including spouses and children, r percent of the time. You provide shooting facilities to individuals for recreational and social shooting that does not involve training, education or national or international sports competition. Such activities as described do not serve exclusively charitable or educational purposes under Treas. Reg. Section 1.501(c)(3)-1(c)(1) or Treas. Reg. Section 1.501(c)(3)-1(d)(3).

You are not a qualified amateur sports organization, as defined in IRC Section 501(j)(2) because you do not foster national or international amateur sports competition or support and develop amateur athletes for national or international competition in sports. Rather, you are organized and operated to offer persons of all ages and skill levels an opportunity to learn, practice, and master the art of shooting. You are not like the organization described in Rev. Rul. 64-275, you are more like the organization described in Rev. Rul. 66-273; you offer the community a shooting range facility for practice and instruction in the safe handling and proper care of weapons.

You are like the organization described in Rev. Rul. 70-4 that failed to qualify under IRC Section 501(c)(3). You operate a shooting facility for individuals of all ages of which r percent of the participants are from the general public. This is conducted in a manner that neither exclusively improves nor develops the capabilities of individuals within the meaning of Treas. Reg. Section 1.501(c)(3)-1(d)(3).

You are not like the organization described in Rev. Rul. 77-365 that was granted exemption under IRC Section 501(c)(3). Although you do provide some educational and training instructions to the participants, you also facilitate and encourage recreational and social shooting activities. This precludes exemption under IRC Section 501(c)(3). Further, you are not like the organization described in Rev. Rul. 80-215 because your programs are opened to all ages rather than limited to those under the age of 18.

Similar to St. Louis Science Fiction Limited v. Commissioner and Minnesota Kingsmen Chess Association v. Commissioner, while a portion of your activities are educational in nature, your operation of a shooting range furthers a substantial recreational and social purpose. Like the organization in Better Business Bureau, this is a substantial non-exempt purpose that will destroy exemption regardless of the number and importance of any truly exempt purposes.

Your position

In your response dated E, you referenced Rev. Rul. 70-4, and declared that it supports your position because the ruling is premised on the absence of public instruction, and you provide public education and instruction in firearms use and safety and public instruction for hunters. You also stated that despite the presence of supporting members, your facility is open to the public. Additionally, you cited Rev. Rul. 80-215, and maintained that it favors you because it modifies Rev. Rul. 70-4, and you provide firearms safety courses for your members and the public, which are generally free of charge. Lastly, you indicated and submitted a letter showing your state, D, approved your charitable status. You stated that your D tax-exempt charitable status parallels the federal requirements for charitable status.

Our response to your position

Rev. Rul. 70-4 held that an organization engaged in promoting and regulating a sport for amateurs is not exempt under IRC Section 501(c)(3) but is exempt under IRC Section 501(c)(4). You are currently exempt under IRC Section 501(c)(4). You do provide some amount of public education and instruction. However, as mentioned above, you are operated for substantial non-exempt social and recreational purposes. The presence of these substantial non-exempt purposes precludes exemption under IRC Section 501(c)(3).

Rev. Rul. 80-215 held that an organization that develops, promotes, and governs a sport for individuals under the age of 18, under certain circumstances, qualify for exemption from federal income tax under IRC Section 501(c)(3). One critical component of Rev. Rul. 80-215 is that the individuals being served must be under the age of 18. Your programs are opened to all ages rather than limited to those under the age of 18.

IRC Section 501(c)(3) federal exemption requirements are separate from C state requirements.

Conclusion

Based on the facts and information submitted, you are not operated exclusively for exempt purposes. Your activities further substantial non-exempt social and recreational purposes. Therefore, you do not qualify for exemption under IRC 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.

Your exemption under IRC Section 501(c)(4) remains in effect.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements