



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

Date:
10/16/2023
Employer ID number:

Form you must file:
1120

Tax years:
All

Person to contact:

Release Number: 202402012
Release Date: 1/12/2024
UIL Code 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.

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: 08/07/2023

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

B = Date Application Submitted

C = Formation Date

D = State of Formation

E = Game Type

F = Name of Game

G = Governing Body

H = Rankings

J = National Organization

x dollars = Participation Fee

y dollars = Monthly Membership Fee

z dollars = Annual Membership Fee

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 IRC Section 501(c)(3), that your organizing document does not 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 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 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

Your mission, as stated on your Form 1023-EZ, is that you are an E club. Your goal is to grow the E community by holding wargaming tournaments and other events related to the hobby.

Detailed information was subsequently requested. Your activities are in person events to play E. Your current game is known as F, although you do plan on branching out to other games. Your plan is to grow the hobby by attracting new players and teaching them how to play. You have plans to hold tournaments at the local level and the national level. You consider the activities as recreational and social based on the interaction between the players.

When you run a tournament, you will be registered with the G, and any player who participates in an event with at least players will receive the G ranking. Every participant that receives a high ranking may be invited to try out for a spot in their country's team for the H. You indicated there is not affiliation with J. Your organization doesn't provide a training program to the members.

Participants include all ages, with a recommended age of at least years old to participate. You have a space for hosting games that has a capacity of people and has tables available to play the game.

There is an x dollars table fee per game, per player. A day tournament costs y dollars per participant. Your monthly membership fees are also y dollars. Your 12 months membership fee is z dollars. You determined these fees through a combination of what you are willing to pay yourselves and operating costs. In the future, you anticipate the price for larger, multi-day events, will be based on the price of the venue, any staff you may need to hire, and other costs.

You offer members free entry to the small one-day tournament. These members do not to pay the table fee and they will receive guests passes per month that also waive the table fee.

Law

IRC Section 501(c)(3) provides for the recognition of exemption of organizations that are organized and operated exclusively for religious, charitable, or other purposes as specified in the statute. 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) states that, in order to exempt as an organization described in IRC Section 501(c)(3), an organization 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 test 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 that 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.

Revenue Ruling 67-139, 1967-1 C.B. 129, Situation 2 describes a club formed by mineralogy and lapidary enthusiasts "to disseminate knowledge of mineralogical and lapidary subjects, to promote their application so that greater pleasure may be derived from these activities, and to promote good fellowship among its members." To further its purposes, this club held meetings in which its members would "discuss gem and mineral topics and sell, purchase, or exchange rock and mineral specimens". It was determined that the club was organized and operated primarily for the benefit, pleasure, or recreation of its members. Its activities were only incidentally educational, and as such, the club did not qualify for tax exemption under IRC Section 501(c)(3). However, it did qualify under Section 501(c)(7).

In Better Business Bureau of Washington, D.C., Inc v. United States, 326 U.S. 279 (1945), the Supreme Court of the United States interpreted the requirement in IRC Section 501(c)(3) that an organization be "operated exclusively" by indicating that an organization must be devoted to exempt purposes exclusively. The presence of a single non-exempt purpose, if more than insubstantial in nature, will destroy the exemption regardless of the number and importance of truly exempt purposes.

In Minnesota Kingsmen Chess Association v. Commissioner, T.C. Memo 1983-495 (1983), 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 furthered a substantial recreational purpose, even though individual participants may have received some educational benefits.

In St. Louis Science Fiction Limited v. Commissioner, T.C. Memo. 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

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 do not meet the provisions in Treas. Reg. Section 1.501(c)(3)-1(c)(1). Specifically, you devote your time and resources to social and recreational E activities, with both adults and children are eligible to take part. These facts show you are operated for substantial nonexempt recreational and social purposes which precludes you from exemption under IRC Section 501(c)(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 operated to provide to persons of all ages the opportunity to participate in E activities for recreational and social purposes.

You operate like the organization described in Situation 2 of Rev. Rul. 67-139, a substantial portion of your activities including playing a game and hosting tournaments at the local level that bring your members together for fun, recreational and social purposes. This fact demonstrates that you operated primarily for social and recreational purposes.

You are like the organization described in Better Business Bureau. Although you may have some educational purpose, you are operated for substantial nonexempt recreational and social purposes. The presence of these substantial non-exempt purposes prevents exemption under IRC Section 501(c)(3).

This is further clarified in Minnesota Kingsmen Chess Association v. Commissioner and St. Louis Science Fiction Limited v. Commissioner, where the substantial recreational or non-exempt purposes prohibited exemption under Section 501(c)(3).

Conclusion

Based on the facts above, you are not operated exclusively for exempt purposes as set forth in IRC Section 501(c)(3). Specifically, a substantial portion of your activities have social and recreational purposes. Therefore, you do not qualify for exemption from federal income tax as an organization described in 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.

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Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements