



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

Date:  
10/23/2023  
Employer ID number:

Form you must file:  
1120  
Tax years:  
All  
Person to contact:

Release Number: 202403013  
Release Date: 1/19/2024  
UIL Code: 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: 08/23/2023

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

**Legend:**

B = Date of Formation

C = State of Formation

x dollars = Rental Fee

y dollars = Membership Fee

**UIL:**

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.

You attest that you were incorporated on date B, in the state of C. 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 charitable 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

**Letter 4034 (Rev. 01-2021)**

Catalog Number 47628K

- 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

During review of your Form 1023-EZ, detailed information was requested supplemental to the above attestations. Your Constitution and Bylaws state your purposes include:

- To protect wild birds, fish and animals from extinction by over hunting, poison from pollution and lack of food and natural habitat.
- To enhance the sports of hunting and fishing.
- To unite members as sportsmen who respect each other socially, and as fellow men dedicated to good sportsmanship.

You state you \_\_\_\_\_ that includes a \_\_\_\_\_, numerous \_\_\_\_\_ and a clubhouse with a few outdoor pavilions. You provide access to unlimited hunting and fishing for your members and their immediate families on your property. You \_\_\_\_\_ annually with \_\_\_\_\_. You also purchased and released \_\_\_\_\_ birds on your property. You rent your outdoor pavilions to the public for private parties, BBQs, and wedding showers. Your rental fee is x dollars.

You hold an \_\_\_\_\_ event, hunter safety training sessions, monthly meetings, self-guided hunting and unlimited hunting and fishing. Your \_\_\_\_\_ and hunter safety activities are directed to children and teens. You state hunting is your most popular activity followed by fishing and \_\_\_\_\_

Your membership is open to anyone who wishes to join. Your annual membership fee is y dollars.

You are supported by membership fees, proceeds from small inheritances and gifts. Your expenses include the maintenance of your property.

#### **Law**

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

Treasury Regulation Section 1.501(c)(3)-1(a)(1) provides that, 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 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.

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 under IRC Section 501(c)(3).

In Better Business Bureau of Washington, D.C., Inc., v. U.S., 326 U.S. 279 (1945), the court held that the presence of a single non-exempt purpose, if substantial in nature, will preclude exemption, regardless of the number or importance of statutorily 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 in IRC Section 501(c)(3) because you fail the operational tests as described in Treas. Reg. Section 1.501(c)(3)-1(a)(1). Your purpose is to enhance the sport of hunting and fishing by providing unlimited recreational hunting and fishing for your members and their immediate families.

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 property is primarily used by your members for recreational purposes. Your property which is described as a \_\_\_\_\_ is used for recreational hunting and

fishing by your members. 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 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 training, your primary activity is uniting members as sportsmen for hunting and fishing on your property. This precludes exemption under IRC Section 501(c)(3).

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 property is used for hunting and fishing by your members which furthers a substantial recreational 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.

### **Conclusion**

Based on the facts and information submitted, you are not operated exclusively for exempt purposes within the meaning of IRC Section 501(c)(3). Your activities serve a substantial non-exempt recreational purpose, causing you to fail the operational test. 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](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,