



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

Date:  
10/23/2023  
Employer ID number:

Tax years:  
All  
Person to contact:

Release Number: 202403015  
Release Date: 1/19/2024  
UIL Code: 501.03-05,  
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:  
August 23, 2023  
Employer ID number:

Person to contact:  
Name:  
ID number:  
Telephone:  
Fax:

**Legend:**

X = date  
Y = state  
Z = city name 1  
F = college  
G = city name 2  
q dollars = amount

UIL:  
501.03-05  
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, because you are not organized as required under Section 501(c)(3) and have substantial non-exempt purposes as stated below.

**Facts**

You submitted Form 1023-EZ, Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code.

You attest that you were incorporated on X, in Y. 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 the IRC 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 IRC Section 501(c)(3). Specifically, you attest you will:

- Refrain from supporting or opposing candidates in political campaigns in any way

- 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

You provided in the narrative within the Form 1023-EZ that you serve the businesses of the city of Z, Y. You also stated in your narrative that your activities are funded by dues and donations.

Detailed information was subsequently requested.

Your organizing document, the Charter of Incorporation, states you are a 'civic improvement society'. Your charter also detailed that your purpose is 'to advance the civic, commercial, industrial, and agricultural interests of the Town of Z, Y and the surrounding territory; to promote the general welfare of said town and its surrounding territory, and to stimulate public sentiment to these ends; to provide such social feature as will promote these purposes; to acquire by gift, purchase, or devise, real and personal property for purpose appropriate in the exercise of its powers; and to lease, mortgage, and dispose of real and personal property, including the right to take hold and dispose of shares of stock in other corporations'. You stated you are organized to represent, promote, and seek new opportunities for businesses already in Z as well as businesses looking to locate in Z. You stated business memberships and individual memberships are served by having one voice as well as through singular concerns with city government, county government, even state government. Your organizing document does not include a dissolution clause in the event of your termination.

You have a -member team involved with your activities. You meet every month to help decide what you will do to help pull your community together with many citywide events. Your activities are all headed up by committee chairpersons and membership volunteers. Your activities are done in various locations, including state parks, city parks, libraries, and city activity centers. Your events happen throughout the year at various times (for example, Christmas parades, 4th of July, Halloween etc.).

Your events include pageant activities. The eligibility ranges from infant through 18 years, boys and girls living in Z or have ties to Z city limits or surrounding communities. You charge a fee for contestants to participate. You also charge a fee to attend the event. The funds are used to purchase trophies, pay for judges, decorations, and crowns. The Miss Z title is for the 18-year-old category and awarded a q dollars scholarship to F in G.

You have lobbied the state government through letters mailed to your area's representatives and senators. You have also promoted retail businesses by sponsoring local shops at Christmas time. You specified that you worked with your local high school for projects, mostly for beautification. You also worked with state park administration for projects which your state wouldn't cover and offered healthful activities in conjunction with a major health insurance provider. Many of your events indicated support from other organizations including churches, government auxiliaries, and various individual vendors, who may or may not be members. You specified that you don't feel you differ from any other chamber of commerce in your area in central Y.

You stated your primary role for sponsored events is that of an organizer. That is, you solicit funds/sponsorships, organize, and prepare for the events. This included venue, food, and vendors (for example, crafts, food, etc.). You also mentioned that you may lend volunteers to assist with the event. Examples of sponsored events includes Easter egg hunts, Fourth of July festivities, a ' ', and your local Parks and Recreation Department sponsors various days throughout the year and on holidays.

Your primary revenue streams are from membership dues and sales of tickets for banquets/luncheons. You receive donations from solicitations, which are generally sponsors for an activity. However, this income for sponsored events was not included in your revenue. You also indicated your city provides a monthly amount. Over half of your expenses were for the banquets/luncheons. Your other expenses were primarily administrative, or costs related to non-sponsored events, with an insubstantial amount donated to a charitable organization.

#### **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.

Treasury Regulation Section 1.501(c)(3)-1(a)(1) provides that, to be 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 the operational test, it is not exempt.

Treas. Reg. Section 1.501(c)(3)-1(b)(1)(iv) provides that in no case shall an organization be considered to be organized exclusively for one or more exempt purposes, if, by the terms of its articles, the purposes for which such organization is created are broader than the purposes specified in IRC Section 501(c)(3).

Treas. Reg. Section 1.501(c)(3)-1(b)(4) provides that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose if, upon dissolution, such assets would, by reason of a provision in the organization's articles or by operation of law, be distributed for one or more exempt purposes.

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 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.

In Rev. Rul. 71-504, 1971-2 C.B. 231, the Service held a city medical society, which primarily direct its activities to the promotion of the common business purpose of its members may not be reclassified as an educational or charitable organization under IRC Section 501(c)(3).

In Rev. Rul. 71-505, 1971-2 C.B. 232, the Service held a city bar association, that primarily directed its activities to the promotion and practice of law may not be reclassified as an educational or charitable organization under IRC Section 501(c)(3).

In Rev. Rul. 73-567, 1973-2 C.B. 178, the Service denied exemption under IRC Section 501(c)(3) for a certification board of the medical profession due to the organization's promotion of the private interests of its members.

Rev. Rul. 78-86, 1978-1 C.B. 152, the Internal Revenue Service will not follow the Ninth Circuit's decision entered in Monterey Public Parking Corporation v. United States, 481 F.2d 175 (9th Cir. 1973), affirming the decision that an organization formed by merchants to establish and operate a public off-street parking facility that provides free or reduced-rate parking for the merchants' customers through a validation stamp system qualifies for exemption as either a charitable corporation under IRC Section 501(c)(3) of the Code or a social welfare organization under Section 501(c)(4). A parking arrangement whereby merchants join together to provide parking for their customers at a reduced rate serves the merchants' private interests by encouraging the public to patronize their stores. Rather than providing their own parking, merchants are able to join together to provide a common parking facility in which all share the benefits.

In Better Business Bureau of Washington D.C. v. United States, 326 U.S. 278 (1945), the court held that an organization is not operated exclusively for charitable purposes, and thus will not qualify for exemption under IRC Section 501(c)(3), if it has a single non-charitable purpose that is substantial in nature. This is true regardless of the number or importance of the organization's charitable purposes.

In Monterey Public Parking Corp. v. U.S., 321 F.Supp. 972 (D.C.Cal. 1970), held that where a nonprofit California corporation was formed to construct and operate public off-street parking facility in a central business district of the city, no profits or advertising advantages accrued to the corporation's organizers that did not also accrue to non-organizers, all future profits were to be given over to the city, upon dissolution remaining assets were to be distributed to a nonprofit fund or foundation organized for charitable purposes and there was no indication of unreasonably accumulated surpluses, the corporation qualified for exemption from income taxes both as charitable corporation and as social welfare organization.

### **Application of law**

IRC Section 501(c)(3) sets forth two main tests for qualification for 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 organizational or operational test under Section 501(c)(3). Hence, you cannot be recognized as exempt under this section.

Your purpose is "to advance the civic, commercial, industrial, and agricultural interests of the Town of Z, Y and the surrounding territory; to promote the general welfare of said town and its surrounding territory, and to stimulate public sentiment to these ends; to provide such social feature as will promote these purposes". These purposes are broader than exempt purposes recognized under IRC Section 501(c)(3). Further, your organizing document does not contain a dissolution clause. Thus, you do not meet the organizational test specified in Section 501(c)(3). See Treas. Reg. Section 1.501(c)(3)-1(b)(1)(iv) & Treas. Reg. Section 1.501(c)(3)-1(b)(4).

You included several activities that further IRC Section 501(c)(3) purposes and support your claim to exemption. These include beautification projects, supporting the state parks, healthful activities, and a Christmas toy program. However, you also conduct activities that do not exclusively further Section 501(c)(3) purposes. These include, in part, sponsored events that are operated more by your sponsors than by you as an entity, activities such as the luncheons, banquets and the beauty pageant. Many of the activities you conduct have substantial social/recreational elements. As held in Better Business Bureau of Washington D.C., regardless

of the number or importance of exempt activities, the nonexempt purposes you promote will destroy the exemption. Therefore, you are not operated exclusively for any exempt purpose and do not meet the operational test. See Treas. Reg. Section 1.501(c)(3)-1(c)(1).

Both of the organizations in Rev. Rul. 71-504 and 71-505 were already exempt under IRC Section 501(c)(6) when applying for exemption under Section 501(c)(3). These entities were precluded from exemption under Section 501(c)(3) due to the promotion of the interests of its members being a primary purpose. Similarly, see Rev. Rul. 73-567 on the promotion of the common interests of members. Certain committees you operate in conjunction with your activities directly serve to promote local businesses/vendors. You operate a chamber of commerce for your local community - chambers of commerce and boards of trade direct their efforts at promoting the common economic interests of all the commercial enterprises in a given trade community. An organization may not be classified under Section 501(c)(3) if it has substantial noncharitable and noneducational purposes and activities, regardless of the number or importance of truly charitable or educational activities and the advancement of the public benefit. You are similar to the organizations in these ruling in that you operate to further common business interests of your members and private individuals. Therefore, you are not exempt under IRC Section 501(c)(3).

Your committees and activities serving to represent and promote businesses in Z and activities operating as a chamber of commerce provide vendors and members an excess private interest by encouraging the public to patronize their stores. As seen in Rev. Rul. 78-86, an arrangement of this type, although providing some public benefit, cannot be said to be operated exclusively for charitable purposes under IRC Section 501(c)(3). See also Monterey Public Parking v US.

### **Conclusion**

You do not meet the organizational test or operational test under IRC Section 501(c)(3). Your purposes are broader than Section 501(c)(3) purposes. You advance the private interests of businesses in a substantial manner and have substantial social/recreational activities. Therefore, you are not qualified for exemption under Section 501(c)(3). Your donors may not deduct contributions to you.

### **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  
PO Box 2508, Mail Stop 6403  
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,



Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements