



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

Date:  
11/06/2023  
Employer ID number:

Person to contact:

Release Number: 202405006  
Release Date: 2/2/2024  
UIL Code: 501.03-30,  
501.33-00, 501.35-00

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: September 13, 2023

Employer ID number:

Person to contact:

**Legend:**

B = Date

C = State Name

d percent = percentage amount

x dollars = dollar amount

**UIL:**

501.03-30, 501.33-00

501.35-00

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, Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code.

You were incorporated on B, in the state of C. Your organizing document limits your purposes to one or more exempt purposes within the meaning of the IRC Section 501(c)(3), it 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.

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

**Letter 4034 (Rev. 01-2021)**  
Catalog Number 47628K

- 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

Your mission, as stated on your Form 1023-EZ, is exclusively for charitable, religious, educational, and scientific purposes including distributions to organizations that qualify as exempt under IRC Section 501(c)(3). Detailed information was subsequently requested.

You stated that your sole activities are to participate in cook-offs with the purpose of raising funds to support scholarships for children, raise funds for educational purposes, and raise funds for community development. You participate in these competitions two to three times a year, which are held at various community facilities in the area. You do not charge any fees, but the sponsors of these events charge an admission fee to the public.

Teams that participate in the competitions are charged an entry fee. You solicit donations to assist in paying your entry fees and the cost of supplies to participate in the competitions. You indicated that the entry fees you pay are then donated by the event sponsor to charitable causes.

In addition to the cook-offs, you indicated you participate in general fundraising to give back to the community. These activities constitute d percent of your time and resources. We requested additional information, regarding the amount donated to charitable causes by the event sponsors, the names of the charitable causes funded, and the amount donated to each.

You stated you have participated in multiple cook offs, and that by entering the cook off you are providing funds for those organizations to support students in higher education development. You provided the names of events you attended, and fees paid. The events also listed dollar amounts that were either “donated to auction”, listed as “donation”, or listed as “no donation.” Your plan is to build the support of your donors to work towards providing an x dollar annual scholarship to local qualified students.

You did not provide the names of the charitable causes donated to, or the amount donated to each. You offered no explanation for the funds you listed as “donated to auction”, “donation”, or “no donation”. Thus, we requested additional information via a third letter.

You indicated in your response that “donations” are entry fees for the cook-off. The entry fees could be used directly for a stand-alone contribution, or part of a much larger event or organization fund raising opportunity. You can also donate additional funds, if available, towards a student scholarship or other charitable cause. You did not provide the amount donated to each charitable cause, nor did you explain the process behind your funds listed as “donations” and “donations to auctions”.

You stated that you have also held your own events to fundraise for various causes like cancer patients, or a death in the family. You included in your response promotional materials for a cooking event you participated in that . For this event you sold and accepted donations, the funds to be used for the present and future medical care.

You also included other promotional materials for the various events you have attended. Information in these materials stated you have sponsors with different levels of membership. We requested additional information regarding your financial data, sponsors, and “donations” and “donations to auction” via a fourth letter.

Your revenue is reported as gifts, grants, and contributions. The majority of your expenditures are reported as fundraising expenses with the remainder being allocated to contributions paid out for charitable causes and occupancy expenses.

You have listed different levels of sponsorship for your donors depending on the amounts of money the donor remits to you. Sponsorship funding made to you by donors is used for entry fees, food, and beverages (for public consumption), supplies needed for cooking, portable bathrooms and hand washing station rentals. Sponsors are entitled to promotion at your cooking station and free food. At some levels of sponsorship, gate tickets (waiving the entrance fee) are also included.

When asked for details on the charitable contributions, you stated the funds you receive by donations are used to pay the entry fees to the cook-offs, food and beverages for public consumption, supplies needed for cooking, and portable bathroom and hand washing station rentals. Your entry fee is what goes towards student scholarships. Some of the events you participate in are set to provide a specific student with a scholarship. You also stated that you accept donations which you contribute directly to charitable causes. In the future, you wish to offer your own scholarship program.

You also stated that the benefit you participated in for a specific individual was to solicit donations and raise funds to pay the medical bills of this individual. You stated that because you were there as volunteers, you were unaware of the amount of money that was raised, or where it was allocated.

We subsequently requested you confirm your prior statements were accurate via a fifth letter. You stated that all was accurate, and while you have not donated to a specific student at this time, you wish to raise enough funds to do so. You are working to donate to specific students on an annual timeline. You do not have an application at this time but will have one prior to soliciting applicants.

#### **Law**

Section 501(c)(3) of the Code provides for exemption from federal income tax of organizations organized and operated exclusively for educational or charitable 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) states that in order to qualify under Section 501(c)(3) of the Code, 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 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 of such exempt purposes specified in Section 501(c)(3) of the Code. 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)(1)(ii) states that an organization is not operated exclusively for one or

more exempt purposes unless it serves a public rather than a private interest. It must not be operated for the benefit of designated individuals or the persons who created it.

Rev. Rul. 67-246; 1967-2 C.B. 104, held that where consideration in the form of admissions or other privileges or benefits is received in connection with payments by patrons of fund-raising affairs of the type in question, the presumption is that the payments are not gifts. In such case, therefore, if a charitable contribution deduction is claimed with respect to the payment, the burden is on the taxpayer to establish that the amount paid is not the purchase price of the privileges or benefits and that part of the payment, in fact, does qualify as a gift. Amounts paid for chances to participate in raffles, lotteries, or similar drawings or to participate in puzzle or other contests for valuable prizes are not gifts in such circumstances, and therefore, do not qualify as deductible charitable contributions.

Rev. Rul. 67-367, 1967-2 CB 188, states a nonprofit organization whose sole activity is the operation of a scholarship plan for making payments to pre-selected, specifically named individuals does not qualify for exemption from federal income tax under Section 501(c)(3) of the Code.

In Universal Life Church v. United States, 372 F. Supp. 770 (E.D. Cal. 1974), the court concluded that "one seeking a tax exemption has the burden of establishing his right to a tax-exempt status."

In Wendy L. Parker Rehabilitation Foundation, Inc. v. Commissioner, T.C. Memo 1986-348 (1986), the organization was created by the Parker family to aid an open-ended class of "victims of coma." However, the organization stated that it anticipated spending 30 percent of its income for the benefit of Wendy Parker, significant contributions were made to the organization by the Parker family, and the Parker family controlled the organization. Wendy Parker's selection as a substantial recipient of funds substantially benefited the Parker family by assisting with the economic burden of caring for her. The benefit did not flow primarily to the general public as required under Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii). Therefore, the Foundation was not exempt from federal income tax under Section 501(c)(3).

### **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(a)(1) and Section 1.501(c)(3)-1(c)(1). Specifically, you are operated to participate in cooking competitions for which you pay a fee to enter. You solicit donations to pay for your entry fees and cooking supplies to compete in the cooking events, which serves a private benefit rather than a public interest. Furthermore, you stated the entry fee is what goes toward student scholarships. However, your solicitations also cover food and beverages you provide for public consumption, supplies needed for cooking, and porta can and hand washing station rentals. Therefore, you are not operated exclusively for an exempt purpose and do not meet the standards of exemption under IRC Section 501(c)(3).

You do not meet the provisions of Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii). Specifically, you participated in at least one event that was held to benefit a specific person. Although the person was one in need, charities cannot be recognized under IRC Section 501(c)(3) if they are set up to support specifically named persons.

You stated the entry fees you pay to participate in the cooking contests are donated to a charitable cause. However, this does not make the entry fee a charitable contribution.

As noted in Rev. Rul. 67-246, amounts paid for chances to participate in contests for prizes are not gifts, and therefore, do not qualify as deductible charitable contributions. Although the entry fee may be solicited as a “contribution” and dedicated as such, no part of the entry fee is deductible as a charitable contribution. Amounts paid for chances to participate in raffles, lotteries, or similar drawings or to participate in puzzle or other contests for valuable prizes are not gifts in such circumstances, and therefore, do not qualify as deductible charitable contributions.

Rev. Rul. 67-367, 1967-2 CB 188, held that a nonprofit organization whose sole activity is the operation of a scholarship plan for making payments to pre-selected, specifically named individuals does not qualify for exemption from federal income tax under Section 501(c)(3) of the Code. Similarly, you stated that some of the events you participated in were set to provide a specific student with a scholarship. You also stated that you wish to offer your own scholarship program, and while you have not donated to a specific student at this time, you wish to raise enough funds to do so.

Like the case Universal Life Church v. United States, you have the burden of establishing your right to a tax exempt status. However, you have shown no direct correlation between donations you receive to participate in the cooking events and the charitable causes promoted by the events. You also did not provide the amount donated to each charitable cause. You provided minimal information on your plan to start a scholarship fund, and you have not provided sufficient details on how this would be operated in an exempt manner.

You are also similar to the case Wendy L. Parker Rehabilitation Foundation, Inc. v. Commissioner in that you offered contributions to a specifically named individual. The funds you raised provided an economic benefit to the individual by paying for medical care. The benefit does not flow primarily to the general public as required under Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii).

## **Conclusion**

Based on the facts above, you are not operated exclusively for exempt purposes as set forth in IRC Section 501(c)(3). Specifically, you solicit donations to pay entry fees and cover associated expenses at cooking competitions you participate in. The entry fee, which is donated to a charitable cause, does not qualify as a charitable contribution. In addition, funds you raised for the community are dedicated to specifically named individuals and do not flow to the general public. 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](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