



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

Date:  
11/06/2023  
Employer ID number:

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

Release Number: 202405015  
Release Date: 2/2/2024  
UIL Code: 501.05-01

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)(5). 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.

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: 08/14/2023

Employer ID number:

Person to contact:

Name:  
ID number:  
Telephone:  
Fax:

**Legend:**

B - State of Formation  
C - Date of Formation

**UIL:**

501.05-01

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)(5). 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)(5)? No, for the reasons stated below.

**Facts**

You were formed in the state of B on C. Your amended Articles of Incorporation state the agricultural purposes for which you are organized include the supporting and strengthening of small farms and farming families by operating a farmers' market. Your Bylaws state in the Mission Statement that you support and strengthen farms and farming families by creating and operating a vibrant local market that provides direct sales opportunities for small farms.

Your farmers' market allows local farmers and vendors to sell their products, and because of the low barrier to entry, new and beginning farmers can start small as they learn and grow. Farmers and vendors must be fee paying members to sell at your market. Your market also gives consumers access to locally grown fresh foods and knowledge of local agriculture. You promote local farmers and their products within the area and surrounding counties.

You state that you are structured to provide farmers an outlet to sell their products directly to consumers without the licenses, fees, and capital costs associated with conventional marketing outlets. You also operate a winter market for the sale of crafts, wood furniture, and other non-agricultural products. You state that your regular season market is for producers of agricultural and food-based products, while your winter market is more for craft and artisan producers.

Your sources of revenue include fees from farmers and vendors. Your expenses include advertising, cost of operating your farmers' market and salaries and wages.

### Law

IRC Section 501(c)(5) provides for the exemption from federal income tax of labor, agricultural, or horticultural organizations.

IRC Section 501(g) provides for purposes of subsection (c)(5), the term "agricultural" includes the art or science of cultivating land, harvesting crops or aquatic resources, or raising livestock.

Treasury Regulation Section 1.501(c)(5)-1(a) provides that the organizations contemplated by IRC Section 501(c)(5) as entitled to exemption from income taxation are those which (1) have no net earnings inuring to the benefit of any member, and (2) have as their objects the betterment of the conditions of those engaged in such pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occupations.

Revenue Ruling 66-105, 1966-1 C.B. 145, held that an organization composed of agricultural producers whose principal activity is marketing livestock as an agent for its members does not qualify for exemption. The sale of members' products with the return to them of the sale proceeds is neither an object nor an activity within the ambit of IRC Section 501(c)(5). Therefore, the organization does not meet the requirements of Treas. Reg. Section 1.501(c)(5)-1 of and is not exempt under IRC Section 501(c)(5).

Rev. Rul. 74-195, 1974-1 C.B. 135, held that a nonprofit organization formed to manage, graze and sell its members' cattle did not of itself better the conditions of those engaged in agricultural pursuits, improve the grade of their products, or develop a higher degree of efficiency in their operations within the meaning of IRC Section 501(c)(5). The principal purpose of the organization was to provide a direct business service for its members' economic benefit. The organization was denied exemption under IRC Section 501(c)(5).

Rev. Rul. 75-287, 1975-2 C.B. 211, establishes that if the activities of an organization are directed toward the betterment of the conditions of those engaged in some pursuit outside the scope of the term agricultural, it does not qualify for exemption from federal income tax as an agricultural organization described under IRC Section 501(c)(5).

Rev. Rul. 76-399, 1976-2 C.B. 152, held that a nonprofit organization of growers and producers of a particular agricultural commodity formed principally to negotiate with processors for the price to be paid to members for their crops qualifies for exemption under IRC Section 501(c)(5).

Rev. Rul. 77-153, 1977-1 C.B. 147, held that a nonprofit organization that owns and operates a livestock facility and leases it to local members of a nonexempt national association of farmers for use in implementing the association's collective bargaining program with processors does not qualify for exemption as an agricultural organization. The operation and leasing of a facility for collecting, weighing, sorting, grading, and shipping of livestock, the organization's principal activity, is the providing of a business service to those members who make use of the national association's collective bargaining program. This service merely relieves the members of the organization of work they would either have to perform themselves or have performed for them. Such activity does not serve an exempt purpose of an agricultural organization under Treas. Reg. Section 1.501(c)(5)-1 of the Regulations. Accordingly, the organization does not qualify for exemption from federal income tax

under IRC Section 501(c)(5).

### **Application of law**

You do not meet the qualifications under IRC Section 501(c)(5) or Treas. Reg. Section 1.501(c)(5)-1 as your activities are not aimed at the overall betterment of conditions within the farming industry. You operate to aid your farmers and vendors to sell their goods. You are providing, in return for a fee, promotion and a location for members to generate sales of their goods. Where members would otherwise have to promote and sell their goods themselves, you are relieving them of this responsibility by providing the service of operating the farmers' market. The earnings from the sale of products inures to benefit of your members/vendors. Providing a location and promotion for the sale of products merely relieves your members of work they would either have to perform themselves or have performed for them.

You are similar to the organization in Rev. Rul. 66-105 in that you provide the market place for members to sell their goods where they in turn receive revenue from sales.

Like the organization in Rev. Rul. 74-195, you are providing an outlet for sales of member products, not bettering the conditions of those engaged in agricultural pursuits, improving the grade of their products or developing a higher degree of efficiency in their operations. Your main activity is operating a farmers' market and providing a location for the sales of products.

Like the organization in Rev. Rul. 75-287, your winter market is dedicated to the sale of crafts, wood furniture, and other non agricultural products. This activity is directed toward the betterment of the conditions of those engaged in some pursuit outside the scope of the term agricultural.

Like the organization in Rev. Rul. 77-153, the operation and leasing of a facility relieves your members of work they would either have to perform themselves or have performed for them

You differ from the organization in Rev. Rul. 76 399 where the primary purpose is for growers and producers of a particular agricultural commodity formed principally to negotiate with processors for the price to be paid to members for their crops. In your case, you are operating a farmers' market that provides direct sale opportunities for farmers and vendors.

### **Conclusion**

Based on the facts and information submitted, you are not operated exclusively for exempt purposes under IRC Section 501(c)(5). Your activities are not directed to the betterment of the conditions of farmers, the improvement of the grade of their products, and the development of a higher degree of efficiency in the farming industry, rather, you provide an economic outlet to enable farmers and vendors to sell their products directly to consumers. Accordingly, you do not qualify for exemption under IRC Section 501(c)(5).

### **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