



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

Date:
12/19/2023
Employer ID number:

Form you must file:
1120

Tax years:
All

Person to contact:

Release Number: 202411012
Release Date: 3/15/2024
UIL Code: 501.00-00,
501.03-05

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: 10/10/2023

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

B = State

C = Date

D = Name

E = Name

f dollars = Amount

g dollars = Amount

h dollars = Amount

UIL:

501.00-00

501.03-05

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 were formed as a nonprofit corporation on C in the state of B. Your Articles of Incorporation state you are formed for the purpose of engaging in any lawful activity for which corporations may be formed under B's nonprofit corporation law.

You were created to provide for the medical and other needs for D and E and families. D and E were . You explained you will raise money to provide for their past, present, and future living and medical expenses. You will host various fundraising events, such as clay shooting, raffles, and other sporting events to generate donations for D and E. Further, you have hosted a blood drive in connection with a local blood center.

A _____ states that a fundraising event raised f dollars and the funds were _____ . You have raised g dollars for D and E to use for their rising medical bills. You have a community board and are operated by volunteers.

Law

IRC Section 501(c)(3) provides, in part, for 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 test or the operational test, it is not exempt.

Treas. Reg. Section 1.501(c)(3)-1(b)(1)(i) provides that an organization will be regarded as “organized exclusively” for one or more exempt purposes only if its articles of organization limit the purposes of such organization to one or more exempt purposes; and do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of 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 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.

Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized or operated exclusively for charitable purposes unless it serves a public rather than a private interest.

Revenue Ruling 67-367, 1967-1 C.B. 188 held that an organization formed to award scholarships to pre-selected, specifically named individuals doesn’t qualify for exemption under IRC Section 501(c)(3) because it was serving the private interests of its subscribers rather than public or charitable interests.

In Better Business Bureau v. United States, 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 Wendy L. Parker Rehabilitation Foundation, Inc v. Commissioner, T.C. Memo 1986-348 (1986), the organization was created by the Parker family to aid “victims of coma.” However, the organization stated it anticipated to spend 30 percent of its income for the benefit of Wendy Parker. The Parker family controlled the organization and made significant contributions to the organization. Because Wendy Parker received a significant amount of funds, it was found that the benefits did not flow primarily to the general public as required in Treas. Reg. 1.501(c)(3)-1(d)(1)(ii). Therefore, the foundation was not exempt from federal income tax under IRC Section 501(c)(3).

Application of law

You are not described in IRC Section 501(c)(3) because you fail both the organizational and operational tests as required by Treas. Reg. Section 1.501(c)(3)-1(a)(1).

You fail the organizational test because your Articles of Incorporation state that you were formed for the purpose of engaging in any lawful activity which corporations may be formed for under B's non-profit corporation law. Because your Articles of Incorporation do not limit your purposes to one or more exempt purpose, you fail the organizational test as described in Treas. Reg Section 1.501(c)(3)-1(b)(1)(i).

You fail the operational test because you are not operated exclusively for charitable purposes as required under Treas. Reg. Section 1.501(c)(3)-1(c)(1). You have a substantial nonexempt private purpose. You are serving the private interests of D and E by raising money to pay for their living expenses and their medical expenses. Further, you do not meet the provisions under Treas. Reg Section 1.501 (c)(3)-1(d)(1)(ii) because you are operated for private interests rather than public interests.

You also explained that you are conducting fundraisers on D's and E's behalf . This illustrates that you are like the organization described in Rev. Rul. 67-367 because you are raising funds for D and E who are preselected.

You were created to raise funds for two specifically named individuals, which is not an exempt purpose. You are like the organization described in Better Business Bureau., above, because a single non-exempt purpose, if substantial in nature, will preclude exemption, regardless of the number or importance of the exempt purposes you serve.

Like the organization described in Wendy L. Parker Rehabilitation Foundation, Inc., above, your benefits do not flow primarily to the general public because you were created specifically to benefit D and E. Therefore, you do not qualify for exemption under IRC Section 501(c)(3).

Conclusion

Based on the above facts and analysis, you do not qualify for exemption under IRC Section 501(c)(3) because you fail both the organizational test and the operational test. Your formation documents indicated that your purposes are not within Section 501(c)(3) scope, which causes you to fail the organization test. You fail the operational test because you have a substantial non-exempt purpose of fundraising for the benefit of two pre-selected individuals, which furthers private interests. For these reasons, you do not qualify for exemption under 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.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements