



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

Date:
09/03/2024
Employer ID number:

Person to contact:

Release Number: 202448016
Release Date: 11/29/24
UIC Code: 501.03-04, 501.03-30, 501.33-00

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.

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
Letter 4038



Department of the Treasury
Internal Revenue Service
PO Box 2508
Cincinnati, OH 45201

Date: 06/24/2024

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

X = Date

Y = State

UIL:

501.03-04

501.03-30

501.33-00

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 attest that you were formed on X, in the state of Y. You attest that you have the necessary organizing document, that the organizing document limits the purposes to one or more exempt purposes within the meaning of the IRC Section 501(c)(3), that the 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 the 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 -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 promote the general welfare of your members. Your mission is to protect and advance the employment status of your members and to provide such services as deemed beneficial by them.

Detailed information was subsequently requested. You are an association of certified teachers that operates as a union. You hold meetings once every few months. Your membership fees are deducted directly from your members' paychecks. These fees cover charges from the National and State union associations. You have an executive board composed by four members, the President, Vice-President, Treasurer and Secretary.

Law

IRC Section 501(c)(3) exempts from federal income tax corporations organized and operated exclusively for charitable, educational, and other purposes, provided that no part of the net earnings inures to the benefit of any private shareholder or individual. The term charitable includes relief of the poor and distressed.

Treasury Regulation Section 1.501(c)(3)-1(a)(1) provides that, in order 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(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. The existence of a substantial non-exempt purpose, regardless of the number or importance of exempt purposes, will cause failure of the operational test.

Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized or operated exclusively for exempt purposes unless it serves a public rather than a private interest. To meet this requirement, an organization must establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or the creator's family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Treas. Reg. Section 1.501(c)(3)-1(d)(3) defines the term educational as to include (a) the instruction or training of the individual for the purpose of improving or developing his capabilities and (b) the instruction of the public on subjects useful to the individual and beneficial to the community.

Revenue Ruling 55-656, 1955-2 CB 262, held that a community nursing bureau operated as a community project, which maintains a nonprofit register of qualified nursing personnel, including graduate nurses, unregistered nursing school graduates, licensed attendants and practical nurses, for the benefit of hospitals,

health agencies, doctors and individuals, which receives its primary financial support from various community organizations and public contributions, qualifies for exemption under the provisions of IRC Section 501(c)(3).

Rev. Rul. 61-170, 1961-2 CB 112, an association composed of professional private duty nurses and practical nurses that operates a nurses' registry primarily to afford greater employment opportunities for its members doesn't qualify for exemption under IRC Section 501(c)(3).

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 IRC Section 501(c)(3).

Rev Rul. 69-175, 1969-1 CB 149, describes an organization formed by the parents of pupils attending a private school exempt under IRC Section 501(c)(3). The organization provides bus transportation to and from the school for those children whose parents belong to the organization. Because the organization is providing a cooperative service for themselves, they are serving a private interest, and are not exempt under Section 501(c)(3).

In Better Business Bureau of Washington D.C., Inc. vs United States, 326 U.S. 279 (1945), the Supreme Court held that the presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes.

Application of law

IRC Section 501(c)(3) sets forth two main tests for an organization to qualify for exempt status. An organization must be both organized and operated exclusively for purposes described in Section 501(c)(3). Based on the information provided in your application and supporting documentation, you failed the operational test.

You indicated that you are operated as a union. Your mission is to protect and advance the employment status of your members and to provide such services as determined by them. You are not operating for Section 501(c)(3) purposes, and you fail exemption under Treas. Reg. Section 1.501(c)(3)-1(a)(1). You are operated for the private benefit of your members. You do not meet the requirements of Treas. Reg. Section 1.501(c)(3)-1(c)(1).

Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) provides that an organization must serve a public in lieu of a private interest. You do not meet these requirements because you serve the private interests of your members by carrying your primary purpose of protecting and advancing their employment status.

You do not meet the criteria of an educational organization as defined by Treas. Reg. 1.501(c)(3)-1(d)(3), because your activities are not directed at training and developing individuals or instructing them on matters beneficial to the community. Rather your activities of protecting and advancing employment are focused on the private benefits of your members.

In Rev. Rul. 55-656, an organization that maintains a nonprofit register of qualified nursing personnel and receives its primary financial support from various community organizations and public contributions, was found to qualify for exemption under IRC Section 501(c)(3). In contrast, in Rev. Rul. 61-170, an association composed of professional private duty and practical nurses that operates a nurses' registry primarily to afford greater employment opportunities for its members did not qualify for exemption under IRC Section 501(c)(3).

You are like the organization in Rev. Rul. 61-170, in that your primary activities benefit your members, and not the public at large.

Similar to the organizations in Rev Rul. 67-367 and Rev. Rul. 69-175, you are primarily serving your members. As stated in Better Business Bureau of Washington D.C., Inc., the presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes. You are operated as a union, with the mission to protect and advance your members' employment status, and that constitutes a substantial non-exempt purpose that precludes exemption under IRC Section 501(c)(3).

Conclusion

Because your activities promote the general welfare of your members, and protect and advance their employment status, you are operating for the private benefit of your members. You are not exclusively furthering exempt purposes under IRC Section 501(c)(3). Thus, you fail the operational test. Therefore, 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