



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

Date:
01/08/2025
Employer ID number:

Person to contact:

Release Number: 202514009
Release Date: 4/4/2025
UIL Code: 501.03-00, 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)(x). 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: 10/31/2024

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

C = State

D = Date

h percent = Number

j percent = Number

k percent = Number

UIL:

501.03-00

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, for the reasons stated below.

Facts

You were formed as a nonprofit corporation in C on D. Your Articles of Incorporation states that your purpose is to operate for the charitable purpose of helping marginalized groups. It further states that this purpose will be accomplished by providing safe spaces to meet and socialize, and that your events help foster community, friendship and understanding for these groups. Your Articles of Incorporation make no specific provisions for your remaining assets in the event of the dissolution of your corporation.

Your application states that you organize, host, and run weekly in-person meetups. The events are social gatherings where people of all ages and backgrounds can meet up and socialize to share their common interests in video games. Your events create a recurring safe space for individuals who may not feel welcome anywhere else to come together and become part of a welcoming community where they can be themselves. While your application states that you are helping marginalized groups, you provided no evidence that your activities are limited to any particular group. The events are conducted at a local gaming store that donates part of their space to you.

Your website states that you create safe spaces for marginalized groups and that your events have a focus around fighting games and older games. It also states that to ensure you are accessible and welcoming to as

many people as possible, you offer weekly and online events free of charge. Your website is available to any interested person and includes a schedule of your events, videos of game play, links to sign up for events and for social media sites, as well as rankings of your players.

You allocate h percent of your time in preparing, running, and planning the events. Your events are fully funded by donations and volunteers who bring their own equipment and donate their time as well as from the generosity of the venue that hosts your events. Based on information provided on your website, you require a monthly fee for competition, and it is free for anyone who wants come watch or play casuals.

You stated that you also host online events every other week to allow people in your community who do not have time or means to come to your in-person events to still participate, communicate and feel connected with your community and its members. Approximately j percent of your total time is spent to prepare, run, and plan this event.

You host a larger version of your weekly events monthly. These weekend events attract attendees from all over the state to help further grow your community and spread your message. The attendees pay a fee directly to the venue since its above and beyond your weekly events. Approximately k percent of your time is allocated to prepare, run, and plan these events.

The majority of your income comes in the form of admissions into your events, followed by donations. Your only expenses are professional fees.

Law

IRC Section 501(c)(3) provides for the exemption from federal income tax of organizations organized and operated exclusively for charitable, education and other purposes, including the prevention of cruelty to children or animals provided that no part of the net earnings inure to the benefit of any private shareholder or individual.

Treasury Regulation Section 1.501(c)(3)-1(a)(1) provides that, in order to be exempt as an organization described in 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 organization test or the operational test, it is not exempt.

Treas. Reg. Section 1.501(c)(3)-1(b)(4) states 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, for example, 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, or to a state or local government, for a public purpose, or to the federal government, or to a state or local government, for a public purpose, or would be distributed by a court to another organization to be used in such manner as in the judgment of the court will best accomplish the general purposes for which the dissolved organization was organized.

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.

Treas. Reg. Section 1.501(c)(3)-1(d)(2) provides that the term “charitable” is used in IRC Section 501(c)(3) in its generally accepted legal sense and includes relief of the poor and distressed or of the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments, or works; lessening of the burdens of government; promotion of social welfare by organizations designed to accomplish any of the above purposes; and, among other purposes, to combat community deterioration and juvenile delinquency.

Revenue Ruling 66-179, 1966-1 C.B. 139, Situation 4, describes a garden club which was denied exemption under IRC Section 501(c)(3) because a substantial part of the organization's activities, consisted of social functions for the benefit, pleasure, and recreation of its members. The organization described in this situation conducted substantial social functions not in furtherance of any of the purposes specified in IRC Section 501(c)(3).

In Better Business Bureau of Washington D.C., Inc. v. 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.

In Schoger Foundation v. Commissioner, 76 T.C. 380 (1981), it was held that if an activity serves a substantial non-exempt purpose, the organization does not qualify for exemption even if the activity also furthers an exempt purpose.

In St. Louis Science Fiction Limited v. Commissioner, T.C. Memo 1985-162 (1985), the Tax Court held that a science fiction society failed to qualify for tax-exempt status under IRC Section 501(c)(3). Although many of the organization's functions at its annual conventions (the organization's principal activity) were educational, its overall agenda was not exclusively educational. A substantial portion of convention affairs were social and recreational in nature.

In GameHearts Corp. v. Commissioner, T.C. Memo 2015-218 (2015), the court had to decide whether the organization was operated exclusively for the charitable purposes of promoting adult sobriety and general welfare by offering gaming opportunities in a sober environment. However, it was unable to conclude the organization was “operated exclusively” for one or more exempt purposes. The form of recreation offered as therapy was also offered by for-profit entities, and the organization introduced new participants to that for-profit recreational market. While the organization itself did not profit from the recreation it offered, the court concluded that recreation was still a significant purpose. Accordingly, the organization did not operate exclusively for charitable purposes within the meaning of IRC Section 501(c)(3).

Application of law

IRC Section 501(c)(3) and Treas. Reg. Section 1.501(c)(3)-1(a)(1) set forth two main tests to qualify for exempt status. An organization must be both organized and operated exclusively for purposes described in IRC Section 501(c)(3). You have failed to meet the organizational and operational requirement, as explained below.

You fail the organizational test because your organizational document does not dedicate your assets exclusively to an exempt purpose upon dissolution. Accordingly, you do not satisfy the organizational test required by Treas. Reg. Section 1.501(c)(3)-1(b)(4). Therefore, you are not organized for exclusively exempt purposes.

You fail the operational test because you do not meet Treas. Reg. Section 1.501(c)(3)-1(c)(1). You state you’re organized for the charitable purpose of helping marginalized groups, and that purpose will be accomplished by

providing safe spaces to meet and socialize to share their common interest in video games. Your activities do not fall within the definition of “charitable” as found in Treas. Reg. Section 1.501(c)(3)-1(d)(2). Although some of the participants in your activities may qualify as marginalized, you have not demonstrated that the activities you conduct are exclusively charitable. You are hosting in person and online social gaming open to anyone throughout the world, and there is no way to ensure that online participants are members of a marginalized group.

You are similar to the organization described in Situation 4 of Revenue Ruling 66-179 and in St. Louis Science Fiction Limited in that a substantial amount of the functions you conduct are social in nature. Your activities are not exclusively charitable. Your activities are predominately social with incidental charitable activities.

Similar to the organization described in Schoger Foundation, you serve substantial social purposes. Your events encourage socialization, and any charitable purposes served are insubstantial compared to these social purposes.

You are like the organization in GameHearts Corp. You provide a forum for any interested individual, including those considered marginalized, to play video games together. While this may provide a therapeutic purpose for some, the question of tax exemption turns on whether there is a single substantial non-exempt purpose, notwithstanding the importance of the exempt purpose. Because your recreational gaming activities further a substantial non-exempt purpose, as described in Better Business Bureau of Washington, D.C. Inc., you do not qualify for exemption under IRC Section 501(c)(3).

Conclusion

Based on the facts presented, you do not qualify for exemption from federal income tax as an organization described in IRC Section 501(c)(3). You are neither organized nor operated exclusively for exempt purposes set forth in Section 501(c)(3). You do not meet the organizational test because your organizing document does not dedicate your assets exclusively for an exempt purpose described in Section 501(c)(3). You also do not meet the operational test or Section 501(c)(3) because you are operated for the substantial non-exempt purpose of providing social and recreational activities. 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