



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

Date:
01/21/2025
Employer ID number:

Person to contact:

Release Number: 202516007
Release Date: 4/18/2025
UIL Code: 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
Redacted Letter 4038



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

Date: 11/27/2024

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

B = Company
C = Company
D = Individual
H = Number
J = Number
K = Number
M = Date of formation
N = State
P = Number
W = Place

UIL:

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 incorporated on M, in the state of N. You attest that you have the necessary organizing document, that your organizing document limits your purposes to one or more exempt purposes within the meaning of the IRC Section 501(c)(3), that your 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 your 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, specifically, the purposes of testing for public safety.

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
- 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 indicated on the Form 1023-EZ that you are organized and operated to raise funds to retain an attorney to file and win a complaint against a party that has lowered property values caused by his business. Detailed information was subsequently requested.

You submitted your Charter as your organizing document which states your purposes are to generate resources (financial and other) and to execute plans to research and when appropriate challenge any proposals that negatively impact the rural and peaceful and high quality of life that has developed in the county towns and vicinity. It also states your long-term goal is to help the areas develop sound land usage planning policies that will have a sound legal foundation and longevity, including challenges to existing laws, ordinances, and other regulations.

The charter further states:

- You are a nonprofit association dedicated to representing the local area and citizens' rights to maintaining the rural and peaceful high-quality life of the vicinity.
- You will act to oppose projects that negatively impact the area and act in support of projects that enhance the area.
- You will advise and represent local citizens whose property rights are being or may be negatively impacted by the approval of land-use permits including conditional use permits (CUPS) and zoning changes or additions that negatively impact the area.
- You will take a leadership role to protect the residents from impacts of decreased property values, nuisance activities, threats to safety and environmental degradation that may be imposed on them by negative uses.
- You will take an advisory role to aid the local property owners on making these and other land use matters that may have negative effects on them.

Your members currently consist of individual persons who own property adjacent to or in the vicinity of W, a local lake. Members can be added after you receive a request from a resident, property owner or concerned citizen at the discretion of your originating directors. Requests will be considered on a reasonable basis, taking into consideration the requestors' financial contributions and commitment of time.

You explained that D owns two properties through his companies B and C in the vicinity of W. You explained that the two properties are divided up into sections where part is permitted by local ordinances and regulated by N to be used as a manufactured home community. Adjacent to, but in an area separate from the allowed permanent residences, are sections regulated by local ordinances to be campgrounds for temporary use. However, these temporary units are being used as what are in effect permanent residential homes for recreational vehicles, park-type cabins, and other structures. You also explained that to expand their operations and allow for more units, and in particular more permanent units and residential sites, D has adopted a method of continually seeking CUP's from the county allowing for more and more "campground" sites. These CUP's do not allow for permanent residential use of the units covered.

You have filed a complaint with the court that requests declaratory and injunctive relief regarding the defendants B, C, and D's ongoing and improper operations of what have become permanent residential dwelling communities that may only be used as temporary campgrounds. The complaint also seeks to stop their ongoing violations of the CUP's and seeks declaratory and injunctive relief halting the continued improper use of the property as permanent residential communities that are supposed to be temporary campgrounds.

The complaint lists you as the plaintiff and specifies how your originating directors and another property owner are each being affected and will continue to be affected by the defendants' actions. It details the negative impact and pecuniary loss to their property values as well as the intrusion and interference with their recreational use and enjoyment of their properties caused by the defendants. It also mentions the negative effects of increased boat traffic (due to use of the property) on W as a contributor to their loss of aesthetic enjoyment from their properties and their own personal recreational use of their properties.

You later explained that this overuse has and will continue to cause injury and harm to the environment of the lake, and has caused and will continue to cause individualized and special injury and damages to the adjacent and nearby W shoreland and other property owners. This includes a decrease in the value of their properties and the ongoing intrusion into the use and quiet enjoyment of their properties.

You stated that your activities consist of communicating to and raising funds from community members (property owners of the area) through emails and letters. You inform them of the growing number of non-property owners ("campers") with their trailers, boats, and all-terrain vehicles, and on the progress of the aforementioned lawsuit. You raise funds to pay your attorney's invoices by sending emails and letters to your members. You do not charge any fees or pressure anyone to contribute. Officers are not reimbursed for any expenses they pay for out of pocket.

When asked how your activities further an exempt purpose you said, "Without the exemption, we would not be able to raise enough money to pay our attorney's invoices."

Other than the filing of the complaint and keeping community members aware of the lawsuit progress, you provided details on no other activities or programs.

Law

IRC Section 501(c)(3) provides, in part, for the 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, 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.

Treasury Regulation Section 1.501(c)(3)-1(c)(1) states 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)(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.

Treas. Reg. Section 1.501(c)(3)-1(d)(4) defines the term "testing for public safety," as used in Section 501(c)(3) to include the testing of consumer products, such as electrical products, to determine whether they are safe for use by the general public.

Revenue Ruling 65-61, 1965-1 C.B. 234, describes an organization organized for the purpose of testing for safety certain products normally used aboard pleasure boats by the boating public which was held exempt from tax. The activities included testing of various items, including galley stoves, metallic fuel tanks, flame arresters, battery charging devices, navigation lights, fuel filters, life preservers, and other products used aboard pleasure crafts.

Rev. Rul. 69-175, 1969-1 C.B. 149, describes an organization which was formed by parents of pupils attending a private school. The organization provided bus transportation to and from the school for those children whose parents belong to the organization. The organization did not qualify for exemption under IRC Section 501(c)(3) because it served a private rather than public interest.

Rev. Rul. 70-186, 1970-1 C.B. 128, held that an organization formed to preserve a lake as a public recreational facility qualified for exemption under IRC Section 501(c)(3), even though the organization's activities also benefited lakefront property owners. The Service determined that the benefits of the organization's activities flowed principally to the general public and that it would have been impossible for the organization to accomplish its exempt purposes without providing some benefit to the lakefront property owners.

Rev. Rul. 75-286, 1975-2 C.B. 210, held that a nonprofit organization with membership limited to the residents and business operators within a city block and formed to preserve and beautify the public areas in the block, thereby benefiting the community as a whole as well as enhancing the members' property rights, will not qualify for exemption under IRC Section 501(c)(3) because the organization was organized and operated for the benefit of private interests by enhancing the value of members' property.

Rev. Rul. 78-85, 1978-1 C.B. 150, held that a nonprofit organization with membership open to the general public that was formed by residents of a city to help preserve, beautify, and maintain a public park located in the city and whose support is derived from membership dues and contributions from the general public was operated exclusively for charitable purposes and qualified for exemption under IRC Section 501(c)(3).

Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279, 283 (1945), held that the presence of a single nonexempt purpose, if substantial in nature, will preclude exemption regardless of the number or importance of truly exempt purposes.

In Benedict Ginsberg and Adele W. Ginsberg v. Commissioner, 46 T.C. 47, 1966, exemption was retroactively revoked from a corporation organized to conduct the dredging of certain waterways. It was held that the corporation was organized and operated primarily for the benefit of those persons owning property adjacent to the waterways dredged rather than for public or charitable purposes.

In Old Dominion Box Co. v. United States, 477 F.2d. 344 (4th Cir. 1973), cert. denied, 413 U.S. 910 (1973), the court held that operating for the benefit of private parties constitutes a substantial non-exempt purpose.

Application of law

You do not meet the requirements for recognition of tax exemption under IRC Section 501(c)(3) because you have failed the operational test as described in Treas. Reg. Section 1.501(c)(3)-1(a)(1) as explained below:

You serve private interests.

Your main activity is focused on maintaining your members' property values and ensuring their recreational enjoyment of the lake. All the donations you currently receive are spent on lawyer fees for the complaint you have filed. This shows you are operating for substantial nonexempt purposes and for the private interests of your members/property owners. See Treas. Reg. Sections 1.501(c)(3)-1(c)(1) and 1.501(c)(3)-1(d)(1)(ii). As a result, you do not satisfy the operational test requirement to be recognized as exempt under IRC Section 501(c)(3).

Similar to the organization denied exemption in Rev. Rul. 69-175, you were formed to provide benefits to your members. In your case, your primary activities consist of filing a lawsuit and periodically informing the local community as to the progress of the suit. The lawsuit is meant to have the defendants cease and desist their current and promotion of overuse of the property which abuts to the lake. The suit clearly states the damages caused by the defendants' ongoing actions has greatly impacted the founding directors and the additional party as well as you. This serves a private, rather than a public interest. As noted in Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) operating for a private interest rather than for a public benefit precludes exemption under IRC Section 501(c)(3).

In contrast to the organizations described in Rev. Rul.'s 70-186 and 78-85, your activities to preserve the lake are for the purpose of maintaining the property values of your founders and one other party as well as ensuring the lake is available for their enjoyment. You are like the organizations described in Rev. Rul. 75-286 and in Benedict Ginsberg and Adele W. Ginsberg in that your activities serve private rather than public interests. You claim to be serving the community at large. The founding directors have the authority for such persons to be precluded from membership. Further, they consider the prospective member's financial commitment before admitting the member which would be used to fund the ongoing lawsuit. This serves their private interests. As discussed in Old Dominion, operating for the benefit of private parties constitutes a substantial non-exempt purpose and prevents you from qualifying from exemption under IRC Section 501(c)(3).

You are not operated exclusively for the purpose of testing for public safety.

You do not meet Treas. Reg. Section 1.501(c)(3)-1(d)(4) because you are not operated for the testing of consumer products to determine whether they are safe for use by the general public.

You are not like the organization described in Rev. Rul. 65-01, because you are not operated for the testing of consumer products. Rather, you are operated to engage in a lawsuit on your members'/property owners' behalf.

Your position

You explained that you are an association of lake property owners formed for the purpose of protecting the lake's natural resources and land values, and to promote boating safety by reducing the number of non-property owners' use of the lake. You have experienced that lake use over the past several years has greatly increased and it is clear that the majority of non-property owners who use it are those who keep their trailers at the property.

A total of H trailers are currently parked on these so called "campgrounds" and are using W. You explained that this greatly exceeds the number of individual property owners which is J. You don't seek to limit use of the public waters but only to require a balanced use so that all may benefit from the natural resources and not degrade it through overuse, driven by dramatic increases in access through campground operations.

Several decades ago, the lake had only about P trailers at one of the properties and none at the other. Over the short period of the last few years, the local authority awarded CUP's allowing for the placement of over K trailers, campers, or other structures, bringing the total to H. You explained that the lake has not had a public launch in many decades and thus the "public" consists of the property owners on W. The local authority has not adequately considered the W property owners or the impact on W itself. In addition, D through his properties has not been complying with the conditions that have been imposed in the CUP's. There has been a huge negative impact to the entire lake and the surrounding community. You were established for more than a year before you determined that you had to try to take legal action to protect the lake, both to use it for conventional recreation and to preserve its environmental resources and natural beauty. You brought the current court action pursuant to the citizen suits provisions in N law and are pursuing the court action to try to protect the lake itself as well as the surrounding natural areas. You will continue to advocate to protect similar local environmental areas once the current lawsuit is resolved.

You do not believe your operations serve a private benefit in the sense of anyone seeking private recovery of money or compensation. The court action is consistent with your mission and seeks to try to stop the current overly intense use of the lake and its surrounding area, which is causing injury to the entire lake community. You are pursuing the claims in the public interest because the property owners are the public that is most affected and have a right to protect their property rights. The court action is in essence trying to rectify a public nuisance.

Our response to your position

You have not provided any information proving that you meet the requirements of IRC Section 501(c)(3). Although, you conduct some activities that may further charitable purposes, you are operating for substantial nonexempt purposes. Specifically, your structure and methods of operations as explained previously indicate that the benefits resulting from your operations are designed to flow principally to your members and property owners on W which precludes exemption under Section 501(c)(3). Under Better Business Bureau, the presence of a single non-exempt purpose if substantial in nature, destroys the exemption regardless of the number or importance of truly exempt purposes.

Conclusion

You are not operated exclusively for a purpose that qualifies under IRC Section 501(c)(3) because you are serving the private interests of your members/property owners which is a substantial nonexempt purpose. You are also not operated for the purpose of testing for public safety. Donations to you are not deductible to the donor.

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