



**Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities**

Date:
10/29/2025
Employer ID number:

Form you must file:

Tax years:

Person to contact:

Release Number: 202604001

Release Date: 1/23/2026

UIL Code: 501.03-00, 501.03-05, 501.32-00, 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**

Date: 08/25/2025

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

B = State
C = Date
D = Entity
E = Individual
F = Individual
G = Individual
H = Number
j percent = Percentage
k percent = Percentage
m dollars = Amount

UIL:

501.03-00
501.03-05
501.32-00
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 were formed as a corporation on C in B by E, F, and G. According to your Articles of Incorporation, your purpose is to provide financial assistance for individuals, couples and families that cannot afford full cost mental health services.

Your purpose is to raise and distribute money to subsidize mental health counseling from credentialed professional counselors for those that could not otherwise afford these services. You will subsidize counseling fees so that many more individuals, couples and families that need it will be able to access professional counseling.

Your three directors, E, F, and G, own a for-profit counseling practice called D. You make distributions to D if an individual applies for subsidized services and is a good fit for you and D. Applicants will be interviewed and an evaluation will be made as to the level of services needed (inpatient or outpatient), the amount of subsidy needed, and the best therapy provider for those services. If one of the approximately H counselors that provide services for D are the best fit for the applicant, then the referral will be made and the subsidy will be distributed to D. If one of the D therapists is not the best fit, or the applicant needs inpatient treatment that D doesn't provide, a referral will be made to one of many inpatient treatment providers and the subsidy will be paid to that provider. You said that at this time it's hard to predict how much of the funding will go to D and how much will go to other providers.

The evaluation of candidates for the subsidized care will be done by your board of directors and by others they may appoint. The activity will be centered in a couple of counties in B. Counseling will be provided by professional counselors (master's level or higher), and by other local mental health providers. You said that when a person seeking counseling calls D inquiring about services, after a discussion of the issues, the treatment options and the cost of the services are presented. If the person states that they can't afford it, then that generally prompts an application for subsidy.

You said that while some distributions may be made to D, the counseling practice owned by your board of directors, no distributions will subsidize counseling provided by your three board members. You also stated that because all of your providers at D specialize in one or more areas of outpatient psychotherapy and are some of the best in your locale, if a potential client presents with an issue that D specializes in, the referral will almost always be made to that specialist. You will determine who is eligible to receive the subsidies based on financial need.

Most of the counselors that provide services for D are independent contractors. Some of your counselors/contractors do offer a sliding scale, however, D cannot set rates for these independent contractors. You said most sessions cost m dollars. You stated that while you are aware that some counselors have charged much less per session, D cannot set their rates.

You stated that a percentage of the revenues received by D's contractors are shared with D. When asked to provide a copy or sample of the revenue sharing agreement between D and the contractors, you did not submit such copies. Instead, you stated that D's contractors share between j percent and k percent of their billing revenue. In return, the contractors receive office space, billing, receiving, etc.

You said that the benefits that for-profit entities will realize thorough your activities are "that they will be able to treat people from lower socioeconomic classes without suffering a loss of revenue." You said many people can't afford the best therapists, and your purpose is to bridge the gap between people who need therapeutic services but can't afford the fees, and the therapy providers that can't afford to take more than a few clients on a sliding scale. You said you are making higher level care available to people that can't afford to pay the fees.

You stated that all counseling services will be billed and paid at the standard hourly rate at which the counselors normally charge non-subsidized clients. When asked to explain how your specialized services are distinguishable from that of other private counseling practices, if there are other counseling practices offering these specialized services in these counties, and to explain what due diligence you exercised that would reasonably warrant the retention of most referrals to you as incidental to your exempt purposes, you said that the independent contractors of D can network with other members from other several peer networking

organizations to learn about their specialties and introduce them to the subsidy program.

Law

Internal Revenue Code (IRC) Section 501(c)(3) describes corporations organized and operated exclusively for charitable 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) states 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 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 in not in furtherance of an exempt purpose.

Treas. Reg. Section 1.501(c)(3)-1(c)(2) provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals as defined in Section 1.501(a)-1(c).

Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) provides that an exempt organization must serve a public rather than a private interest. The organization must establish that it is not organized or operated to benefit private interests such as "designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests."

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. The Court found that the trade association had an "underlying commercial motive" that distinguished its educational program from that carried out by a university.

In est of Hawaii v. Commissioner, 71 T.C. 1067 (1979), several for-profit est organizations exerted significant indirect control over est of Hawaii, a non-profit entity, through contractual arrangements. The question for the court was not whether the payments made to the for-profits were excessive, but whether they benefited substantially from the operation of the applicant. The Tax Court concluded that the for-profits were able to use the non-profit as an "instrument" to further their for-profit purposes. Neither the fact that the for-profits lacked structural control over the organization nor the fact that amounts paid to the for-profit organizations under the contracts were reasonable affected the court's conclusion. Consequently, est of Hawaii did not qualify as an organization described in IRC Section 501(c)(3).

In Church by Mail, Inc. v. Commissioner, T.C. Memo 1984-349, aff'd 765 F. 2d 1387 (9th Cir. 1985), the Court affirmed a Tax Court decision. Church by Mail sent out sermons in numerous mailings. This required a great deal of printing services. A for-profit company, controlled by the same ministers, provided the printing and the mailing. The services were provided under two contracts. The contracts were signed by the two ministers for both the organization and the for-profit company. The organization's business comprised two-thirds of the

overall business done by the for-profit company. The court determined that there was ample evidence in the record to support the finding that the organization was operated for the substantial non-exempt purpose of providing a market for the services of the for-profit company. The Court of Appeals pointed out that "the critical inquiry is not whether particular contractual payments to a related for-profit organization are reasonable or excessive, but instead whether the entire enterprise is carried on in such a manner that the for-profit organization benefits substantially from the operation of the Church." Moreover, the ministers' dual control of both the Church and the for-profit company enables them to profit from the affiliation of the two entities through increased compensation.

In International Postgraduate Medical Foundation v. Commissioner, TCM 1989-36 (1989), the Tax Court considered the qualification for exemption under IRC Section 501(c)(3) of a nonprofit corporation that conducted continuing medical education tours. The petitioner had three trustees: Mr. Helin, who was a shareholder and the president of H & C Tours, a for-profit travel agency, Mr Regan, an attorney, and a third director, who was ill and did not participate. Mr. Helin served as executive director. The petitioner used H & C Tours exclusively for all travel arrangements. There is no evidence that the petitioner ever sought a competitive bid. The Court found that a substantial purpose of the petitioner was benefiting the for-profit travel agency. It concluded that: "When a for-profit organization benefits substantially from the manner in which the activities of a related organization are carried on, the latter organization is not operated exclusively within the meaning of IRC Section 501(c)(3), even if it furthers other exempt purposes." The court found that a substantial purpose of the applicant's operations was to increase the income of H&C Tours. H&C Tours benefits from the distribution and production of brochures which solicit customers for tours arranged by H&C Tours.

Application of law

IRC Section 501(c)(3) and Treas. Reg. Section 1.501(c)(3)-1(a)(1) set forth two main tests for an organization to be recognized as exempt. An organization must be both organized and operated exclusively for purposes described in Section 501(c)(3). Based on the information you provided in your application, we conclude that you fail the operational test.

You do not meet the operational test under Treas. Reg. Section 1.501(c)(3)-1(c)(1) because your funds flow to your directors through D, which furthers a substantial non-exempt purpose. When funds inure to the benefit of private individuals, an organization is not operating exclusively for an exempt purpose as required by Treas. Reg. Section 1.501(c)(3)-1(c)(2).

You are not described in Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) because your activities benefit E, F, and G through their for-profit counseling practice, D. This substantially furthers private interests rather than public interests and precludes exemption.

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 a claim for exemption regardless of the number or importance of truly exempt purposes. An organization is not operated exclusively for one or more exempt purposes if its net earnings inure to the benefit of private shareholders or individuals, or its activities further private rather than public interests. The revenue agreement between D and the independent contractors of D inures to the benefit of E, F, and G. Subsidies to cover the costs of counseling sessions for those who could not otherwise afford it, would increase the clientele of D, and promotes the for-profit purposes of D. Private inurement precludes your claim for exemption under IRC Section 501(c)(3).

You are similar to the organizations described in est of Hawaii and Church by Mail, Inc. because you are an instrument to further the for-profit purposes of D. D's directors and owners are also your directors, and thus exert all control over your operations and activities. D will benefit from you, where contributions made to you will be used to subsidize the costs of counseling services offered by D. This will generate revenue for E, F, and G and advance business operations and increased clientele for D. Your operations and activities serve to substantially benefit D.

You are also similar to the organization described in International Postgraduate Medical Foundation, because E, F, and G substantially benefit from the manner in which your activities are carried on. Accordingly, you are not operating exclusively within the meaning of IRC Section 501(c)(3).

Conclusion

Based on the facts and information submitted, you do not qualify for exemption under IRC Section 501(c)(3). You fail the operational test because you are formed for the substantial non-exempt purpose of raising funds to subsidize therapy provided, in pertinent part, through a for-profit entity owned by your directors. Accordingly, you do not qualify for exemption as an organization described in 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