



Department of the Treasury
Internal Revenue Service

P.O. Box 2508
Cincinnati, OH 45201

Release Number: **202016023**
Release Date: 4/17/2020
UIL Number: **501.03-30**

Date:
January 23, 2020

Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

Dear _____ :

This letter is our final determination that you don't qualify for tax-exempt status under Internal Revenue Code (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 can't deduct contributions to you under IRC Section 170. You must file federal income tax returns for the tax years listed at the top of this letter using the required form (also listed at the top of this letter) within 30 days of this letter unless you request an extension of time to file.

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection (as required under IRC Section 6110) after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Notice 437 on how to notify us. If you agree with our deletions, you don't need to take any further action.

We'll also notify the appropriate state officials of our determination by sending them a copy of this final letter and the proposed determination letter (under IRC Section 6104(c)). You should contact your state officials if you have questions about how this determination will affect your state responsibilities and requirements.

If you have questions about this letter, you can contact the person listed at the top of this letter. If you have questions about your federal income tax status and responsibilities, call our customer service number at 1-800-829-1040 (TTY 1-800-829-4933 for deaf or hard of hearing) or customer service for businesses at 1-800-829-4933.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosures:

Notice 437

Redacted Letter 4036, *Proposed Adverse Determination Under IRC Section 501(c)(3)*

Redacted Letter 4038, *Final Adverse Determination Under IRC Section 501(c)(3) - No Protest*



Department of the Treasury
Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Date:
November 14, 2019
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

B = Date
C = State
D = Name
E = Organization

UIL:
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 incorporated on B in the state of C. Your organizing document, Articles of Incorporation, does not limit your purposes to one or more exempt purposes within the meaning of IRC Section 501(c)(3) or permanently dedicate your assets for Section 501(c)(3) purposes. Your Articles of Incorporation state that you were formed to promote the exhibition and breeding of purebred D according to approved standards by conducting sanctioned and licensed specialty shows and obedience trials and by providing programs where interested persons can become knowledgeable in all aspects of D.

Your Constitution states your objectives are to:

- Do all possible to bring the qualities of D to perfection;
- Urge members and breeders to accept the standard of the breed as approved by E as the only standard of excellence by which D shall be judged;
- Protect and advance the interests of the breed, and to encourage sportsman-like behavior at dog shows and agility events; and
- Conduct sanctioned and licensed specialty shows and performance events for which you are eligible under the rules of E.

Your membership is open to individuals at least 18 years of age who are in good standing with E and who subscribe to your purposes. Your By-Laws state your primary purpose is to be the representative of breeders, owners, exhibitors, and fanciers of D in your immediate area.

You host several dog shows and trials throughout the year. These events include breed shows, obedience trials, rally trials, and agility trials.

You conduct workshops, seminars, and clinics on topics such as herding, agility, trick dog, nose work, breeding, and grooming for the purpose of providing your membership and the general public with continuing education opportunities required by E. These events involve dogs and their owners, as instruction is provided to handlers while dogs receive training. You also educate the general public through ringside mentoring, which includes instruction and guidance conversations.

In addition, you are involved in the fostering and transportation of D, and you provide financial assistance to non-profit D rescue organizations when the need arises.

Your primary sources of revenues and expenses are attributable to dog shows and trials. Your other income sources include membership fees, fundraising programs, contributions, and fees from workshops, seminars, clinics.

Law

IRC Section 501(c)(3) provides for the recognition of exemption of organizations that are organized and operated exclusively for religious, charitable or other purposes as specified in the statute.

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 or 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(b)(4) provides that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose.

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.

Revenue Ruling 71-421, 1971-2 CB. 229, held that a dog club, exempt under IRC Section 501(c)(7) and formed to promote the ownership and training of purebred dogs which conducted obedience training classes, could not be reclassified as an educational organization exempt under 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 American Kennel Club, Inc. v. Hoey, 148 F.2d 920 (1945), the court held that the taxpayer was not exempt from federal taxation under the predecessor to IRC Section 501(c)(3) because regulating the sport of dog shows and field trials does not further charitable, educational, or scientific purposes.

In Ann Arbor Dog Training Club, Inc. v. Commissioner, 74 T.C. 207 (1980) the court held that the training of animals does not come within the meaning of "educational" as set forth in IRC Section 501(c)(3). The organization held dog obedience training classes, awarded the dogs a degree after completion of the course and also awarded them prizes at show events. While the owners of the dogs received some instruction as to the training of dogs, it was the dog that was the primary object of the training and evaluation.

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 Section 501(c)(3). You have failed to meet both requirements, as explained below.

Your Articles of Incorporation do not limit your purposes or dedicate your assets to exclusively IRC Section 501(c)(3) purposes. As a result, you do not meet the requirements of Treas. Reg. Sections 1.501(c)(3)-1(b)(1)(i) and 1.501(c)(3)-1(b)(4). Therefore, you have not satisfied the organizational test.

Treas. Reg. Section 1.501(c)(3)-1(c)(1) provides that an organization will not be regarded as exempt under IRC Section 501(c)(3) or operated exclusively for one or more exempt purposes if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. Like the organization described in Revenue Ruling 71-421, substantially all the activities you conduct involve promoting the exhibition, breeding, and training of purebred dogs. Therefore, you have not satisfied the operational test.

While some of your activities are charitable and educational, a more than insubstantial part of your activities is directed primarily at promoting the exhibition, breeding, and training of purebred dogs. According to the court in Better Business Bureau of Washington, D.C., Inc., such a single non-exempt purpose, if substantial in nature, will preclude exemption regardless of the number or importance of exempt purposes the organization serves.

Like the organizations described in American Kennel Club, Inc. v. Hoey and Ann Arbor Dog Training Club, Inc., you primarily promote the exhibition, breeding, and training of dogs. As a result, tax exemption under IRC Section 501(c)(3) is precluded.

Conclusion

You do not qualify for tax exemption under IRC Section 501(c)(3) because you are neither organized nor operated exclusively for purposes described in Section 501(c)(3).

You do not meet the organizational test outlined in Treas. Reg. Sections 1.501(c)(3)-1(b)(1)(i) and 1.501(c)(3)-1(b)(4) because your Articles of Incorporation do not limit your purposes to one or more exempt purposes or permanently dedicate your assets for Section 501(c)(3) purposes.

Further, the facts show that you do not meet the operational test outlined in Treas. Reg. Section 1.501(c)(3)-1(c)(1) because your primary activity is to promote the exhibition, breeding, and training of D.

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 Decision 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
P.O. 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