



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

Number: 202124013
Release Date: 6/18/2021

Date:
March 23, 2021
Employer ID number:

Form you must file:

Tax years:

Person to contact:

UIL Number: 501.00-00, 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)(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 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.

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,

Letter 4038 (Rev. 5-2020)
Catalog Number 47632S

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosures:
Notice 437
Redacted Letter 4034
Redacted Letter 4038



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

Date:
 February 3, 2021
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

B = Date
 C = State
 D = Year

UIL:

501.00-00
 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 submitted Form 1023-EZ, Streamline Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code.

You attested that you were formed as an unincorporated association on B, in the state of C. You attested that you have the necessary organizing document, that your organizing document limits your purposes to one or more exempt purposes within the meaning of 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 attested that you are organized and operated exclusively to further educational purposes and that you have not conducted and will not conduct prohibited activities under Section 501(c)(3).

Your mission as stated on the Form 1023-EZ is, "Classmates will deposit money to the class of D to pay for the reunion".

During review of your Form 1023-EZ, we sent a request for information regarding your activities to supplement the above mission, including, but not limited to, what specific activities you conduct, who participates in the activities, where you conduct the activities, when or how often the activities occur, what fees (if any) are

charged and how you determine them, and what percentage of your time and resources you spend on the activities.

You responded that you are applying for tax exempt status for an account that has been set up for class reunion monies for future class reunions. The account is not for fundraising, or any sort of profit. It is simply a place to hold monies given by class members who wish to attend a class reunion.

Law

IRC Section 501(c)(3) provides for the exemption from federal income tax of organizations organized and operated exclusively for religious, charitable or other purposes as specified in the statute. No part of the net earnings may inure to the benefit of any private shareholder or individual.

Treasury Regulation Section 1.501(c)(3)-1(a)(1) states that in order to qualify under 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 or 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.

Treas. Reg. Section 1.501(c)(3)-1(d)(2) provides the term “charitable” is used in IRC Section 501(c)(3) in its generally accepted legal sense and includes relieving the poor and distressed or the underprivileged, combating community deterioration, lessening neighborhood tensions, and eliminating prejudice and discrimination.

Treas. Reg. Section 1.501(c)(3)-1(d)(3)(i) provides that the term “educational,” as used in IRC Section 501(c)(3), relates to the instruction or training of the individual for the purpose of improving or developing his capabilities or the instruction of the public on subjects useful to the individual and beneficial to the community.

Revenue Ruling 66-179, 1966-1 C.B. 139, Situation 1, describes an organization that instructs the public on horticultural subjects. They maintain and operate a free library of materials on horticulture, instruct the public on correct gardening procedures, hold public flower shows of a non-commercial nature at which new varieties of plants are exhibited, makes awards to children for achievements in gardening, etc. Membership is open to the public and funds are derived from donations and membership dues. The ruling found that the organization was operated exclusively for charitable and educational purposes under IRC Section 501(c)(3). In Situation 2, the facts are the same as Situation 1 except that a substantial part of the organization’s activities, but not its primary activity, consists of social functions for the benefit, pleasure and recreation of its members. The ruling found that the organization was not operated exclusively for purposes under Section 501(c)(3) because it conducted more than insubstantial social functions, which are not in furtherance of exempt purposes.

In Better Business Bureau of Washington, D.C., Inc v. United States, 326 U.S. 279 (1945), the Supreme Court of the United States interpreted the requirement in IRC Section 501(c)(3) that an organization be “operated exclusively” by indicating that an organization must be devoted to exempt purposes exclusively. The presence of a single non-exempt purpose, if more than insubstantial in nature, will destroy the exemption regardless of the number and importance of truly exempt purposes.

Application of law

IRC Section 501(c)(3) sets forth two main tests for qualification of exempt status. Per Treas. Reg. Section 1.501(c)(3)-1(a)(1), an organization must be both organized and operated exclusively for purposes described in Section 501(c)(3).

You do not meet the operational test because your activities do not exclusively further IRC Section 501(c)(3) purposes. Your only activity is to organize a class reunion; specifically, to collect and deposit funds from class members who wish to attend the event. This activity does not further an exclusively charitable or educational purpose as described in Treas. Reg. Sections 1.501(c)(3)-1(d)(2) and Treas. Reg. Section 1.501(c)(3)-1(d)(3)(i). Thus, your primary activity serves a substantial non-exempt purpose and precludes exemption under Section 501(c)(3). Treas. Reg. Section 1.501(c)(3)-1(c)(1).

Unlike the organization in Rev. Rul. 66-179, Situation 1, you are not exclusively educating the public or performing charitable functions. Social and recreational events are not in furtherance of any of the purposes specified in IRC Section 501(c)(3). However, you are similar to the organization in Situation 2, because your primary activity furthers a substantial non-exempt purpose under Section 501(c)(3). As noted in the case of Better Business Bureau, the furtherance of a substantial non-exempt purpose precludes exemption under IRC Section 501(c)(3).

Conclusion

Based on the information submitted, you do not qualify for exemption under IRC Section 501(c)(3). You do not meet the operational test because you are operated for a substantial non-exempt purpose.

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