



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

Date:
12/13/2022
Employer ID number:

Person to contact:

Number: **202310011**
Release Date: 3/10/2023

UIL: 501.03-00, 501.03-05, 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 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: 10/24/2022

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

:

Legend:

X = Date

Y = State

B = City

C = Equine Event

D = Holiday Event

UIL:

501.03-00

501.03-05

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.

Issue

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 X, in the state of Y. 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. 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 disclosed your organization's mission or most significant activity is holding events for the city of B.

Detailed information was subsequently requested. You were formed to facilitate events for the promotion of the city B. You have hosted a fish fry for attendees of the C, an equestrian event held in the area. You fed an estimate of _____ attendees though donations received by your organization. Additional information was requested about C and a response was not submitted. This is currently your only activity, and you hope to add other annual promotional events for the benefit of B.

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. 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, 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. Sec. 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. Sec. 1.501(c)(3)-1(d)(2) defines the term charitable as used in section 501(c)(3) in its generally accepted legal sense and is, therefore, not to be construed as limited by the separate enumeration in section 501(c)(3) of other tax-exempt purposes which may fall within the broad outlines of 'charity' as developed by judicial decisions. Such term 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; and promotion of social welfare by organizations designed to accomplish any of the above purposes, or (i) to lessen neighborhood tensions; (ii) to eliminate prejudice and discrimination; (iii) to defend human and civil rights secured by law; or (iv) to combat community deterioration and juvenile delinquency.

Revenue Ruling 70-585, 1970-2 C.B. 115, situation 3 states an organization that formulated plans for the renewal and rehabilitation of an area of a city where the median income is lower than other sections and the housing is old and deteriorated, and which sponsors a renewal project in that area of the city is exempt under section 501(c)(3). The membership of the organization is composed of residents, businesses and community organizations in the area, and as part of its activities it purchased an apartment house to rehabilitate and rent to low and moderate families. The organization's activities combat community deterioration by assisting in the renovation of a rundown area.

Revenue Ruling 74-361, 1974-2 C.B. 159 states a volunteer fire company which provides fire protection and ambulance services for a community qualifies for exemption as a charitable organization under IRC 501(c)(3).

Revenue Ruling 76-419, 1976-2 C.B. 146 describes a nonprofit organization that purchases blighted land in an economically depressed community, converts the land into an industrial park, and encourages industrial enterprises to locate new facilities in the park in order to provide employment opportunities for low income residents of the area, is operated exclusively for charitable purposes and qualifies for exemption under section 501(c)(3) of the Code.

Revenue Ruling 77-111, 1977-1 C.B. 144 describes an organization formed to increase business patronage in a deteriorated area by providing information on the area's shopping opportunities, local transportation, and accommodations is not operated exclusively for charitable purposes and does not qualify for exemption under section 501(c)(3) of the Code. Similarly, an organization whose purpose is to revive retail sales in an area of economic decline by constructing a shopping center does not qualify for exemption.

Revenue Ruling 81-284, 1981-2 C.B. 130. states a nonprofit small business investment company licensed under section 301(d) of the Small Business Investment Act of 1958, which was formed to relieve poverty, eliminate prejudice and discrimination, reduce neighborhood tensions, and combat community deterioration. and that provides low-cost or long-term loans to businesses not able to obtain funds from conventional commercial sources. with preference given to businesses that provide training and employment opportunities for the unemployed or under-employed residents of economically depressed areas, may qualify for exemption.

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 a claim for exemption regardless of the number or importance of truly exempt purposes.

In Easter House v. United States, 12 Cl. Ct. 476 (1987), aff'd, 846 F.2d 78 (Fed. Cir. 1988), the U.S. Court of Federal Claims stated: "a taxpayer cannot premise its right to an exemption by showing that others have been treated more generously, leniently, or erroneously by IRS."

Application of law

Your activities are to attract new businesses and residents by supporting for-profit businesses and privately owned events. Your activities do not serve a charitable purpose described in IRC 501(c)(3). You are not operating exclusively for an exempt purpose described in Treas. Reg. Section 1.501(c)(3)-1(a)(1), Section 1.501(c)(3)-1(c)(1), and Section 1.501(c)(3)-1(d)(2).

Your activities of feeding participants at an event and platform to increase tourism in the hopes of increasing more businesses and residents do not combat community deterioration, increase economic development, and lessen the burden of government as described in Rev. Rul. 74-361 and Rev. Rul. 81-284.

Therefore, as described in Better Business Bureau of Washington, D.C., Inc. v. United States, you cannot be exempt under IRC 501(c)(3).

Your position

You stated you have struggled to attract new businesses and residents. You created a platform to promote economic development and tourism in B. You will foster existing businesses and support local area events and programs to promote tourism. You state this will result in combating community deterioration in your depressed community because it will increase sales tax revenue.

You provided supplemental information showing B is higher in state and national average poverty levels and lower in median household income.

You plan to support and promote an annual event "D," which is organized through the city of B and private citizens and business owners. D is lighting of the _____ during the holiday season.

You included that you share the same vision as another non-profit organization that has 501(c)(3) exemption.

Our response to your position

You are not similar to the organizations described in Rev. Rul. 70-585 and 76-419 because your activities are not assisting in the rehabilitation of an old and run-down residential area or increasing employment opportunities for low-income residents, but rather to attract potential new residents and businesses for the purpose of increasing sales tax revenues.

You created a platform to promote economic development and tourism; therefore, similar to the organization described in Rev. Rul. 77-11, you are not operating exclusively for a charitable purpose described in 501(c)(3) because your activities' purpose is to increase sales tax revenue from new businesses, new residents, and tourism.

Each application requesting exemption is reviewed on its own merits. You cannot use another organization to premise your right for exemption as described in Easter House v. United States.

Conclusion

We have determined you do not qualify for tax-exemption under IRC 501(c)(3). Your current activity of hosting a _____ for attendees at an annual _____ event does not meet the definition of charitable as described in Treas. Reg. Sec. 1.501(c)(3)-1(d)(2). Per Treas. Reg. Sec. 1.501(c)(3)-1(c)(1), you are not engaging primarily in activities that accomplish one or more exempt purposes specified in IRC Section 501(c)(3). More than an insubstantial part of your activities is not in furtherance of an 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 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