



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

Date:
04/15/2024
Employer ID number:

Person to contact:

Release Number: 202428007
Release Date: 7/12/2024
UIL Code: 501.00-03,
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

Letter 4038



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

Date: 02/15/2024

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

C = State

D = Date

n = amount

e percent = amount

k dollars = amount

g dollars = amount

j dollars = amount

h dollars = amount

UIL:

501.00-03

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 D, in C. 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 described in your application that you provide benefits to members and member families for funeral costs and student scholarships.

Detailed information was subsequently requested. Your Articles of Incorporation provide that you are organized to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of C other than the banking business, the trust company business or the practice of a profession permitted to be incorporated by the C Corporations Code. You are authorized to issue n shares.

You fundraise, organize monthly member meetings, and collect dues from your members to provide death benefits to their families. You also attend members funerals and assist the family members of the deceased. You provide college scholarships to a member's family member. Participants in your activities are members, member's families, and volunteers.

Your meetings are held monthly and fundraising conducted biannually at local parades. You charge a monthly fee of k dollars for individuals and g dollars per family. Your fees are determined by majority votes of the officers. Members families receive a death benefit of h dollars per member.

A onetime scholarship of j dollars is awarded to members' children who are graduating high school for college and these scholarships are awarded before high school graduation. You spend e percent on death benefits for members, and the remaining percentages of your resources is spent on scholarships and administrative expenses.

Your membership criteria include:

- Must be under years old
- Must attend a meeting prior to being accepted
- Must attest to be in good health.

Law

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(b)(1)(i) provides that an organization is not organized exclusively for one or more exempt purposes only if its articles of organization:

(a) Limit the purposes of such organization to one or more exempt purposes; and

(b) Do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities that 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 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) provides an applicant must show that it serves a public rather than a private interest and specifically that it is not organized or operated for the benefit of 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.

Revenue Ruling 69-175, 1969-1 C.B. 149, describes a nonprofit organization, formed by parents of pupils attending a private school, that provided school bus transportation for its members' children. It was held this served a private rather than a public interest and did not qualify for exemption.

Rev. Rul. 71-395, 1971-2 C.B. 228, holds that a cooperative art gallery formed and operated by a group of artists for the purpose of exhibiting and selling their works does not qualify for exemption under IRC Section 501(c)(3). The ruling concluded that the cooperative gallery served the private purposes of its members, even though the exhibition and sales of paintings may be an educational activity in other respects.

In Old Dominion Box Co. v. United States, 477 F.2d 340 (4th Cir. 1973), cert. denied 413 U.S. 910 (1973), the Fourth Circuit held that operating for the benefit of private parties constitutes a substantial nonexempt purpose.

Application of law

You do not meet the requirements of Treas. Reg. Section 1.501(c)(3)-1(a)(1) because you are not organized and operated exclusively for purposes described in IRC Section 501(c)(3).

You do not meet the organizational test provided by Treas. Reg. Sections 1.501(c)(3)-1(b)(1)(i) and 1.501(c)(3)-1(b)(4) because your organizing document does not limit your purposes or dedicate your assets to one or more exempt purposes described in IRC Section 501(c)(3). Rather, your organizing document indicates that you are a general stock corporation. You engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of C other than the banking business, the trust company business or the practice of a profession permitted to be incorporated by the C Corporations Code.

You do not meet the requirements of Treas. Reg. Section 1.501(c)(3)-1(c)(1) because more than an insubstantial part of your activities involves operating for the benefit of your members. You were formed to provide death benefits to your members' relatives. Further, you do not meet the requirements of Treas. Reg. Section

1.501(c)(3)-1(d)(1)(ii) because you serve private rather than a public interests. Specifically, you serve the private interests of your members by providing death benefits and scholarship to your members' family. As a result, you are serving your members and their private interests in a non-incidental manner, and are thereby serving private rather than public purposes.

You are like the organizations described in Rev. Rul. 69-175 and Rev. Rul. 71-395. You were formed to provide benefits to your members, such as death benefits and scholarships to members relatives. As provided by Old Dominion Box Co., operating for the private benefit of your members constitutes a substantial non-exempt purpose which, when done in a more than incidental manner, precludes exemption under IRC Section 501(c)(3).

Conclusion

Based on the information submitted, you are neither organized nor operated exclusively for one or more purposes described in IRC Section 501(c)(3). Your organizing document does not limit your purposes or dedicate your assets to one or more exempt purposes described in Section 501(c)(3). You are also operated for the benefit of your members by providing death benefits and scholarships to members' relatives.

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