



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

**Date:**  
05/29/2024  
**Employer ID number:**

**Form you must file:**

**Tax years:**

**Person to contact:**

Release Number: 202434012  
Release Date: 8/23/2024  
UIL CODE: 501.03-00 ,  
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](http://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: 04/01/2024

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

**Legend:**

B = Date of Incorporation

C = State of Incorporation

**UIL:**

501.32-01

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 B, in the state of 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 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

**Letter 4034 (Rev. 01-2021)**  
Catalog Number 47628K

- 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

During review of your Form 1023-EZ, detailed information was requested supplemental to the above attestations.

You have amended your organizing documents to include language compliant with IRC Section 501(c)(3). Your purpose is to support the poor, provide food for the hungry, homeless, and underprivileged in your state.

You formed to help your members and the community. Your primary activities include creating and maintaining a pool of money. Prospective member application fees and monthly member dues are used to form this pool of money, which is later distributed to family members to cover expenses for marriages, anniversaries, retirement and in the event a member dies. Your members with fully paid dues and active attendance are eligible for this benefit. You also state picnics are held and open to the public, with other events planned in the future.

#### **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, 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 is not in furtherance of an exempt purpose.

Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized or operated exclusively for exempt purposes unless it serves a public rather than a private interest. To meet this requirement, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests.

Revenue Ruling 67-367, 1967-2 C.B 188, held an organization that pays 'scholarships' to pre-selected, specifically named individuals designated by subscribers, the organization is serving private interests rather than public charitable and educational interests contemplated under IRC Section 501(c)(3) and does not qualify for exemption.

Rev. Rul. 69-175, 1969-1 C.B. 149, held that when a group of individuals associate to provide a cooperative service for themselves, they are serving a private interest. By providing bus transportation for school children, controlled by parents who pay fees for the service, the organization serves a private rather than a public interest and is not exempt under IRC Section 501(c)(3).

Rev. Rul. 75-286, 1975-2 C.B. 210, held that an organization enhancing the value of its members' property rights, by the restricted nature of its membership and the limited area in which its improvements are made, indicate that the organization is organized and operated to serve the private interests of its members within the meaning of Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii). Accordingly, although the organization is primarily engaged in promoting the general welfare of the community, it is not organized and operated exclusively for charitable purposes and does not qualify for exemption 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...[nonexempt] purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly...[exempt] purposes.”

In Cap. Gymnastics Booster Club, Inc. v. Comm'r, 106 T.C.M. (CCH) 154 (T.C. 2013), Section 501(c)(3) provides that, in order for an organization to qualify as tax-exempt, “no part of the net earnings of the organization may inure to the benefit of any private shareholder or individual”. This prohibition looks to benefits conferred on a “private shareholder or individual”, generally understood to mean an insider of the organization (such as a member or an officer).

#### **Application of law**

Per Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) serving private interests is prohibited. Organizations that limit membership, require the payment of a fee to receive a benefit and provide substantial benefit to only members are all common factors that indicate you are serving private interests.

You do not meet the operational test under IRC Section 501(c)(3) because you are not operated exclusively for charitable purposes as required under Treas. Reg. Section 1.501(c)(3)-1(c)(1). Your primary activities serve the private interests of your members not the public as a whole. Your activities are like those described in Cap. Gymnastics Booster Club, Inc., which held that private interests are prohibited. You state you intend to provide public aid through outreach activities. However, your current activities are only provided to paid members or your organization. The Supreme Court held in Better Business Bureau of Washington, D.C., Inc., the presence of a single nonexempt purpose, if substantial, will destroy the exemption. As provided in Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) and 1.501(c)(3)-1(d)(2), you have not established that your operations benefit the public or accomplish exclusively charitable purposes.

Similar to Rev. Rul. 67-367 your organization has restricted membership to those who have paid the required fee. Benefits are provided only to these members, which serves private interest.

You are similar to the organization in Rev. Rul. 69-175 in that you are formed to fulfill the private interests of your members. Your organization restricts membership, requires payment of fees in order to receive benefit. This serves private interest. You are similar to the organization in Rev. Rul. 75-286 in that you do not operate exclusively for charitable purposes, but rather for the private interest of your members.

### **Conclusion**

You are operated and organized for the purpose of private benefit since your current activities strictly benefit members of your organization. You are not operated exclusively for exempt purposes as described in IRC Section 501(c)(3). You state your activities are collection of member fees for the purpose of funding a money pool. Distributions are made for marriages, anniversaries, retirement and in the event a member dies. These activities all serve private interest and thus do not qualify you for exemption under Section 501(c)(3). Your donors can not deduct contributions to you.

### **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](http://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](http://www.taxpayeradvocate.irs.gov) or call 877-777-4778.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements