



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

Date:
06/24/2024
Employer ID number:

Person to contact:

Release Number: 202438016
Release Date: 9/20/2024
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.

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

Date: 05/02/2024

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

W = Date

X = State

b dollars = dollar amount

c dollars = dollar amount

d dollars = dollar amount

e dollars = dollar amount

UIL:

501.03-00

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 are an unincorporated association formed on W, in X. 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 IRC Section 501(c)(3).

You attest that you are organized and operated exclusively to further charitable and educational 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

Form 1023-EZ states that your mission is to assist, help and advise your members for the promotion of well-being.

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

Your specific activities are collecting a downpayment for members to purchase a house and providing afterschool tutoring for members' and neighbors' children.

Regarding your downpayment program, you state becoming a homeowner is not only one of the bigger achievements but also a safeguard for preventing your children from messing up with anyone in the complex. You state even with a good job it is difficult for members to save for a downpayment so one of your objectives is to help each other get a downpayment whenever needed.

Funds are available to any member in need of a downpayment. The person in need will complete a request and an ad hoc commission will assess the request regarding the affordability of the requester. You state all members are aware of the program and it is one the reasons you are collecting membership fees. The criteria for any member to apply is proof of a loan approval from a financial institution and you advise the member that a minimum income of e dollars per year should be a requirement before thinking about becoming a homeowner. After a loan approval, a check will be drawn from your bank account if funds are available, otherwise a special collection will be organized. You state that the downpayment program is a private loan with no interest which makes it easier for your members to make a downpayment on a house.

Regarding your afterschool tutoring program, you state most of the kids coming from abroad are having issues with English and math classes. You state you have a team of youngsters well skilled in math that are tutoring their brothers and sisters.

You submitted a membership application form that includes three membership plans: standard (b dollars / year), silver (c dollars / year), and gold (d dollars / year). However, no description was provided to differentiate between the membership plans on your membership application form. Further, you state that you have ordinary members, donor members, and honor members. Ordinary members are anyone from the community sharing your objectives, donor members are the ones providing donations, and honor members are individuals to whom you have granted the title for any reason. You state downpayment assistance to buy a house and tutoring are the biggest benefits provided to members.

Law

IRC Section 501(c)(3) provides for the recognition of exemption of organizations that are organized and operated exclusively for religious, charitable, educational 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. 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, described an organization whose sole activity was the operation of a "scholarship plan" for making payments to pre-selected, specifically named individuals. The organization did not qualify for exemption under IRC Section 501(c)(3) because it was serving the private interests of its subscribers rather than public or charitable interests.

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).

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 the operational test, as explained below.

You fail to meet the operational test under IRC Section 501(c)(3) because you are not operating exclusively for exempt purposes as required under Treas. Reg. Section 1.501(c)(3)-1(c)1. You are not operating exclusively for exempt purposes because you serve a private rather than a public interest. See Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii). Your activities primarily consist of collecting a downpayment, which is a no interest loan, to make it easier for your members to buy a house and providing afterschool tutoring for your members' and their neighbors' children.

You are like the organization described in Rev. Rul. 67-367 because you make payments to your members, who are pre-selected, specifically named individuals. These payments provide your members with interest free loans

to provide them with a downpayment to purchase a new house. This is serving the private interests of your members rather than public interests.

You are like the organization described in Rev. Rul. 69-175 because you are a group of individuals associated to provide a cooperative service for themselves which serves a private interest. The tutoring services provided to your members allows them to fulfill their individual responsibility of ensuring the proper education of their children. Although neighbors' children of your members benefit from the tutoring service, the main objective of the tutoring service is to benefit your members, and this serves a private interest.

Conclusion

By providing no interest loans to your members to make it easier for them to buy a house, and providing tutoring services primarily to your members' children, you are serving private rather than a public interest. Accordingly, you do not qualify for IRC 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 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

