



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

Date:
08/01/2024
Employer ID number:

Release Number 202443018
Release Date: 10/25/2024
UIL Code: 501.05-01

Form you must file:
1120
Tax years:
All
Person to contact:

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)(5). 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.

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



Department of the Treasury
Internal Revenue Service

Date: 5/13/2024

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

B = State

C = Date

D = Year

E = Year

F = Year

s dollars = Amount

UIL:

501.05-01

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)(5). 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)(5)? No, for the reasons stated below.

Facts

You were formed in the state of B as a limited liability company (LLC) on C. You are a single owner and operator LLC. Specifically, your president is your owner and manager as well as member. You have not adopted bylaws, nor do you have an operating agreement. You are operating a farming business on property owned by your president and her spouse.

Your past activities include research, business plan development, and soil testing. Present activities include planting and growing crops such as vegetables, fruits, and flowers, and raising chickens for their eggs. You also sell fruits, vegetables, cut flowers, and eggs that result from your operations at a farm stand located on the farm property, at a neighboring campground during their open season, or at the local farmer's markets in the summer and early autumn months. You sell the products based on costs and market analysis.

You provided a statement of profit and loss for the partial year of D, full year of E, and projected full year of F. These show your income sources are from crop and egg sales. Your expenses include advertising, office supplies, deliveries, and purchases such as chemicals, fertilizers, livestock, seeds, and plants. You have shown a loss for each year, and the total loss for all years is s dollars. Your president currently funds your operations. In

the future, your owner/president will be paid at hourly rate for the actual labor performed on planting, harvesting, and bookkeeping.

You explained that tax-exemption status will allow for the improvement of agricultural conditions and will make you more efficient. You differ yourself from for-profit entities in that your ownership is an individual, not cooperations, and you are driven by sustainable farming values. You further explained:

- You are bettering the condition of livestock by producing local eggs to the community
- You are increasing the efficiency of the food industry by offering locally grown, in-season products
- You are promoting high quality over high quantity
- You are committed to local food and flower production by participating in local farmers markets

You also plan to invest in a specialized irrigation system which decreases water usage while improving your crop yield and quality. This allows for more efficient and effective pest management and you will then be better funded from sales of fruits, vegetables, flowers, and eggs to the local public.

You provided that upon dissolution, you will liquidate assets to cover outstanding liabilities, final tax payments, and payments of employees as appropriate (i.e., sick time owed).

Law

Internal Revenue Code (IRC) Section 501(c)(5) provides for the exemption from federal income tax of labor, agricultural, or horticultural organizations.

Treas. Reg. Section 1.501(c)(5)-1(a) provides that the organizations contemplated by IRC Section 501(c)(5) as entitled to exemption from income taxation are those which (1) have no net earnings inuring to the benefit of any member, and (2) have as their objects the betterment of the conditions of those engaged in such pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occupations.

Rev. Rul. 66-105, 1966-1 C.B. 145, held that an organization composed of agricultural producers whose principal activity is marketing livestock as an agent for its members does not qualify for exemption. The sale of members' products with the return to them of the sale proceeds is neither an object nor an activity within the ambit of IRC Section 501(c)(5). Therefore, the organization does not meet the requirements of Treas. Reg. Section 1.501(c)(5) and is not exempt under Section 501(c)(5).

Rev. Rul. 74-195, 1974-1 C.B. 135, held that a nonprofit organization formed to manage, graze and sell its members' cattle did not of itself better the conditions of those engaged in agricultural pursuits, improve the grade of their products, or develop a higher degree of efficiency in their operations within the meaning of IRC Section 501(c)(5). The principal purpose of the organization was to provide a direct business service for its members' economic benefit.

Application of law

You do not qualify for exemption under IRC Section 501(c)(5), because you do not meet the provisions in Treas. Reg. Section 1.501(c)(5)-1(a). This is evidenced by the fact that you were formed as a for-profit company. Specifically, you were formed as a single operator/owner LLC and are owned by your president. As your owner, your president is entitled to your earnings. Therefore, your net earnings are inuring to your

president in contravention to Treas. Reg. Section 1.501(c)(5)-1(a)(1). This precludes exemption under Section 501(c)(5).

You also do not meet Treas. Reg. Section 1.501(c)(5)-1(a)(2). You are operating a farm which includes growing fruits and vegetables and then selling them at various venues. These facts show your operations are not aimed at the overall betterment of conditions, improvement of the grade of products, or the development of a higher degree of efficiency within the farming industry but you are operating a farming business which is contrary to IRC Section 501(c)(5).

You are like the organization in Rev. Rul. 66-105. Your activities consist of growing fruits and vegetables and then selling them at various venues. Your member is then entitled to the proceeds from the sales. This is neither an object nor an activity within the ambit of IRC Section 501(c)(5). Similar to the organization described in Rev. Rul. 74-195, your principal purpose is to provide a direct business service for your member's economic benefit.

Conclusion

Based on the information provided, we conclude that you are not operated as an exempt organization described in IRC Section 501(c)(5). Your net earnings are inuring to your president, and you are operating a farming business. Accordingly, you do not qualify for recognition of exemption under Section 501(c)(5).

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