



Date:
08/01/2024
Employer ID number:

Person to contact:

Release Number: 202443020
Release Date: 10/25/2024
UIL Code: 501.00-00,
501.03-00, 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
Letter 4038



Department of the Treasury
Internal Revenue Service

Date: 05/29/2024

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

B = Date

C = State

D = City, State

y dollars = Dollar Amount

UIL:

501-00-00

501.03-00

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.

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 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 IRC 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

In your application, you indicated your mission is to provide a fun, healthy, recreational, and competitive social activity in a structured setting which fosters friendships and camaraderie, and by doing so helps to grow the sport of pickleball in D. You selected National Taxonomy of Exempt Entities (NTEE) code N50, indicating you are a recreational, pleasure or social club.

Detailed information was subsequently requested. We sent you a copy of your articles of incorporation that state your purpose is to promote the development and growth of the sport of pickleball for the enjoyment, health, and social wellbeing, for all ages, in D. You promote social, recreational, and competitive events for all ages and levels of ability. You will raise funds to accomplish these purposes.

Your specific activity is to organize fun and social events, in a safe environment for all members to play pickleball. Anyone in the community can join your pickleball club. Membership fees are y dollars, and are used to support the club's activities, equipment, and upkeep. Your activities are held on public courts.

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.

IRC Section 501(j) provides that an organization which fosters national or international amateur sports competition, but whose activities also involve the provision of athletic facilities or equipment, may still qualify for exemption under Section 501(c)(3) if the organization is considered a "qualified amateur sports organization" under Section 501(j)(2). Qualified amateur sports organizations will qualify for tax-exempt status whether they provide facilities or equipment to their members, and whether their membership is local or regional in nature. For purposes of this subsection, the term "qualified amateur sports organization" means any organization organized and operated exclusively to foster national or international amateur sports competition if such organization is also organized and operated primarily to conduct national or international competition in sports or to support and develop amateur athletes for national or international competition in sports.

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(b)(1)(i) provides that an organization is organized exclusively for one or more exempt purposes only if its articles of organization limit its purposes to one or more exempt purposes and

do not expressly empower it to engage, otherwise than as an insubstantial part of its activities, in activities which themselves are not in furtherance of one or more exempt purposes.

Treas. Reg. Section 1.501(c)(3)-1(b)(1)(iv) provides that in no case an organization shall be considered to be organized exclusively for one or more exempt purposes, if, by the terms of its articles, the purposes for which such organization is created are broader than the purposes specified in Section 501(c)(3).

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.

Revenue Ruling 64-275, 1964-2 C.B. 142, held an organization formed for the purpose of training suitable candidates in the techniques of racing sailboats in national and international competition, and thereby improving the caliber of candidates representing the United States in Olympic and Pan-American games, qualifies for exemption as an educational organization described in IRC Section 501(c)(3).

Rev. Rul. 65-2, 1965-1 C.B. 227, describes an organization that is organized and operated exclusively for the purpose of teaching a particular sport to children under the ages of 18 by holding free clinics, with free equipment for those children unable to afford such equipment, all conducted by qualified instructors. The organization was recognized as charitable, and education as described in IRC Section 501(c)(3), and qualifies for exemption from Federal income tax.

Rev. Rul. 70-4, 1970-1 C.B. 126, describes an organization engaged in promoting and regulating a sport for amateurs. The organization's purposes were to promote the health of the general public by encouraging all persons to improve their physical condition and fostering public interest in a particular sport. Its activities were directed toward promoting sport tournaments, exhibitions and holding instructive clinics. The organization did not qualify for exemption under IRC Section 501(c)(3).

Rev. Rul. 80-215, 1980-2 C.B. 174, describes an organization that was formed to develop, promote and regulate a sport for youth under the ages of 18 and to promote sportsmanlike competition among the players. Additionally, it promulgated rules, organized officials, and presented seminars for players and coaches and referees. The organization combatted juvenile delinquency by providing a recreational outlet for the young people, which is a charitable purpose. Furthermore, the organization was educational because it taught and developed the skills of the youth.

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279 (1945), the Supreme Court determined the activities of that organization were aimed at promoting the prosperity and standing of the business community and therefore, served a substantial private purpose. It concluded that the presence of a single nonexempt purpose, if substantial in nature, will preclude exemption regardless of the number or importance of statutorily exempt purposes.

In Hutchinson Baseball Enterprises, Inc. v. Commissioner, 696 F.2d. 757 (1982), the court held that an organization that promoted recreational and amateur sports was exempt as a charitable organization under IRC Section 501(c)(3). The organization undertook numerous activities to promote the sport of baseball and the court found that the purpose of promoting sports predominated over subsidiary purposes, such as members'

recreational or social benefit.

In Media Sports League, Inc. v. Commissioner, T.C. Memo 1986-568 (1986), the court ruled that an organization that sponsored sports competitions for adults in the community was not exempt under IRC Section 501 (c)(3). The court found that the organization had the substantial nonexempt purpose of promoting the social and recreational interests of its members.

In Wayne Baseball, Inc. v. Commissioner, T.C. Memo. 1999-304 (1999), the court held that the organization's nonexempt social and recreational activities were substantial in comparison to the organization's promotion of baseball in the community. The Court found that the only activity sponsored by the organization was the operation of an adult amateur baseball team and that the primary beneficiaries of the organization were the individual team participants.

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 both requirements, as explained below.

According to your articles of incorporation, your purpose is to provide a community pickleball club for the enjoyment, health, and social wellbeing for all members. Because your organizing document does not limit your purposes to those exclusively exempt under IRC Section 501(c)(3), you do not meet the requirements of Treas. Reg. Section 1.501 (c)(3)-1(b)(1)(i). You cannot be considered organized exclusively for exempt purposes if, in your articles, your purposes are broader than those specified in Section 501(c)(3), as prohibited by Treas. Reg. Sec. 1.501(c)(3)-1(b)(1)(iv).

You are not described in IRC Section 501(j) because you do not foster national or international amateur sports competition, nor you are operated primarily to conduct national or international sports competition to support and develop amateur athletes for national or international competitions as described in Section 501(j). The persons involved in your activities are participating in a sport for their own personal health, enjoyment, and social well-being. You do not have any special requirements to participate in your activities. Thus, you are not an amateur sports organization as described in Section 501(j).

Your activities consist of organizing and operating community pickleball for your members, which are not exclusively educational, religious, nor charitable activities under IRC Section 501(c)(3). Therefore, you do not meet the operational test under Section 501(c)(3) because you are not operating exclusively for exempt purposes as required. See Treas. Reg. Section 1.501(c)(3)-1(c)(1).

You are not like the organization described in Rev. Rul. 64-275 because you do not provide a training program which prepares participants for national and international competitions. You are also unlike the organizations described in Rev. Rul. 65-2 or Rev. Rul. 80-215, because your recreational activities are not limited to a charitable class. You are similar to the organization described in Rev. Rul. 70-4, which did not qualify for exemption under IRC Section 501(c)(3), because you provide recreational community pickleball for all ages.

Your activities consist of organizing and operating community pickleball. Because you are operating for substantial non-exempt purposes, as described in Better Business Bureau of Washington, D.C., Inc., you are precluded from exemption under IRC Section 501(c)(3).

You are unlike the organization described in Hutchinson Baseball Enterprises, Inc. because you operate for substantial recreational and social purposes of your pickleball club members. You are like the organizations described in Media Sports League, Inc. and Wayne Baseball Inc. because your social and recreational activities are substantial and preclude exemption under IRC Section 501(c)(3).

Conclusion

Based on the facts and circumstances presented, you do not qualify for exemption under IRC Section 501(c)(3). You are neither organized nor operated exclusively for exempt purposes within the meaning of Section 501(c)(3). Your purposes as stated in your articles of incorporation are beyond the scope of Section 501(c)(3) causing you to fail the organizational test. Additionally, you fail the operational test because your activities further a substantial non-exempt purpose of promoting recreational community pickleball events for your members. Accordingly, you do not qualify for exemption under 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