



Department of the Treasury
Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Release Number: **201718038**
Release Date: 5/5/2017

Date: February 8, 2017

Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

UIL: 501.03-05, 501.35-00

Dear _____ :

This letter is our final determination that you don't qualify for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code (the Code). 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 Section 501(c)(3) of the Code, donors can't deduct contributions to you under Section 170 of the Code. You must file federal income tax returns for the tax years listed at the top of this letter using the required form (also listed at the top of this letter) within 30 days of this letter unless you request an extension of time to file.

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection (as required under Section 6110 of the Code) after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Notice 437 on how to notify us. If you agree with our deletions, you don't need to take any further action.

We'll also notify the appropriate state officials of our determination by sending them a copy of this final letter and the proposed determination letter (under Section 6104(c) of the Code). You should contact your state officials if you have questions about how this determination will affect your state responsibilities and requirements.

If you have questions about this letter, you can contact the person listed at the top of this letter. If you have questions about your federal income tax status and responsibilities, call our customer service number at 1-800-829-1040 (TTY 1-800-829-4933 for deaf or hard of hearing) or customer service for businesses at 1-800-829-4933.

Sincerely,

Jeffrey I. Cooper
Director, Exempt Organizations
Rulings and Agreements

Enclosures:

Notice 437

Redacted Letter 4036, *Proposed Adverse Determination Under IRC Section 501(c)(3)*

Redacted Letter 4038, *Final Adverse Determination Under IRC Section 501(c)(3) - No Protest*



Department of the Treasury
Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Date: December 15, 2016

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

V = Date
W = Date
X = State
Y = Organization
z = number

UIL:

501.03-05
501.35-00

Dear _____ :

We considered your application for recognition of exemption from federal income tax under Section 501(a) of the Internal Revenue Code (the Code). Based on the information provided, we determined that you don't qualify for exemption under Section 501(c)(3) of the Code. This letter explains the basis for our conclusion. Please keep it for your records.

Issues

- Do you meet the organizational test under section 501(c)(3) of the Code? No, for the reasons stated below.
- Do you meet the operational test under section 501(c)(3) of the Code? No, for the reasons stated below.

Facts

You submitted Form 1023-EZ, *Streamline Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, on V.

You attest that you were incorporated on W, in the state of 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 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 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

During review of your Form 1023-EZ, detailed information was requested supplemental to the above attestations. This information shows you currently are recognized as an organization described in section 501(c)(4) of the Internal Revenue Code. Prior to being recognized as exempt under section 501(c)(4), your exempt status under 501(c)(7) was revoked.

You were incorporated on W in X. The purposes for which you were formed are as follows:

To purchase, lease or otherwise acquire, and to hold, own, use, develop, mortgage, lease, sell or otherwise dispose of all real or personal property necessary or convenient for use as an indoor or outdoor Archery range, and to do all things necessary, convenient or incident to the operations of an Archery club.

Your Constitution describes your purposes as follows:

To practice, protect and perpetuate the sports of archery and bow hunting within the community, encourage good ethics and sportsmanship among all participants, cooperate with local, state and federal wildlife and conservation organizations in regards to land and wildlife management, to sponsor indoor archery leagues, maintain a field course and conduct outdoor tournaments and games in accordance with your rules.

Your Constitution provides that in the event you become inactive and disband, your assets shall be put into an escrow account for a period of up to three years. Disbandment is subject to the approval of two-thirds of the members in good standing present at a General Membership Meeting with all members having prior notice of the intention to disband. In the event you do not reorganize, the members in attendance shall decide where your assets will go; however, they are to be used for the betterment of bow hunting organizations.

Your Bylaws describe your membership types, membership application procedures, membership rights and entitlements, committees, finances, and election and duties of officers and trustees. Committees described in your Bylaws include the House, Membership, Publicity, Youth Activity, Grounds, Long Range Planning, Concessions, Registration, Target Painting, and Newsletter. The Grounds Committee shall supervise the upkeep of grounds and roads and make recommendation concerning necessary repairs and improvements. The Concessions Committee will supervise and operate food service for all club events.

Your Standing Rules permit members to camp on the grounds. Members are permitted to borrow your club tables and chairs. Club grounds and/or facilities can only be rented to Club members in good standing. Members are allowed 24-hour access to club facilities 365 days of the year.

You stated that you were originally formed on W so that a group of people could have an organization that would secure land and a building to practice the sport of archery. Over the years things may have changed slightly but your main focus was always fostering archery competition. You grew and became a member-only club and received a designation as a 501(c)(4) organization. You indicated that in the last 15 years you are much more available to the public. You still offer memberships that allow a member to enjoy the grounds 24 hours a day, every day of the year for archery, or conservation based programs. To become a member, an individual submits an application to the Board of Trustees for approval. Regular membership is limited to z individual and family memberships.

You charge an annual membership fee; a set fee per adult shooter for public shoots, a reduced fee for kids ages 13-18, and kids 12 and younger are free. Youth leagues are offered for a fee and last 13 weeks during the winter months. You also offer a 13 week adult league for a fee, which is discounted for members. You have a written policy that if someone is unable to pay, they may contact your board and you will deal with each circumstance on an individual basis. All leagues are open to the public, but preference will be given to your members if leagues reach maximum participation.

You have 10 monthly shoots per year, 6 winter leagues that run 3 months, and various summer leagues. All monthly shoots, leagues, and conservation programs (put on by other organizations) are also open to the public. You stated that 80% of your time is dedicated to growing the sport of archery within your community and 20% is devoted to habitat conservation. All of the events you sponsor take place on your 40-acre wooded lot. You are open to all ages and open your property to youth groups who need a safe place to enjoy nature.

You went on to further state that the use of your archery facilities on an annual basis is 30% members, 40% general public and adult leagues, 20% youth leagues, and 10% other 501(c)(3) organizations.

Your certified USA Archery instructors are strictly volunteer and are not reimbursed for their time spent teaching. Instructors are available at all public shoots, group functions, and leagues. With volunteer staff, you are more suited to introduce kids and adults to archery at a recreational level and help direct them to other established programs for higher development if they desire. You are focused on educating families about the health benefits of archery and the natural world around them. You stated that a top quality archer who has the potential to compete internationally is better suited with a paid coaching staff. Organizations that focus on the top archers generally don't engage the general public like you do.

Substantially all of your income goes towards maintaining your property. The property includes an indoor range with twenty-yard shooting lanes that also doubles as a clubhouse for you and other non-profits to hold events. The 40-acre outdoor range contains thirty targets on a 1.5 mile trail. Along with the maintenance of buildings and ranges, you also provide equipment for free public use. You must replace equipment each year as the public becomes for involved in archery and equipment is used to the point of failure. Other minor expenses are for conservation initiatives that support your mission statement.

You indicated you are an affiliate of many other non-profit organizations. Strong partnerships with like-minded hunting and conservation groups is a key to your success. Whenever a shoot or event generates extra revenue, you may also donate to other non-profit groups.

For example, you opened your property to habitat conservancy by Y, a conservation organization. Y contacted you asking if you were interested in habitat restoration. Y is restoring your property with grant monies it has received. You coordinate workdays, which involves the removal of invasive species that crowd out native species on your property. Y and other like organizations use your property for guided hikes and demonstrations.

You believe you now qualify for exemption as a 501(c)(3) organization because your main goal is fostering archery, an amateur sport. Your secondary goal is promoting legal- and science-based conservation of natural resources. You are affiliated with many other 501(c)(3) groups that are very similar to your club. You are happy to open your doors or gates to other non-profits that share a similar goal to yours without charge.

Law

Section 501(c)(3) of the Internal Revenue Code (Code) exempts from federal income tax: corporations, and any community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 501(j)(2) of the Code defines the term “qualified amateur sports organization” to mean 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.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations (regulations) provides that, in order for an organization to be exempt under section 501(c)(3) of the Code, it 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.

Section 1.501(c)(3)-1(b)(1)(iv) of the regulations provides that in no case shall an organization 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).

Section 1.501(c)(3)-1(b)(4) of the regulations states that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, if upon dissolution, such assets would by reason of a provision in the organization's articles of organization or by operation of law, be distributed for one or more exempt purposes.

Section 1.501(c)(3)-1(c)(1) of the regulations 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 such exempt purposes specified in 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.

Section 1.501(c)(3)-1(d)(2) of the regulations provides that the term "charitable" is used in section 501(c)(3) of the Code in its generally accepted legal sense and includes relief of the poor and distressed or of the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments, or works; lessening of the burdens of Government; and promotion of social welfare by organizations designed to accomplish any of the above purposes.

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 section 501(c)(3) of the Code.

Revenue Ruling 65-2, 1965-1 C.B. 227, held, a foundation, which is organized and operated exclusively for the purpose of teaching a particular sport to children by holding clinics conducted by qualified instructors in schools, playgrounds, and parks, and by providing free instruction, equipment, and facilities, qualifies for exemption under section 501(c)(3) of the Code.

Revenue Ruling 66-273, 1966-2 C.B. 222 describes a nonprofit organization may qualify for exemption from Federal income tax under section 501(c)(4) of the Code where it provides a community with supervised facilities for rifle, pistol, and shotgun practice and instructions in the safe handling and proper care of weapons. The activities as described promote the common good and general welfare of the community.

Revenue Ruling 67-109, 1967-1 CB 136 describes a nonprofit corporation organized and operated exclusively for the purpose of establishing and maintaining a roller skating rink as a recreational facility for the benefit and use of the residents of a particular county, in a county-owned building which it occupies rent free in cooperation with the county government, may qualify for exemption from Federal income tax under section 501(c)(4) of the Code where the rink is open to the general public upon payment of such nominal dues and admissions charges as are needed to defray operating expenses.

Revenue Ruling 70-4, 1970-1 C.B. 126, provides that an organization whose activities consisted primarily of the promotion and regulation of a sport for amateurs is not exempt as a section 501(c)(3) educational organization because the promotion and regulation of a sport for amateurs as described neither improve nor develop the capabilities of the individual nor instruct the public on subjects useful to the individual and beneficial to the community. The organization was found to be exempt under section 501(c)(4) instead.

Revenue Ruling 76-204, 1976-1 C.B.152 provides that preserving ecologically significant land is a charitable purpose and activity even without educational or open public access. It recognizes that efforts to preserve and protect the natural environment for the benefit of the public serve as a charitable purpose.

Revenue Ruling 80-215, 1980-2 CB 174 provides that an organization formed to develop, promote, and regulate a sport for individuals under 18 years of age by organizing local and statewide competitions, promulgating rules, organizing officials, presenting seminars, distributing a newsletter, and otherwise encouraging growth of the sport, qualifies for exemption under section 501(c)(3) of the Code.

In *Better Business Bureau v. United States*, 326 U.S. 278 (1945), the court held that an organization is not operated exclusively for charitable purposes, and thus will not qualify for exemption under section 501(c)(3), if

it has a single non-charitable purpose that is substantial in nature. This is true regardless of the number or importance of the organization's charitable purposes.

In *Media Sports League, Inc. v. Commissioner*, T. C. Memo 1986-568, the Tax Court dealt with an organization that arranged football, softball, volleyball, and other games among its members with membership open to all persons over age twenty-one without regard to their skills in the sport. The organization offered members informal instruction in the fundamentals of each sport, but members were not required to receive instruction or to participate in any athletic activities. The Tax Court held that the organization was not exempt from federal income taxation under IRC 501(c)(3) because the social and recreational interests of its members constituted a substantial purpose, which is not an exempt one under IRC 501(c)(3).

Application of law

You are not organized and operated exclusively for purposes within the meaning of section 501(c)(3) of the Code because you do not meet the organizational and operational tests.

You do not meet the requirements of section 1.501(c)(3)-1(b)(1)(iv) of the regulations because your purposes as stated in your organizing document are broader than the purposes specified in section 501(c)(3). Your purpose is to acquire property for the purpose of operating an archery club.

You do not meet the requirements of section 1.501(c)(3)-1(b)(4) of the regulations because your assets, upon dissolution, are not dedicated exclusively to an exempt purpose under section 501(c)(3).

You do not meet the requirements of section 1.501(c)(3)-1(a)(1) regulations because you are not organized and operated exclusively for exempt purposes. A substantial part of your activities is the provision of indoor and outdoor archery ranges for the recreation and pleasure of your members and the general public, and coordinating archery competitions, the majority of which are for adults.

You do not meet the requirements of section 1.501(c)(3)-1(c)(1) of the regulations because you are not operated exclusively for one or more exempt purposes within the meaning of section 501(c)(3). A substantial activity is providing and maintaining archery ranges for your members and the general public, which furthers recreational purposes rather than charitable purposes. Less than 20% of your time is devoted to educational and conservation activities.

You do not meet the requirements of section 1.501(c)(3)-1(d)(2) of the regulations. A substantial part of your activities involves providing archery ranges and coordinating leagues for the recreational use of your members and the general public, which is not exclusively charitable or educational.

You are unlike the organization described in Revenue Ruling 64-275. You do not provide a training program which prepares participants for national and international competitions. You state that with volunteer staff, you are more suited to introduce kids and adults to archery at a recreational level and help direct them to other established programs for higher development if they desire. There is no structured training program. You stated that a top quality archer who has the potential to compete internationally is better suited with a paid coaching staff. Organizations that focus on the top archers generally don't engage the general public like you do.

You are unlike the organization described in Revenue Ruling 65-02 because you are not organized and operated exclusively for educational purposes. Only an insubstantial amount of your total activities is devoted to educational activities for children.

You are like the organization described in Revenue Ruling 66-273. By providing the community with facilities and equipment dedicated to the sport of archery, you are promoting the common good and general welfare of the community.

You are like the organizations described in Revenue Rulings 67-109 and 70-4. You provide and maintain indoor and outdoor archery ranges for the recreation and pleasure of your members and the general public. In addition, you coordinate leagues and competitions primarily for adults. These are your principal activities.

You are unlike the organization in Revenue Ruling 76-204. You have not demonstrated that you exclusively engage in conservation activities. You do host cleanup days, encourage the public to assist you with the cleanup of your property, and allow conservation organizations to conduct conservation restoration on a portion of your property and to use your facilities for educational activities. However, the provision of adult recreational archery activities is a substantial activity, which precludes exemption under 501(c)(3).

You are unlike the organization described in Revenue Ruling 80-215. You are not operated exclusively to develop, promote and regulate a sport for youth ages 18 years or younger. Your primary activity is providing facilities and coordinating leagues for adult participants.

As held in *Better Business Bureau*, a single non-exempt purpose, if substantial, will preclude tax exemption under section 501(c)(3) of the Code. A substantial part of your activities do not serve educational or charitable purpose within the meaning of section 501(c)(3).

Unlike a “qualified amateur sports organization” described in section 501(j) of the Code, you are not operated exclusively to foster national or international amateur sports competition:

- The only prerequisite to become a member is approval by your Board of Trustees, subject to total membership of z individuals and families.
- You do not provide formal instruction; your volunteer staff introduces kids and adults to archery at a recreational level only.
- You are not devoted to improving the performance of a small group of elite athletes.
- Your participants are not required to have a certain level of talent and achievement in order to attend your events.
- You do not provide intensive daily training to prepare your participants for national or international competition. Instead, you provide recreational events that are open to and attract a broad range of competitors.

You are similar to the organization described in *Media Sport League*. You likewise offer informal instruction to the general public; participants are not required to receive instruction. Members are available to provide instruction if asked. Your primary activities are providing and maintaining indoor and outdoor archery ranges and coordinating adult leagues and competitions.

Conclusion

You are not organized and operated exclusively for exempt purposes. You do not meet the organizational test because your organizing document does not properly limit your purposes to those described in section 501(c)(3) or permanently dedicate your assets to exempt purposes. You are not operated exclusively for educational or charitable purposes within the meaning of section 501(c)(3) of the Code. You engage in a substantial amount of recreational activities that are not in furtherance of an exempt purpose within the meaning of section 501(c)(3). Finally, you do not support the development of amateur athletes for participation in national or international competition and conduct your activities in a recreational manner. Your exemption under 501(c)(4) will continue.

If you don't agree

You have a right to file a protest if you don't agree with our proposed adverse determination. To do so, you must send a statement to us within 30 days of the date of this letter. The statement must include:

- Your name, address, employer identification number (EIN), and a daytime phone number
- A copy of this letter highlighting the findings you disagree with
- An explanation of why you disagree, including any supporting documents
- The law or authority, if any, you are relying on
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization, or your authorized representative
- One of the following declarations:
For an officer, director, trustee, or other official who is authorized to sign for the organization:
 Under penalties of perjury, I declare that I examined this protest statement, including accompanying documents, and to the best of my knowledge and belief, the statement contains all relevant facts and such facts are true, correct, and complete.

For authorized representatives:

Under penalties of perjury, I declare that I prepared this protest statement, including accompanying documents, and to the best of my knowledge and belief, the statement contains all relevant facts 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 he or she hasn'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 provided a basis for us to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't provided a basis for reconsideration, we'll forward your case to the Office of Appeals and notify you. You can find more

information about the role of the Appeals Office in Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*.

If you don't file a protest within 30 days, you can't seek a declaratory judgment in court at a later date because the law requires that you use the IRS administrative process first (Section 7428(b)(2) of the Code).

Where to send your protest

Please send your protest statement, Form 2848, if needed, and any supporting documents to the applicable address:

U.S. mail:

Internal Revenue Service
EO Determinations Quality Assurance
Room 7-008
P.O. Box 2508
Cincinnati, OH 45201

Street address for delivery service:

Internal Revenue Service
EO Determinations Quality Assurance
550 Main Street, Room 7-008
Cincinnati, OH 45202

You can also fax your statement 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 he or she received it.

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.

You can find all forms and publications mentioned in this letter on our website at www.irs.gov/formspubs. If you have questions, you can contact the person listed at the top of this letter.

Sincerely,

Jeffrey I. Cooper
Director, Exempt Organizations
Rulings and Agreements

Enclosure:
Publication 892