



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
Box 2508
Cincinnati, OH 45201

Date:
11/27/2024
Employer ID number:

Form you must file:
1120

Tax years:
All

Person to contact:

Release Number: 202508006
Release Date: 2/21/25
UIL Code: 501.03-00, 501.35-00

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 (Rev. 11-2021)
Catalog Number 47632S



Department of the Treasury
Internal Revenue Service
PO Box 2508
Cincinnati, OH 45201

Date: October 3, 2024

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

D = Date

E = State

F = City

h dollars = Amount

j dollars = Amount

UIL

501.03-00

501.35-00

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 D, in the state of E. 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

You described your mission or most significant activity as “Neighborhood Association”.

During review of your Form 1023-EZ, detailed information was requested supplemental to the above attestations. You operate as a neighborhood association for F’s midtown area which encompasses multiple smaller communities. You explained that your mission is to promote community spirit, common interests, quality of life and protection of the neighborhoods that you encompass. You foster civic engagement and civic pride for residents and businesses within the boundaries of the neighborhoods you represent. You publicize and promote your events on the internet and through social media. Since your inception, you have organized an array of activities and events.

Examples of activities you have organized include:

- A Halloween house decorating contest
- A meet your neighbor social event at a local restaurant
- A dog adoption event with a local animal shelter
- A holiday event consisting of caroling and tree lighting.
- A neighborhood art project in celebration of Valentine’s Day
- Showing evening movies at a community park

Furthermore, you have coordinated a fall festival at a local park. There were food trucks, live music, art vendors, costume contests, and games for children.

Your membership is optional. Household memberships cost h dollars and business memberships cost j dollars. Your events are opened to all and there is no charge.

You are operated by a volunteer board which generally meets monthly, and you hold an annual membership meeting as well as conduct an annual membership drive. You are supported by membership fees from community residents and businesses.

You indicated:

- Your recreational and social activities are intended to appeal to the entire community, including children, families, the elderly, and businesses.
- You have been recognized as a neighborhood association by the F municipal government.
- You have directly organized and partnered with F’s municipal agencies and other groups to share important information and resources.

- You have worked in partnership with F's municipal agencies on community initiatives.

You provided no specifics on the demographics of the area where you operate.

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.

In Revenue Ruling 67-216, 1967-2 C.B. 180, a nonprofit organization formed and operated exclusively to instruct the public on agricultural matters by conducting annual public fairs and exhibitions of livestock, poultry, and farm products was held exempt under IRC Section 501(c)(3). Although the fair had recreational features such as midway shows, refreshment stands, and a rodeo, the overall activities of the fair were conducted in such a fashion and on such subjects as would enlighten the participants on the newest and best techniques of farming, and on other matters useful and beneficial to them and to the community.

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 non-exempt purpose, if substantial in nature, will destroy a claim for exemption regardless of the number or importance of truly exempt purposes.

Spanish American Cultural Association of Bergenfield v. Commissioner, T.C. Memo 1994-510 (1994), describes an organization which was created in order to foster the cultural heritage of the local Spanish-American residents. Except for the charitable donations and scholarships, the organization primarily engaged in social activities designed to provide Spanish-American residents with a sense of community. They were granted exempt status under IRC Section 501(c)(4), but then applied for exempt status as a charitable organization described in Section 501(c)(3). It was found that they did not qualify under Section 501(c)(3) because their social activities were more than insubstantial in comparison to its charitable activities.

Application of law

IRC Section 501(c)(3) and Treas. Reg. Section 1.501(c)(3)-1(a)(1) set forth two main tests for an organization to be recognized as exempt. An organization must be both organized and operated exclusively for purposes described in IRC Section 501(c)(3). Based on the information you provided in your application and supporting documentation, we conclude you do not meet the operational test.

Your primary activities consist of organizing events for members of the communities you serve in order to foster civic engagement and civic pride for residents and businesses. Events you have organized include holiday

gatherings for caroling and tree lighting, a neighborhood art project in celebration of Valentine's Day, and showing evening movies at a park. You have also coordinated a fall festival at a park where there were food trucks, live music, art vendors, costume contests, and games for children.

These activities illustrate you are not operating exclusively for IRC Section 501(c)(3) purposes as described in Treas. Reg. Section 1.501(c)(3)-1(c)(1) because you are operating for substantial recreational and social purposes.

You are dissimilar to the organization discussed in Rev. Rul. 67-216. The organization in the ruling was found to be exempt under IRC Section 501(c)(3) because they offered substantial instructional and educational opportunities. While you may have some charitable and/or educational components, like the organization in Spanish American Cultural Association of Bergenfield, you are operated substantially for non-exempt social and recreational purposes, which prevent you from exemption under Section 501(c)(3).

Similar to the organization in Better Business Bureau, you are operating for substantial nonexempt purposes. Therefore, you are precluded from exemption for IRC Section 501(c)(3).

Conclusion

Based on the information you provided, you fail the operational test under IRC Section 501(c)(3), because you have more than an insubstantial amount of social and recreational activities. Any charitable activities you conduct are incidental to your overall non-exempt purpose of operating multiple social and recreational events for the community. Therefore, you do not qualify for tax exemption under Section 501(c)(3).

Contributions to you are not deductible under Section 170.

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