



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

Date:
12/27/2024
Employer ID number:

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

Release Number: 202512003
Release Date: 3/21/25
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



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:

B = Date

C = State

D = City

F = Organization

G = Organization

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 attest that you were organized on B as an unincorporated association 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 the 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 Section 501(c)(3).

You attest that you are organized and operated exclusively to further charitable, and educational purposes as well as to further the purposes of testing for public safety. 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

Your 1023-EZ states you are a union for the local fire department in the D fire protection district. You will be the representing body for fair treatment, pay, and benefits.

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

In your response, you provided your Constitution and Bylaws which did not contain a purpose clause or dissolution clause and was not signed by any of your officers, directors, or trustees.

You also explained that you are a local union representing the interests of staff members of D township fire protection district. You will provide a voice to negotiate with F when it comes to financial compensation packages and operational guidelines for staff members.

Additionally, you will organize fundraisers for charities focused on children as well as conduct other community activities such as barbeques and meet and greets. You may also purchase things such as "Off duty" Union Fire Department T-shirts/ Hats/ Clothing.

Your sole source of revenue is member dues, and your primary expenses consist of state and international dues to G.

Law

IRC Section 501(c)(3) provides for the exemption from federal income tax of organizations 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 qualify under 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 the purposes of such organization to one or more exempt purposes; and do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Treas. Reg. Section 1.501(c)(3)-1(b)(4) provides 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, for example, if, upon dissolution, such assets would, by reason of a provision in the organization's articles or operation of law, be distributed for one or more exempt purposes.

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 that 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 one or more exempt purposes unless it serves a public rather than a private interest. Thus, to meet the requirements of this subsection, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests, such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Treas. Reg. Section 1.501(c)(3)-1(d)(2) provides the term "charitable" is used in IRC Section 501(c)(3) in its generally accepted legal sense and includes relieving the poor and distressed or the underprivileged, combating community deterioration, lessening neighborhood tensions, and eliminating prejudice and discrimination.

Treas. Reg. Section 1.501(c)(3)-1(d)(3)(i) provides that the term "educational," as used in IRC Section 501(c)(3), relates to the instruction or training of the individual for the purpose of improving or developing his capabilities or the instruction of the public on subjects useful to the individual and beneficial to the community.

Treas. Reg. Section 1.501(c)(3)-1(d)(4) provides that the definition of "testing for public safety" includes testing of consumer products, such as electrical products, to determine if they are safe for the general public's use.

Revenue Ruling 65-61, 1965-1 C.B. 234, describes an organization organized for the purpose of testing for safety of certain products normally used aboard pleasure boats by the boating public which was held exempt from tax. The activities included testing of various items, including galley stoves, metallic fuel tanks, flame arresters, battery charging devices, navigation lights, fuel filters, life preservers, and other products used aboard pleasure craft.

Rev. Rul. 69-175, 1969-1 C.B. 149, describes an organization formed by the parents of pupils attending a private school which provides bus transportation to and from the school for their children. When a group of individuals associate to provide a cooperative service for themselves, they are serving a private interest rather than a public interest. Accordingly, it was not exempt from federal income tax under IRC Section 501(c)(3).

Rev. Rul. 71-395, 1971-2 C.B. 228, held that a co-operative art gallery formed and operated by a group of artists for the purpose of exhibiting and selling their works did not qualify under IRC Section 501(c)(3) because it was serving the private interests of its members, even though the exhibition and sale of paintings may be an educational activity in other respects.

Rev. Rul. 76-152, 1976-1 C.B. 151, held that a nonprofit organization formed by art patrons to promote community understanding of modern art trends by selecting for exhibit, exhibiting, and selling art works of local artists, retaining a commission on sales less than customary commercial charges and not sufficient to cover the cost of operating the gallery, did not qualify for exemption under IRC Section 501(c)(3) because the

artists were being directly benefited by the exhibition and sale of their works. The organization was serving the private interest of the artists.

In Better Business Bureau of Washington, D.C., Inc v. United States, 326 U.S. 279 (1945), the Supreme Court of the United States interpreted the requirement in IRC Section 501(c)(3) that an organization be “operated exclusively” by indicating that an organization must be devoted to exempt purposes exclusively. The presence of a single non-exempt purpose, if more than insubstantial in nature, will destroy the exemption regardless of the number and importance of truly exempt purposes.

Application of law

IRC Section 501(c)(3) sets forth two main tests for qualification of exempt status. Per Treas. Reg. Section 1.501(c)(3)-1(a)(1), an organization must be both organized and operated exclusively for purposes described in Section 501(c)(3). You fail both tests.

You do not meet the organizational test.

Your organizing document does not contain a purpose clause. Because your organizing document does not limit your purposes to those described in Treas. Reg. Section 1.501(c)(3)-1(b)(1)(i), you fail the organizational test under IRC Section 501(c)(3). Furthermore, your organizing document does not contain a dissolution clause as required by Treas. Reg. Section 1.501(c)(3)-1(b)(4). This also causes you to fail the organizational test under 501(c)(3).

You do not meet the operational test.

Your activities are not exclusively charitable.

Your activities do not exclusively further a charitable purpose as required by Treas. Reg. Section 1.501(c)(3)-1(d)(2), because you do not limit your activities to a specific charitable class. You are primarily operating a labor union for the benefit of your members. This does not provide relief to the poor and distressed within the meaning of Treas Reg. Section 1.501(c)(3)-1(d)(2) or serve any other purpose recognized as charitable.

Your services are not educational.

Your activities primarily consist of representing the interests of your members who are also staff members of D township fire protection district. You will provide a voice to negotiate with F when it comes to financial compensation packages and operational guidelines for members. You provided no evidence that you conduct educational activities. You have not shown that your activities are designed to provide instruction or training “useful to the individual and beneficial to the community” within the meaning of Treas. Reg. Section 1.501(c)(3)-1(d)(3)(i).

You are serving private interests.

Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized or operated exclusively for one or more exempt purpose unless it serves a public rather than a private interest. Your activities primarily consist of representing the interests of your members who are also staff members of D township fire protection district. You will provide a voice to negotiate with F when it comes to financial compensation packages and operational guidelines for members.

You are like the organizations in Rev. Rul. 69-175, Rev. Rul. 71-395, and Rev. Rul. 76-152. Like the organizations in the revenue rulings, you have a limited membership where members pay fees to receive a benefit.

Though you may conduct some charitable activities such as organizing and conducting fundraisers for children's charities, you are primarily operating a labor union for the benefit of members. This serves a substantial nonexempt purpose in contravention to Treas. Reg. Section 1.501(c)(3)-1(c)(1). Like the organization in Better Business Bureau, a substantial portion of your purposes and activities are not exempt. Thus, you are not "operating exclusively" for an exempt purpose and your claim to exemption is destroyed.

You are not operated for the purpose of testing for public safety.

You do not meet Treas. Reg. Section 1.501(c)(3)-1(d)(4) because you are not operating for the testing of consumer products to determine whether they are safe for use by the general public.

You are not like the organization described in Rev. Rul. 65-01, because you are not operated for the testing of consumer products. Rather, you are operating a labor union for the private interests of your members.

Conclusion

Based on the information submitted, you do not qualify for exemption under IRC Section 501(c)(3). You do not meet the organizational test because your organizing document does not limit your purposes to those in Section 501(c)(3) or dedicate remaining assets upon dissolution to one or more exempt purposes described in Section 501(c)(3). You also do not meet the operational test for Section 501(c)(3) because you are serving the private interests of your members which is a substantial nonexempt purpose. 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