



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

Date:
05/13/2025
Employer ID number:

Person to contact:

Release Number: 202532012
Release Date: 8/8/2025
UIL Code: 501.00-00, 501.03-30, 501.36-01

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
PO Box 2508
Cincinnati, OH 45201

Date:
03/28/2025
Employer ID number:

Person to contact:

Name:
ID number:
Telephone:
Fax:

Legend:

B = State
C = Date
t dollars = dollar range
u percent = percentage
v percent = percentage
w percent = percentage

UIL:

501.00-00
501.03-30
501.36-01

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)(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 incorporated in B on C as a for-profit corporation. Your Articles of Incorporation (AOI) do not provide a purpose clause other than article 7 stating, "This corporation is for profit." Additionally, you do not have a dissolution clause dedicating your assets to a charitable purpose as described in IRC Section 501(c)(3). Your Articles also permit the issuance of shares of stock.

You are engaged in manufacturing and selling your products around the country, both wholesale and retail. You sell your products under " ," manufacturing the product to be marked by other distributors, and under your own label. You offer many products ranging in value from t dollars per item.

You operate a manufacturing kitchen five days a week and a retail store six days a week. Your prices are based on the market value by comparing as many other brands as possible in that same product type and what they are pricing for both retail and wholesale. You seek a price point of u percent of the average for wholesale products and v percent of the average for retail products, but in no case below 2.5 times the cost of the raw ingredients.

Wholesale is currently w percent of your business activity. Your sales are nation-wide, and you plan to market your products via social media, social media influencers, celebrity advertising, email blasts, your website, and a local billboard.

You will exclusively employ women in abusive situations, providing them with a safe work environment and supporting their rehabilitation. Your employment selection process starts with contacting local women's shelters and domestic violence nonprofit organizations, where you look for women who can work full time and can pass a screening. The screening is a conversation with one of your board members, the applicant, and either a case worker or a representative from the shelter or nonprofit. During the screening, you are getting to know the applicant, gauging their interest in the field, and seeing if they want to make a career out of the opportunities. If they seem like they would be a good fit, you start the hiring process. Once they pass a criminal history and background check, you bring them into the kitchen to start working.

You currently employ five full-time employees. Each employee currently works a maximum of 8 hours each day - 7 hours working on their related activities with 1 hour for lunch and two 15 minute paid breaks. Your compensation for your employees starts at a base rate which is u percent of the minimum wage required for a living wage in your county and is about double the federal minimum wage. Employees (managers) with more responsibility earn more per hour than employees (staff) with less responsibilities. You plan to expand to additional full-time employees and several temporary roles designed to help women in abusive situations and prepare them for their next steps in future employment.

Your long-term goal is to train women so they can work in a food service, or other type of commercial kitchen, but you provide no training beyond what is required to operate your business. You have no formal instruction, provide no psychological or therapeutic programs, or any other formal system to aid in recovery or future employment. Instead, you offer flexibility to women to attend their meetings, appointments, court appearances, and tend to their children as needed without deducting their wages.

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 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 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:

- a) Limit the purposes of such organization to one or more exempt purposes in IRC Section 501(c)(3); and
- b) Do not expressly empower the organization to engage, other than as an insubstantial part of its activities, in activities that 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 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). The fact that the actual

operations of such an organization have been exclusively in furtherance of one or more exempt purposes shall not be sufficient to permit the organization to meet the organizational test.”

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 by operation of law, be distributed for one or more exempt purposes, or to the Federal Government, or to a State or local government, for a public purpose, or would be distributed by a court to another organization to be used in such manner as in the judgment of the court will best accomplish the general purposes for which the dissolved organization was organized.”

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 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 73-127, 1973-1 C.B. 221, held that a nonprofit organization that operated a cut-price retail grocery outlet and allocated a small portion of its earnings to provide on-the-job training to hard-core unemployed did not qualify for exemption from income tax. The operation of the store was conducted on a scale larger than was reasonably necessary for the performance of the organization’s training program and was not intended to, nor did it in fact, serve solely as a vehicle for carrying out the training program of the organization.

Rev. Rul. 73-128, 1973-1 C.B. 222, held that an organization that was otherwise qualified for exemption from income tax will not fail to qualify merely because its education and vocational training of unemployed and under-employed individuals was carried out through the manufacturing and selling of toy products. The organization also offered classes in remedial reading and language skills and general counseling services in addition to its job training program centered around the manufacture and sale of toys

Rev. Rul. 75-472, 1975-2 C.B. 208, held that a halfway house, organized to provide room, board, therapy, and counseling for persons discharged from alcoholic treatment centers, which also operated a furniture shop to provide full-time employment for its residents with any profits applied to operating costs of the halfway house, qualified for exemption under section 501(c)(3) of the Code and was not conducting an unrelated trade or business within the meaning of section 513.

Rev. Rul. 76-37, 1976-1 C.B. 148, held that a nonprofit organization that purchased building lots, furnished funds to a public vocational training center for use in its on-the-job home construction training program, sold the completed homes to the general public at fair market value, and used the income from home sales to finance new projects and obtain vocational training equipment for the public school system, qualified for exemption under section 501(c)(3) of the Code. The income from the sale of the homes was not unrelated business income.

Rev. Rul. 77-272, 1977-2 C.B. 191, held that an organization formed and operated by a labor union at the request of the Bureau of Indian Affairs to provide apprentice training in a skilled trade to American Indians through a school as described in section 170(b)(1)(A)(ii) was operated exclusively for charitable and educational purposes and qualified for exemption under section 501(c)(3) of the Code.

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 the exemption regardless of the number of or importance of truly exempt purposes.

Living Faith, Inc. v. Commissioner, 950 F.2d 365 (7th Cir. 1991), the court denied exemption to an organization that sought to provide health food and restaurant services in furtherance of the teachings of the 7th Day Adventist Church. The organization was denied exemption due to its substantial commercial nature, whereby it competed with for-profit companies, set pricing in a commercial manner, operated its hours in a commercial manner, and advertised in a commercial manner among other things. An organization need not meet all of the factors of commerciality to be considered to have a substantial non-exempt purpose.

Airlie Foundation v. I.R.S., 283 F. Supp. 2d 58 (D.D.C., 2003), the District Court relied on the “commerciality” doctrine in applying the operational test for an organization that operates a conference center. Because of the commercial manner in which this organization conducted its activities, the court found that it operated for a non-exempt commercial purpose, rather than for a tax-exempt purpose. The court noted that major factors considered in assessing commerciality are (1) competition with for profit commercial entities; (2) extent and degree of below cost services provided; (3) pricing policies; and (4) reasonableness of financial reserves; (5) whether the organization used commercial promotional methods (e.g., advertising); and (6) the extent to which the organization received charitable donations.

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 qualification of exempt status. An organization must be both organized and operated exclusively for purposes described in Section 501(c)(3). Furthermore, Treas. Reg. Section 1.501(c)(3)-1(c)(1) states that to be operated exclusively for one or more exempt purposes, an organization must engage primarily in activities that accomplish one or more exempt purposes specified in Section 501(c)(3).

You are organized as a for-profit corporation and your AOI fail to limit your purposes to those described in IRC Section 501(c)(3), as required by Treas. Reg. Section 1.501(c)(3)-1(b)(1)(i). Furthermore, your AOI has a purpose which is broader than the exempt purposes specified in Section 501(c)(3). See Treas. Reg. Section 1.501(c)(3)-1(b)(1)(iv). Moreover, your assets are not dedicated to an exempt purpose as required by Treas. Reg. Section 1.501(c)(3)-1(b)(4).

Your primary activity is the manufacturing and selling of retail products. A commercial purpose represents a substantial non-exempt purpose. See Airlie Foundation and Living Faith, Inc. You meet several of the factors identified by courts as indicating a substantial commercial purpose. You are in direct competition with other for-profit entities offering the same or similar products and you even produce products for other for-profit entities to sell under their own label. You offer no below cost services. You have indicated that you price your products based directly on the average market rate of the product sold by competing for-profit entities and that at no point will you sell products for less than 2.5 times the cost of the raw materials. You advertise nationally through email campaigns, celebrity advertising, social media, social media influencers, your website, and locally through a billboard. You have no funding other than through the sales of your products. All of these factors indicate that you have a substantial commercial purpose.

Under Better Business Bureau of Washington D.C., Inc., even if some of your activities further an exempt purpose, the presence of a single non-exempt purpose, if substantial in nature, destroys the exemption regardless of the number or importance of truly exempt purposes. Here, you have commercial activities that are substantial

and cannot be considered merely incidental to your positive hiring and treatment of women from abusive situations

You do offer flexibility to your employees to attend their meetings, appointments, court appearances, and tend to their children as needed without deducting their wages, but other than providing this flexibility, you do not offer additional services for the benefit of these women recovering from abusive situations beyond choosing to hire these women and train them in the tasks necessary to operate your company. This fact makes you more like the situation described in Rev. Rul. 73-127, in which the organization dedicated a portion of its income in operating a grocery store to the training of the "hard-core unemployed" that was found to not be exempt. Additionally, like Rev. Rul. 73-127, your operation is conducted on a scale larger than is reasonably necessary for the performance of your training program and is not intended to, nor does it in fact, serve solely as a vehicle for carrying out your training program.

Your lack of additional services makes you unlike the organizations, that were approved for exemption under IRC Section 501(c)(3), described in Rev. Rul. 73-128 (where the organization offered classes in remedial reading and language skills and general counseling services in addition to its job training program centered around the manufacture and sale of toys); Rev. Rul. 75-472 (where the organization operated a halfway house to provide room, board, therapy, and counseling in addition to operating a furniture shop to provide full-time employment for residents of the halfway house); Rev. Rul. 76-37 (where the organization provided building lots, assistance to graduates, and equipment for vocational training to the local public vocational training center. The trainees all attended the local public school and the training supplemented their ordinary curriculum and only two houses were constructed a year); and Rev. Rul. 77-272 (where the organization operated a school within the meaning of section 170(b)(1)(A)(ii) conducting an intensive course in the skilled trade at a live-in campus equipped with all the texts and materials needed to introduce the students to the skilled trade).

Conclusion

You have failed the organizational test. Your AOI does not have proper purpose and dissolution clauses. Additionally, you are organized as a for-profit corporation and your AOI permit the issuance of shares of stock.

You have failed the operational test because you have failed to establish that you are operated exclusively for exempt purposes. Your substantial purpose is operating a trade or business in a commercial manner. Your positive hiring and treatment of women from abusive situations does not overcome your substantial commercial purpose.

You do not qualify for IRC Section 501(c)(3) because you have failed the organizational and operational tests.

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