



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities

Date:
06/11/2025
Employer ID number:

Form you must file:

Tax years:

Person to contact:

Release Number: 202536037
Release Date: 9/5/2025
UIL Code: 501.03-30, 501.33-00, 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.

We sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosures:

Letter 437

Redacted Letter 4034

Redacted Letter 4038

cc:



**Department of the Treasury
Internal Revenue Service**

Date:
04/24/2025
Employer ID number:

Person to contact:
Name:
ID number:
Telephone:
Fax:

Legend:

B = Date

C = State

UIL:

501.03-30

501.33-00

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 were formed as a nonprofit corporation on B in the state of C. Your Articles of Incorporation do not state for which purpose(s) you are formed.

Your bylaws state that your purpose is to hold a tailgate market to improve the production and marketing of locally produced farm food and craft products in your city and surrounding areas. You also seek to stimulate interest in and access to local products by offering SNAP initiatives, which will support, preserve, and improve the quality of urban and rural life in your region. Furthermore, you will provide educational opportunities pertaining to local food and farming systems. Your bylaws also state your mission as a producer-only farmers' market is to organize a dynamic, educational, and inclusive outlet for farmers and small businesses to connect with customers.

You hold weekly farmers' markets on the campus of a university. You indicated that the market provides access to local products. Your educational activities consist of a virtual weekly newsletter, cooking demos, dietitian talks, and live music. You match or double the public's SNAP dollars through a grant from a regional agricultural program. The market activities will be organized and operated by a manager, assistant manager, and all participating vendors.

You are a membership organization. Criteria for membership includes a requirement that products offered for sale at the market shall be grown or produced by the members in a local county. New members are approved by the membership committee, the Board of Directors, and by a majority votes of the members. Each farm, business, or individual who is a member shall be entitled to one vote.

You are a member-controlled organization. You approve new vendors and products based on best fit and balance for the market, based on a majority vote. Vendors pay a fee to sell their products. Your website states a majority of the members earn their primary income from self-produced products.

Your activities are primarily funded through memberships, donations, and local grants. In each of the five years of financial data that you provided you earned a profit, and you have a five-figure reserve of cash. In each of the five years, your primary expenses were professional fees, followed by general operational expenses such as advertising or insurance.

Law

IRC Section 501(c)(3) provides, in part, for the exemption from federal income tax to organizations organized and operated exclusively for charitable, religious or educational purposes, where no part of the net earnings inures to the benefit of any private shareholder or individual.

Treasury Regulation Section 1.501(c)(3)-1(a)(1) provides 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 the purposes of such organization to one or more exempt purposes and do not expressly empower the organization engage, otherwise than as an insubstantial part of its activities, in activities that in themselves are not in furtherance of 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 exempt purposes unless it serves a public rather than a private interest. To meet this requirement, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests.

Revenue Ruling 61-170, 1961-2 C.B. 112, held that an association composed of professional private duty nurses and practical nurses which supported and operated a nurses' registry primarily to afford greater employment opportunities for its members was not entitled to exemption under IRC Section 501(c)(3). Although the public received some benefit from the organization's activities, the primary benefit of these activities was to the organization's members.

Rev. Rul. 67-216, 1967-2 C.B. 180, established that 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 may be exempt from tax under IRC Section 501(c)(3). This was despite their significant recreational activities, including concessions among other things, which are generally non-exempt. Income, including from concessions and fees, went to pay operational costs and maintained county owned property. The organization was controlled by county agents and various agricultural related subject matter experts, who planned and managed the exhibits. These experts specifically dealt with informing the public conserving, utilizing, and improving the resources of the region.

Rev. Rul. 69-175, 1969-1 C.B. 149, describes an organization created to provide bus transportation for school children to a tax-exempt private school. The organization was formed by the parents of pupils attending the school. The organization provided transportation to and from the school for those children whose parents belonged to the organization. Parents were required to pay an initial family fee and an additional annual charge for each child. The Service determined that “when a group of individuals associate to provide a cooperative service for themselves, they are serving a private interest.”

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

In Rev. Rul. 73-127, 1973-1 C.B. 221, the Service held that an organization that operated a cut-price retail grocery outlet and allocated a small portion of its earnings to provide on-the-job training to the hard-core unemployed did not qualify for exemption. The organization’s purpose of providing job training for the hardcore unemployed was charitable and educational within the meaning of the common law concept of charity; however the organization’s purpose of operating a retail grocery store was not. The ruling concluded that the operation of the store and the operation of the training program were two distinct purposes. Since the former purpose was not a recognized charitable purpose, the organization was not organized and operated exclusively for charitable purposes.

In Better Business Bureau of Washington, D.C., Inc., v. United States, 326 U.S. 179 (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.

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 Section 501(c)(3). Based on the information you provided in your application and supporting documentation, we conclude that you fail both tests.

Organizational test

Your Articles of Incorporation do not limit your purposes to those which are described under IRC Section 501(c)(3). As a result, you have not satisfied the organizational test described in Treas. Reg. Section 1.501(c)(3)-1(b)(1)(i).

Operational Test

You are also not described in IRC Section 501(c)(3) because you fail the operational test. Specifically, you are not operated exclusively for an exempt purpose as described in Treas. Reg. Section 1.501(c)(3)-1(c)(1). You

operate a market to sell products produced by your members/vendors. While you may have some educational activities, your primary purpose is to operate a retail market for your members to sell their merchandise. Because your market activities are a substantial and aren't furthering an exempt purpose, you aren't exempt under Section 501(c)(3).

Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) requires an organization show that it is not organized or operated for private interests. You are formed to facilitate sales for the benefit of your members at your farmers' market. For a fee, you provide space at which vendors sell their goods directly to the public. You also advertise, promote, and inform buyers about your market. You not only provide the outlet for them to sell their products, but you also provide marketing and cover overhead expenses that the vendors, which includes your members, would otherwise incur. Your operations result in substantial private benefit to your members/vendors.

You are similar to the organization described in Rev. Rul. 61-170. Your primary purpose is to provide a market for vendors, which grants them greater employment opportunities. While the public may receive some benefit, the primary beneficiaries are your members, which precludes you from exemption under IRC Section 501(c)(3).

You are not like the organization in Rev. Rul. 67-216 because your principal purpose is to facilitate sales for local vendors. You devote a majority of your resources and time to this purpose. You utilize resources to help local and regional farmers gain visibility to potential buyers through the vehicle of your farmer's market.

You are like the organization described in Rev. Rul. 69-175 because you were formed by a group of farmers joining together to sell their products. Farmers and growers pay a vendor fee to participate in the market. By associating together and providing a cooperative service amongst themselves, you are serving private rather than public interests.

Your purposes are similar to those of the cooperative described in Rev. Rul. 71-395. You provide space to local producers to exhibit and sell their products. As explained in this ruling, an organization that operates for the purpose of exhibiting and promoting the sales of products for the benefit of private individuals does not qualify for exemption under IRC Section 501(c)(3).

You're similar to the organization described in Rev. Rul. 73-127 because your operation of the farmers' market and your provision for educational and charitable programs are two distinct purposes. Because the operation of a market is not a recognized charitable or educational purpose, and any educational programs you may conduct are incidental to the market activities, you are not operated exclusively for IRC Section 501(c)(3) purposes.

As held in Better Business Bureau of Washington, D.C., Inc., a single non-exempt purpose, if substantial, precludes exemption under IRC Section 501(c)(3). Your operation of a farmers' market is a substantial non-exempt purpose, which precludes you from exemption.

Conclusion

Based on the facts and circumstances, you do not qualify for exemption under IRC Section 501(c)(3). You are neither organized nor operated exclusively for exempt purposes as set forth in Section 501(c)(3). You fail the organizational test because your Articles of Incorporation don't limit your purposes to those which are described in Section 501(c)(3). You fail the operational test because you provide your members with an

opportunity and venue to sell their products, which furthers a substantial non-exempt purpose and provides them with a private benefit. 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.

We sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements