



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

Date:
06/12/2025
Employer ID number:

Form you must file:

Tax years:

Person to contact:

Release Number: 202536040
Release Date: 9/5/2025
UIL Code: 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
Redacted Letter 4038



**Department of the Treasury
Internal Revenue Service**

Date:
04/18/2025
Employer ID number:

Person to contact:

Name:
ID number:
Telephone:
Fax:

Legend:

L = Date

M = State

n percent = Percent

o percent = Percent

p percent = Percent

q percent = Percent

r percent = Percent

s dollars = Amount

t dollars = Amount

u dollars = Amount

v dollars = Amount

w dollars = Amount

x dollars = Amount

y dollars = Amount

z dollars = Amount

UIL:

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 incorporated on L, in the state of M. 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 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

Your activities involve holding community outreach programs that focus on reaching youth and tying the community together. You have community gatherings that take up almost half your time. You spend about r percent of your time and p percent of your resources including planning and coordination on these activities. You have live music, food vendors, and family friendly entertainment at these gatherings and often have fireworks displays as well. These gatherings are inclusive and include accommodations for children, elderly, and disabled individuals.

You specialize in providing professional fireworks displays for various community events. You decided to open your business so that families would have a safe and enjoyable place to watch fireworks and you don't sell fireworks to anyone under the age of 21. You design, coordinate, and execute professional fireworks displays for community events such as Independence Day celebrations, local festivals, and municipal gatherings. When requested, the displays are choreographed to music. The displays are for community members of all ages and are held at areas such as parks, fairgrounds, and other outdoor venues approved by local authorities. The displays are conducted by your team of licensed pyrotechnicians and support staff and you follow all local and federal safety regulations. You average - community events each year and spend approximately o percent of your total time on these events with activities including planning, setup, execution, and clean up after the events. About q percent of your resources are allocated to these events for equipment, training, and staff for the displays. The fees for each display are determined by the scale, duration, and complexity of the display and range from x dollars to z dollars per event. Contracts are negotiated based on client requirements.

You also have fireworks displays for adults who hire your services for private events like weddings and private gatherings and take place at locations such as resorts, private estates, and event halls. These displays include demonstrating safe handling of pyrotechnic equipment. You conduct about - of these events annually and fees range from w dollars to y dollars depending on the scope and type of event. The rates are calculated based on duration, customization, and location. Approximately n percent of your time and n percent of your resources are allocated to these displays.

You promote safety by offering fire safety training and equipment usage and guidance. You have several different fire safety classes. You have classes for school age children that are typically held in schools, libraries, and local youth centers quarterly or by request. You focus on teaching children the fundamentals of fire safety through age appropriate activities. You cover topics such as recognizing fire hazards, understanding the importance of smoke alarms, and practicing safe evacuation routes. You have role playing exercises and simulated fire drills and distribute educational material including coloring books and fire safety posters. The classes for children are typically free and are funded by donations and grants. You also have monthly adult fire safety classes that are held at your facility or community centers. The topics at these classes include topics such as identifying fire hazards, using fire extinguishers correctly, developing home or workplace evacuation plans, and legal and workplace safety requirements. You have hands on demonstrations and discussions about fire prevention strategies. You have additional classes during peak seasons. The adult classes have a standard fee of t dollars to v dollars per participant. About n percent of your time and n percent of your resources including educational materials, instructors, and class logistics are spent on these classes.

You also have camping and outdoor safety classes for families, scout groups, and outdoor enthusiasts of all ages. These classes are conducted at local parks, campgrounds, and nature preserves and are offered bimonthly with additional classes held during the summer. Topics covered at these classes include safe campfire practices, wildlife awareness, and survival skills. There is a fee of s dollars to u dollars per participant depending on the duration and materials provided. About n percent of your time and n percent of your resources including educational materials, instructors, and equipment are spent on this activity.

About half of your overall revenue is from pyro. The rest is from donations and campfire safety training.

Law

Internal Revenue Code Section 501(c)(3) provides for the recognition of exemption for 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 to be exempt as an organization described in IRC Section 501(c)(3), the organization must be organized and operated exclusively for one or more of the exempt purposes described in this 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 as 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 qualified for exemption from federal income tax under IRC Section 501(c)(3). The organization's activities and exhibits were planned and managed by or in collaboration with persons whose business it is to inform and instruct farmers and the general public on agricultural matters (i.e., home demonstration agents, county agricultural agents, etc.), and the resulting displays were designed to be instructive. The presence at the fair of recreational features, such as midway shows, refreshment stands, and a rodeo, were incidental to the fair's overall educational purpose.

In Rev. Rul. 73-127, 1973-1 C.B. 221, it was held that a nonprofit organization that operates a retail grocery outlet and allocates a small portion of its earnings to provide on the job training to the hard core unemployed does not qualify for exemption under IRC Section 501(c)(3).

In Rev. Rul. 77-366, 1977-2 C.B. 192, it was held that a nonprofit organization that arranges and conducts wintertime ocean cruises, during which activities to further religious and educational purposes were provided in addition to extensive social and recreational activities, was not operated exclusively for exempt purposes and did not qualify for exemption under IRC Section 501(c)(3).

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279 (1945), the Supreme Court of the United States held that the presence of a single non-exempt purpose, if substantial, will destroy a claim for exemption, regardless of the number or importance of truly exempt purposes.

In B.S.W. Group, Inc. v. Commissioner, 70 T.C. 352 (1978), the Tax Court held that an organization did not qualify for exemption under section 501(c)(3) of the Code because it was primarily engaged in an activity that was characteristic of a trade or business and ordinarily carried on by for-profit commercial businesses.

In Federation Pharmacy Services, Inc. v. C.I.R., 625 F.2d 804 (1980), the court held that the organization operated for a substantial commercial purpose rather than for an exclusively charitable purpose. The court emphasized that the selling of prescription drugs at a discount to the elderly and the handicapped does not in itself manifest a charitable purpose.

In Zagfly v. C.I.R., T.C. Memo. 213-29 (2013), the court held that the organization was not operated exclusively for an exempt purpose, but rather was primarily engaged in an unrelated commercial activity of operating a website through which customers could purchase flowers at market prices. The organization did not qualify for exemption even though it intended to distribute its income to charitable organizations.

Application of law

IRC Section 501(c)(3) sets forth two main tests for qualification for exempt status. As stated in Treas. Reg. 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 are not operated exclusively for purposes described in IRC Section 501(c)(3) and therefore do not meet the operational test. You are similar to the organization in Rev. Rul. 77-366 because almost half of your time is spent on community events that include extensive social and recreational activities like live music, food vendors, and family friendly entertainment. You also have firework displays at some of the events. You are not like the organization in Rev. Rul. 67-216. Your community events are exclusively social and recreational and are not educational in nature. You are therefore not operated exclusively for one more exempt purposes as stated in Treas. Reg. Section 1.501(c)(3)-1(c)(1).

You are also similar to the organizations in B.S.W. Group, Inc. v. Commissioner and Zagfly v. C.I.R. in that your firework display activities are similar to those of a commercial business. You spend o percent of your time providing professional fireworks displays for a fee for community events. You also spend n percent of your time providing firework displays for a fee for private events. Fees are determined based on factors such as duration, customization, location, and complexity. Additionally, you are similar to the organization in Federation Pharmacy Services, Inc. v. C.I.R. While your firework displays at private events include

demonstrating safe handling of pyrotechnic equipment which is educational in nature, the firework displays for a fee serve a commercial purpose rather than an exclusively educational or charitable purpose.

You are like the organization in Rev. Rul. 73-127. While you provide educational classes such as fire safety training for children and adults as well as camping and outdoor safety classes, they are insubstantial compared to your firework displays and community events which do not fulfill charitable or educational purposes. Like the organization in Better Business Bureau of Washington D.C., you are not operating exclusively for exempt purposes under IRC Section 501(c)(3).

Conclusion

Based on the information submitted, you are not operated exclusively for exempt purposes within the meaning of IRC Section 501(c)(3). Rather, you are organized and operated primarily to host community events and conduct fireworks displays which do not fulfill a Section 501(c)(3) purpose. Accordingly, you do not qualify for exemption under IRC 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