



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

Date:
07/11/2025
Employer ID number:

Form you must file:

Tax years:

Person to contact:
Name:
ID number:
Telephone:

Release Number: 202540012
Release Date: 10/3/2025
UIL Code: 501.03-00, 501.33-00

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:
05/23/2025
Employer ID number:

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

Legend:

B = Date
C = State
d percent = Percent
e percent = Percent
f dollars = Dollar
g dollars = Dollar
H = Fund
j dollars = Dollar Range

UIL:
501.03-00
501.33-00

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 incorporated on B, in the state of C as a not-for-profit corporation. Your Articles of Incorporation state your goal is to act as a booster club and provide fundraising opportunities for youth to pursue their goals in dance and other performing arts. In our request for additional information, you attested that you filed an amendment to your Articles of Incorporation to include updated purpose and dissolution clauses that meet the requirements of Section 501(c)(3).

Your Bylaws state that you are formed to provide fundraising and support to underprivileged youth to pursue their goals in the arts and athletics. Your Bylaws also state that you have fundraising members who help you raise funds. Fundraising membership is open to students and families with an interest in supporting youth arts and athletics in the community. Your fundraising members have the opportunity to participate in fundraising events to support your general fund, and to be eligible for certain scholarships. Fundraising is not required but is strongly encouraged. Your fundraising members receive credit for fundraising efforts. Scholarships and general grants are awarded based on a variety of factors, including fundraising credits.

You conduct fundraising activities by partnering with venues such as sport stadiums, arenas, and college sporting events. Volunteers operate concession stands during events, and a percentage of net sales and tips from these events are donated to you. Approximately d percent of these funds are divided among the volunteers who participated in the fundraising event. These credits are applied to the volunteer's account to be used for their children's arts or sports related expenses. The remainder of the funds raised at these events are placed in your general fund to cover additional scholarships. Volunteers can also bring guests that can help add to the volunteers fundraising credits. You state that you dedicate approximately e percent of your resources and time to the fundraising credit program, including volunteer coordination, venue partnership management, and fundraising oversight.

Volunteer members are not eligible for fundraising credits unless they actively participated in the fundraising event, and are a member in good standing, having paid the f dollars annual membership fee and the g dollars donation to your scholarship fund. Fundraising credits are allocated only to members who contribute to specific events. Credits are not awarded to individuals who do not actively participate in fundraising events.

Your individual fundraising scholarship accounts are subject to the following guidelines:

- A member is defined as artist/athlete student(s). Family unit includes siblings of student(s) only.
- Member(s) are eligible for membership until the age of (11:59pm of th birthday). The student is no longer eligible at age , 12:00am.
- Member(s) are given a fundraising scholarship credit only with amounts they raise or help raise selling a product or performing a service.
- Straight contributions by a donor may not be credited to support a specific student. Donated funds will be placed in the general fund or scholarship fund.
- You control the funds and determine what portion, if any, of the amounts raised may be credited to member(s) who assisted with the fundraising scholarship event.
- You reserve the right to refund the general fund for any purchases made towards a fundraising event.
- All amounts raised are to be used for your tax-exempt purposes.
- Your board of directors, and not the fundraising member(s), must determine how general funds are used.
- Fundraising member(s) may not withdraw funds to use as they wish. All funds must be used for expenses related to arts/athletics/tuition and must have a detailed receipt to be paid for directly by your board member or your employee, and no exceptions. Payments will be made within 2 weeks of submission.
- Fundraising member(s) understand that the money raised is your property. Member(s) who choose not to return for the following season shall not submit requests after of that year. Member(s) who choose not to return after of that year will forfeit the balance left in the member(s) account and it will be transferred to the general fund.
- All contracts must be signed and submitted before member(s) are allowed to volunteer or use fundraising scholarship credit.
- All new/returning members must attend the in-person annual member meeting. All must attend an orientation meeting with board members prior to volunteering for an event.
- Members must abide by the Conflict-of-Interest provision, which limits members' ability to volunteer at specified venues for other organizations. If a member violates the Conflict-of-Interest provision, the membership shall be terminated immediately, and the fundraising member shall forfeit any existing or future volunteer opportunities.

You also maintain the H. Through the H you grant scholarships to support underprivileged children to pursue their passions in arts and sports. Scholarships range from between j dollars depending on the specific need of the request. Each award is tailored to cover the actual costs of program fees, uniforms, equipment, and other relevant expenses. Applicants provide their household income, grades, and an age-appropriate essay. Recipients are selected based on financial need, quality and content of the essay, and how well their goals align with the scholarship's purposes to foster growth and opportunity in the arts or sports. Academic performance is not a primary criterion for selection.

Law

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

Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized or operate exclusively for one or more exempt purposes unless it serves a public rather than private interest. To meet this requirement, it is necessary for an organization to establish that it is not organized or operated for benefit of private interests such as designated individuals.

Revenue Ruling 66-103, 1966-1 C.B. 134, holds that an organization who primary activity is to provide awards and grants, including scholarship and fellowship grants to needy individuals who would otherwise not be able to pursue their studies for lack of funds and with no monetary benefits to the donor organization, qualifies for exemption under IRC Section 501(c)(3). The organization is primarily engaged in a charitable activity of providing relief of the poor.

Rev. Rul. 67-367, 1967-2 C.B. 188, describes a nonprofit organization whose sole activity was the operation of a 'scholarship' plan for making payments to preselected, specifically named individuals. The organization did not qualify for exemption from federal income tax under IRC Section 501(c)(3) because it was serving private rather than public or charitable interests.

Rev. Rul. 69-257, 1969-1 C.B. 151, held that an organization providing scholarships to recipients selected from a broad class of applicants on the basis of scholastic standing, qualified for exemption under IRC Section 501(c)(3) because it was engaged in the charitable activity of advancing education.

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.

In Capital Gymnastics Booster Club, Inc. v. C.I.R., T.C. Memo. 2013-193 (2013), the tax court ruled that an organization that authorized members to raise funds for the benefit of their children served a private benefit. The contributions did not generally benefit all the child athletes in the program but rather benefitted only the children of the members who did the fundraising. Because the organization operated in a manner that promoted substantial private benefit and not public interests, the organization did not operate exclusively for an exempt purpose.

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 provided, you fail the operational test.

You do not meet the operational test under IRC Section 501(c)(3) because you are not operated exclusively for charitable purposes as required under Treas. Reg. Section 1.501(c)(3)-1(c)(1). Your scholarships and fundraising activities may serve some charitable purposes, but a substantial focus of your activities is to serve the private interests of your fundraising members.

Your fundraising members receive a fundraising scholarship credit in proportion to the amounts they raise at fundraising events. Credits are not awarded to individuals who do not actively participate in the event. You are therefore serving the private interest of your fundraising members rather than public interests as described in Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii).

You contend that you are similar to the organizations described in Rev. Rul. 66-103 and Rev. Rul. 69-257. Scholarships distributed by your H may be distributed on the basis of need or merit, but the scholarships distributed through H is insignificant compared to your fundraising credit program. Your fundraising credit program requires your fundraising members to work at concession stands for them to receive a fundraising credit in their individual account.

You are similar to the organizations described in Rev. Rul. 67-367 and Capital Gymnastics Booster Club. You contend that you award scholarships to an indefinite class, based on objective non-discriminatory criteria, primarily for charitable purposes and that your scholarships do not substantially serve private interests. While your scholarships may be awarded based on need or merit, this is an insignificant activity compared to your fundraising credit program. Your fundraising members volunteer their time to work concession stands and in return they receive financial benefits in the form of fundraising credits. These credits are used to reduce their financial burdens and are not available to those that do not volunteer at events. This arrangement serves the private interests of your fundraising members rather than the interests of the public and makes up approximately e percent of your total resources and time.

As noted in Better Business Bureau, the presence of a single non-exempt purpose, if substantial in nature, will preclude exemption under IRC Section 501(c)(3). By allowing your fundraising members to reduce their financial burden through volunteering at events, you are serving the private interest of your fundraising

members rather than the interests of the public. This constitutes a substantial non-exempt purpose and precludes exemption under Section 501(c)(3).

Conclusion

Based on the above we conclude that you are not operated for exempt purposes under IRC Section 501(c)(3). The facts show that you operate primarily to serve the private interests of your fundraising members rather than public interests and do not qualify for exempt status 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

cc: