



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

P.O. Box 2508
Cincinnati, OH 45201

Number: 202224013
Release Date: 6/17/2022

Date:
03/24/2022
Employer ID number:

Form you must file:

Tax years:

Person to contact:
Name:
ID number:
Telephone:

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
PO Box 2508
Cincinnati, OH 45201

Date: 01/11/2022

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

X = Date

Y = State

Z = County

\$ q dollars =

\$ r dollars =

UIL:

501.33-00

501.03-08

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 *Streamline Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*.

You attested on Form 1023-EZ that you are organized and operated exclusively to further charitable and educational purposes. You also attested that you have not conducted and will not conduct prohibited activities under IRC Section 501 (c)(3).

During review of your Form 1023-EZ, detailed information was requested supplemental to your attestations. You were formed as a corporation on X in the State of Y. Your organizing document, Certificate of Formation, states that you are formed for the educational enrichment and socialization for homeschoolers in or near Z. Further, it states that you are a parent volunteer led group and all monies or membership dues are strictly to cover the costs of operating your organization.

You are run by members, who volunteer their time as teachers, event organizers, and as board members. The only stipulations for membership are being a homeschooling parent and that at least one parent/caregiver be present for the school day and perform some assigned job, such as teaching, cleaning, etc. You are not a drop off/day care type of organization.

You provide a variety of classes for ages/grades ranging from pre-k to 8th grade. Each parent is required to lead teach and co-teach one class. You have informal field trips/events scheduled at least one day during each week.

Each of your members spend about 3 days a week lesson planning, gathering resources, and participating in your activities.

You charge a non-refundable fee of \$ q dollars for each adult member to perform a background check. This must be renewed every 2 years. Once cleared by the background check, you charge a membership fee of \$ r dollars. This is used to pay for group liability insurance, supplies, open houses, field trips, website and occupancy fees.

Each semester, the lead teachers for each class submit a list of individual fees to cover supplies for the class. They must provide receipts showing their purchases in order to be reimbursed. This amount is different for each class each semester.

You currently have 25 students from 11 families. You hope to increase the number of families until you reach your facility capacity, which is a maximum of approximately 100 students.

Law

IRC Section 501(c)(3) provides for the recognition of exemption of 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 in order to qualify under section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more exempt purposes. If an organization fails to meet either the organizational or operational test, it is not exempt.

Treas. Reg. Sec. 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized and operated exclusively for charitable purposes unless it serves a public rather than a private interest.

In Rev. Rul. 69-175, 1969-1 C.B. 158, the organization was formed by the parents of pupils attending a private school. All control over the organization rested in the parents. The organization provided bus transportation to and from the school for those children whose parents belong to the organization. Parents paid an initial family fee and an additional annual charge for each child. The organization's income approximately equaled the expenses involved in its operations. The ruling found that when a group of individuals associate to provide a cooperative service for themselves, they are serving a private interest. By providing bus transportation for school children, under the circumstances described, the organization enabled the participating parents to fulfill their individual responsibility of transporting their children to school. Thus, the organization serves a private rather than a public interest. Accordingly, it is not exempt from Federal income tax under section 501(c)(3) of the Code.

In *Old Dominion Box Co. v. United States*, 477 F.2d. 340 (4th Cir. 1973), *cert. denied*, 413 U.S. 910 (1973), the court held that operating for the benefit of private parties constitutes a substantial non-exempt purpose.

In *Better Business Bureau of Washington D.C., Inc. v. U.S.*, 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 or importance of truly exempt purposes.

Application of law

You are operated to provide cooperative education for homeschooled students. Memberships consists of the parent of the homeschooled students. Although there is an educational aspect to your operations, you are serving a private benefit rather than a public interest. As noted in Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii), serving a private interest is contrary to operating exclusively for an exempt purpose. Thus, you do not meet the operational test and cannot be granted exemption under IRC Section 501(c)(3) (See Treas. Reg. Sec. 1.501(c)(3)-1(a)(1).)

Like the organization in Rev. Rul. 69-175, you are a group of individuals associated to provide a cooperative service for your children. By enabling participating parents to fulfill their individual responsibility of educating their children, a private interest is served.

As noted in *Old Dominion Box Co.* operating for the benefit of private parties constitutes a substantial non-exempt purpose. The presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes. (See *Better Business Bureau of Washington D.C.*)

Conclusion

You are operated to serve the private interest of your members. Because you do not meet the operational test of Treas. Reg. Section 1.501(c)(3)-1(c)(1), you do not qualify for exemption from federal income tax 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