



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

Date:
01/30/2025
Employer ID number:

Person to contact:

Release Number:202517019
Release Date: 4/25/2025
UIL Code: 501.03-00,
501.03-33, 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.

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: November 27, 2024

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

B = State

C = Date

D = Subdivision

UIL:

501.03-00

501.03-33

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 were formed as a corporation in B on C. Your stated corporate purpose is to perform all obligations and duties of the Association and provide an entity for the furtherance of interests of owners of property. The dissolution clause in your Articles of Incorporation states that if you dissolve, your net assets shall be dedicated to a public body or conveyed to another nonprofit organization.

Your Articles of Incorporation also indicate you have the power to:

- A. Manage, control, operate, maintain, repair, and improve the common areas and facilities, and any property subsequently acquired by you, or any property owned by another for which you by rule, regulation, declaration, or contract, have a right or duty to provide such services;
- B. Enforce covenants, conditions or restrictions affecting any property to the extent you may be authorized to do so under the Declaration;
- C. Engage in activities which will actively foster, promote, and advance the common interests of all Owners of property subject to the Declaration;
- D. Provide any and all supplemental municipal services to members as may be necessary or desirable.

You are a membership organization consisting of lot owners in D. Membership is connected to and may not be separated from the ownership of any lot.

Your activities consist of furthering the interests of D lot owners through collecting dues from members and managing and maintaining the common areas in D. Membership dues fund your activities.

Law

IRC Section 501(c)(3) provides for the recognition of exemption of organizations that are organized and operated exclusively for charitable, educational, religious, 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 the operational test, it is not exempt.

Treas. Reg. Section 1.501(c)(3)-1(b)(1)(i) states an organization is organized exclusively for one or more exempt purposes only if its articles of organization limit the purpose of such organization to one or more exempt purposes. The organization's purposes, as stated in its articles, may be as broad as, or more specific than, the purposes stated in IRC Section 501(c)(3).

Treas. Reg. Section 1.501(c)(3)-1(b)(4) requires an organization's assets be dedicated to an exempt purpose 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.

Treas. Reg. Section 1.501(c)(3)-1(c)(1) states 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 operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. To meet the requirement of this subsection, the burden of proof is on the organization to show that it is not organized or operated for the benefit of private interests, such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Rev. Rul. 75-286, 1975-2 C.B. 210, held that a nonprofit organization with membership limited to the residents and business operators within a city block and formed to preserve and beautify the public areas in the block, thereby benefiting the community as a whole as well as enhancing the members' property rights, will not qualify for exemption under IRC Section 501(c)(3) because the organization was organized and operated for the benefit of private interests by enhancing the value of members' property.

Application of law

IRC Section 501(c)(3) sets 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) as specified in Treas. Reg. Section 1.501(c)(3)-1(a)(1). You fail both tests.

You do not meet the organizational test.

Your Articles of Incorporation state your purpose is to further the interests of owners of property. Because your Articles of Incorporation do not limit your purposes to those described in Treas. Reg. Section 1.501(c)(3)-1(b)(1)(i), you fail the organizational test under IRC Section 501(c)(3).

In addition, your Articles of Incorporation allow for the conveyance of your assets upon dissolution to another nonprofit organization with a similar purpose as you. However, per Treas. Reg. Section 1.501(c)(3)-1(b)(4) any remaining assets must be dedicated exclusively for purposes described in IRC Section 501(c)(3). Therefore, this also causes you to fail the organizational test under IRC Section 501(c)(3).

You do not meet the operational test.

To satisfy the IRC Section 501(c)(3) operational test, an organization must establish that it is operated exclusively for one or more exempt purposes, as stated in Treas. Reg. Section 1.501(c)(3)-1(c)(1). The information you submitted does not show that you are operated exclusively for one or more exempt purposes.

You are serving private interests.

Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized or operated exclusively for one or more exempt purpose unless it serves a public rather than a private interest. Your activities consist of collecting dues from members who are lot owners in D in order to manage and maintain the common areas in D. You have the power to manage, control, operate, maintain, repair, and improve the common areas and facilities, and any property subsequently acquired by you, or any property owned by another for which you by rule, regulation, declaration, or contract, have a right or duty to provide such services. These facts show you are serving a private interest rather than a public interest which is a substantial nonexempt purpose. Because you are serving a substantial nonexempt purpose, you are not operated exclusively for exempt purposes as described in Treas. Reg. Section 1.501(c)(3)-1(c)(1).

Like the organization in Rev. Rul. 75-286, your activities substantially benefit your members who are lot owners in D. This illustrates you are serving the private interests of your members rather than public interests which precludes you from qualifying for exemption under IRC Section 501(c)(3).

Conclusion

You do not meet the organizational test because your organizing document does not limit your purposes to those in IRC Section 501(c)(3) or dedicate remaining assets upon dissolution to one or more exempt purposes described in Section 501(c)(3). You also do not meet the operational test because you are serving the private interests of your members. This is a substantial nonexempt purpose. 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.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements