Department of the Treasury
Internal Revenue Service
Independent Office of Appeals
[redacted]

[redacted]

Release Number: 202526013
Release Date: 6/27/2025

Date: APR 0 1 2025

Form:
[redacted]
Tax periods ended:
[redacted]
Person to contact:
Name: [redacted]
Employee ID number: [redacted]
Telephone: [redacted]
Hours: [redacted]
Employer ID number:
[redacted]
Uniform issue list (UIL):
501.00-00 501.35-00

Certified Mail

Dear [redacted]:

Why you are receiving this letter

This is a final adverse 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).

We've revoked the favorable determination letter to you dated [select date], and you're no longer exempt under IRC Section 501(a) effective 01/01/2020.

We made the determination for the following reasons:

You failed to meet the operational test under Treas. Reg. Section 1.501(c)(3)-1(c)(1) because your gaming activities are more than insubstantial which is that is not in furtherance of an recognized exempt purpose. You are not operated exclusively for one or more of the purposes listed under Teas. Reg. Section 1.501(c)(3)-1(d)(1).

Contributions to your organization are not deductible under IRC Section 170.

You've waived your right to contest this determination under the declaratory judgment provisions of IRC Section 7428 by your execution of Form 906, Closing Agreement Covering Specific Matters, an executed copy of which is being sent to you under separate cover.

After removing identifying information, this letter and the previously sent proposed adverse determination letter will be made available for public inspection under IRC Section 6110.

In a separate mailing to you, we provided Letter 437, Notice of Intention to Disclose. Please review Letter 437 and the attached documents describing our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Letter 437.

Organizations that are not exempt under IRC Section 501 generally are required to file federal income tax returns and pay tax, where applicable.

If you have questions, contact the person at the top of this letter.

Sincerely,

Douglas W. O'Donnell
Acting Commissioner
By

Valeria B. Farr

Valeria B. Farr
Appeals Team Manager

Enclosures:
IRS Appeals Survey

Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
Exempt Organizations Examinations
[redacted]

[redacted]

Date:
09/06/2023
Taxpayer ID number:
[redacted]
Form:
[redacted]
Tax periods ended:
[redacted]
Person to contact:
Name: [redacted]
ID number: [redacted]
Telephone: [redacted]
Fax: [redacted]
Address: [redacted]
Manager's contact information:
Name: [redacted]
ID number: [redacted]
Telephone: [redacted]
Response due date:
10/6/2023

CERTIFIED MAIL – Return Receipt Requested

Dear [redacted]

Why you're receiving this letter
We enclosed a copy of our audit report, Form 886-A, Explanation of Items, explaining that we propose to revoke your tax-exempt status as an organization described in Internal Revenue Code (IRC) Section 501(c)(3).

If you agree
If you haven't already, please sign the enclosed Form 6018, Consent to Proposed Action, and return it to the contact person shown at the top of this letter. We'll issue a final adverse letter determining that you aren't an organization described in IRC Section 501(c)(3) for the periods above.

If you disagree

1. Request a meeting or telephone conference with the manager shown at the top of this letter.
2. Send any information you want us to consider.
3. File a protest with the IRS Appeals Office. If you request a meeting with the manager or send additional information as stated in 1 and 2, above, you'll still be able to file a protest with IRS Appeals Office after the meeting or after we consider the information.

   The IRS Appeals Office is independent of the Exempt Organizations division and resolves most disputes informally. If you file a protest, the auditing agent may ask you to sign a consent to extend the period of limitations for assessing tax. This is to allow the IRS Appeals Office enough time to consider your case. For your protest to be valid, it must contain certain specific information, including a statement of the facts, applicable law, and arguments in support of your position. For specific information needed for a valid protest, refer to Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status.

   Fast Track Mediation (FTM) referred to in Publication 3498, The Examination Process, generally doesn't apply now that we've issued this letter.

4. Request technical advice from the Office of Associate Chief Counsel (Tax Exempt Government Entities) if you feel the issue hasn't been addressed in published precedent or has been treated inconsistently by the IRS.

   If you're considering requesting technical advice, contact the person shown at the top of this letter. If you disagree with the technical advice decision, you will be able to appeal to the IRS Appeals Office, as explained above. A decision made in a technical advice memorandum, however, generally is final and binding on Appeals.

If we don't hear from you
If you don't respond to this proposal within 30 calendar days from the date of this letter, we'll issue a final adverse determination letter.

Contacting the Taxpayer Advocate Office is a taxpayer right
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 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.

Additional information
You can get any of 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 shown at the top of this letter.

Sincerely,

Michelle Henson

Michelle Henson signing for
Lynn A. Brinkley
Director, Exempt Organizations Examinations

Enclosures:
Form 886-A
Form 6018
Form 4621-A
Publication 892
Publication 3498

Form **886-A** (May 2017)	Department of the Treasury – Internal Revenue Service **Explanations of Items**	Schedule number or exhibit [redacted]
Name of taxpayer [redacted]	Tax Identification Number *(last 4 digits)* [redacted]	Year/Period ended [redacted]

ISSUES:

1) Whether [redacted] operated exclusively for one or more of the purposes listed under Teas. Reg. Section 1.501(c)(3)-1(d)(1) and continues to qualify for exemption under IRC Section 501(c)(3).

FACTS:

[redacted] (taxpayer) was incorporated in the State of [redacted] in [redacted] The taxpayer is recognized as an IRC Section 501(c)(3) tax-exempt organization described in IRC Section 509(a)(2). The taxpayer's current mailing address is [redacted].

[redacted]s Form 1023, *Application for Recognition of Exemption*, stated that their main objective is [redacted]. The form was signed on [redacted] by [redacted] Director. On [redacted], the Internal Revenue Service (IRS) sent a letter to the taxpayer regarding their Form 8734, *Support Schedule for Advance Ruling Period*, which requested more information to complete their consideration for the taxpayer's advance ruling period request. [redacted] of the questions asked on the letter was what percentage of [redacted]s time will be devoted to bingo. The taxpayer responded to the question stating in part that, "I would estimate that about [redacted]% of our time is involved with bingo." On [redacted], the Service sent a letter to the taxpayer notifying them that they were exempt under section 501(c)(3) with public charity status 509(a)(2).

A field examination and interview were conducted on [redacted] at [redacted], [redacted]), a [redacted]. The taxpayer stated that they were in contractual agreement with another tax-exempt organization, [redacted] Per the taxpayer, [redacted] wanted to raise money, knew nothing about running a bingo hall, and contracted the taxpayer to run the bingo operations for [redacted] The taxpayer does not have a bingo license, however [redacted] had a license to conduct bingo in [redacted] See [redacted] for [redacted] bingo license.

A bingo agreement between the [redacted] organizations was provided and reviewed during the field examination. The bingo agreement lists the primary responsibilities for [redacted] and [redacted] [redacted] primary responsibilities includes the following: maintaining its exempt status, maintaining its bingo license, obtaining gaming equipment, providing security at the games, day-to-day maintenance at the bingo facility, taking care of the payroll expenses, purchasing bingo paper and providing liability insurance covering the business.

[redacted] primary activities includes the following: collecting all gross revenues received from the bingo activities, paying rent where the activity is being conducted, maintaining the books and records of the bingo activity, providing weekly transfers to pay the expenses incurred by [redacted] providing property insurance and supervising the day-to-day operations. See [redacted] for the bingo agreement.

The taxpayer also provided the minutes for the year under examination. Upon reviewing the minutes, meeting was conducted on [redacted] The attendees consisted of [redacted] (Board member/President) and [redacted] (Board member/Secretary/Treasurer). The following is the full paragraph on the meeting minutes:

> "The meeting was called to order by [redacted] and a general discussion was held concerning contributions received and donations made to various charities during the year. The financial statements for calendar year [redacted] were approved as was the IRS Form [redacted] and [redacted] Form 512E. A review of the past years specific donations was given by [redacted] who noted that the emphasis was on [redacted] (with major emphasis on [redacted]) but also any other worth causes that the board may deem appropriate. The past years donations were approved by the board, [redacted]

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service **Explanations of Items**	Schedule number or exhibit [redacted]

Name of taxpayer	Tax Identification Number *(last 4 digits)*	Year/Period ended
[redacted]	[redacted]	[redacted]

During the interview, the taxpayer stated that they received over [redacted]% of its income from the bingo operations. See [redacted] for the full interview.
Based on the on the taxpayer's [redacted] (prior year) Form [redacted] *Return of Organization Exempt From Income Tax*, the taxpayer reported $[redacted] for total revenue, all which came from the gaming activity except for $[redacted] from investment income. The Form [redacted] also reported a total of $[redacted] for total functional expenses with $[redacted] going to donations and scholarships.

Based on the on the taxpayer's [redacted] (year under audit) Form [redacted] *Return of Organization Exempt From Income Tax*, the taxpayer reported $[redacted] for total revenue, all which came from the gaming activity. The Form [redacted] also reported a total of $[redacted] for total functional expenses with $[redacted] going to donations and scholarships.

Based on the on the taxpayer's [redacted] (subsequent year) Form [redacted] *Return of Organization Exempt From Income Tax*, the taxpayer reported $[redacted] for total revenue, all which came from the gaming activity. The Form [redacted] also reported a total of $[redacted] for total functional expenses with $[redacted] going to donations and scholarships.

LAW:

Internal Revenue Code (IRC) 501(c)(3) states that Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

Treasury Regulation (Treas. Reg.) Section 1.501(c)(3)-1(a)(1) states that in order to be exempt as an organization described in 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) states 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 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) states that an organization may be exempt as an organization described in section 501(c)(3) if it is organized and operated exclusively for one or more of the following purposes: religious, charitable, scientific, testing for public safety, educational, or prevention of cruelty to children or animals.

GOVERNMENT'S POSITION:

Gaming, itself, does not further the exempt purpose. In general, when gaming does not further the organization's exempt purpose, gaming is no different than the conduct of any other trade or business carried on for profit. In most instances, gaming's contributions to the operations of an exempt organization are used to pay for the organization's expenses associated with the conduct of the organization's exempt activities.

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service **Explanations of Items**	Schedule number or exhibit [redacted]

Name of taxpayer	Tax Identification Number *(last 4 digits)*	Year/Period ended
[redacted]	[redacted]	[redacted]

A common misconception is that gaming is a "charitable" activity. There is nothing inherently charitable about gaming. It is a recreational activity and a business. Although a charity may use the proceeds from gaming to pay expenses associated with its charitable programs, gaming itself does not further any charitable purpose. Thus, gaming cannot be a more than an insubstantial purpose of a 501(c)(3) organization.

Based on the taxpayer's meeting minutes, books and records, and the interview conducted during the examination, the taxpayer's primary activity was helping [redacted] run their bingo operation, receiving a portion of the funds from the bingo operation and donating a portion of those funds. Although the taxpayer stated that their estimate bingo activity would be [redacted]% in response to the IRS, supporting the gaming operations for [redacted] is their primary activity based on the field examination and the review of books and records.

[redacted] had only [redacted]% ($[redacted] out of $[redacted]) of its functional expenses going toward its exempt activities, donat[redacted]s and scholarships, in the year [redacted], [redacted] The taxpayer had only [redacted]% ($[redacted] out of $[redacted]) of its functional expenses going toward its exempt activities, donations and scholarships, in the year ending [redacted] The taxpayer had only [redacted]% ($[redacted] out of $[redacted]) of its functional expenses going toward its exempt activities, donations and scholarships, in the year ending [redacted] The average between the [redacted] and [redacted] is [redacted]% of functional expenses going towards its exempt activities.

Issue 1 – The IRS determined that [redacted] substantially conducted an activity unrelated to their tax-exempt purpose after examining all the facts and circum[redacted]ances. The taxpayer ran gaming operations (bingo and pull-tabs) for another 501(c)(3) organization. The taxpayer failed to meet the operational test under Treas. Reg. 1.501 (c)(3)-1(c)(1) due to conducting more than an insubstantial amount of gaming activities that is not in furtherance of an exempt purpose. The taxpayer is not operating exclusively for one or more of the purposes listed under Teas. Reg. Section 1.501(c)(3)-1(d)(1). Therefore, the taxpayer does not qualify for exemption under IRC Section 501(c)(3).

TAXPAYER'S POSITON:

Taxpayer's position regarding the issue is unknown.

CONCLUSION:

[redacted] failed to meet the operational test due to conducting an activity that is more than an insubstantial amount tha[redacted] does not further an exempt purpose described under Treas. Reg. 1.501 (c)(3)-1(c)(1), and the taxpayer is not operating exclusively for one or more of th[redacted] urposes listed under Teas. Reg. Section 1.501(c)(3)-1(d)(1). Therefore, it is proposed that [redacted] s tax-exempt status should be revoked effective [redacted]

[redacted]

[redacted]

[redacted]

[redacted]