



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

Date:
05/30/2025
Employer ID number:

Person to contact:

Release Number: 202534011
Release Date: 8/22/2025
UIL Code: 501.03-30, 501.03-33, 501.33-00, 501.36-00

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
Letter 4038



Department of the Treasury
Internal Revenue Service
PO Box 2508
Cincinnati, OH 45201

Date:
04/14/2025
Employer ID number:

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

Legend:

B = Date
C = State

UIL:

501.03-30
501.03-33
501.33-00
501.36-00

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 incorporated on B, in the state of C. Your amended Articles of Incorporation state you are not an IRC Section 501(c)(3) organization and list your purpose as general nonprofit. Upon dissolution your assets would be distributed to an organization with a similar purpose.

Your application states you are a successor organization of a for-profit limited liability company owned by one of your board members. The assets were transferred to you when you converted to a non-profit. No debts were transferred from the for-profit company.

You state your primary goal is to engage in any activity in connection with the marketing or selling of the products from your vendors, including agricultural, handcrafted, local small business, and other nonprofits. Your objectives include:

- Provide a location for agricultural producers, local artisans, small businesses, nonprofits, and others a place to sell their products, raise funds, advertise, and garner attention.
- Help improve the local agricultural economy with alternative marketing opportunities while providing a needed service for the community.

- Promote the sale of agricultural products grown, raised, produced, or gathered locally and/or in the State of C, with attention to providing consumers and local farmers an opportunity to interact directly with one another.
- Add a wide range of fresh local produce, including specialized items and organic/natural options, to the variety, quality, and freshness of produce available in the county.
- Provide opportunities for local farms, food producers, and artisans to test and refine their products and marketing skills, as well as help small rural businesses to grow in parallel with the market.
- Enhance the quality of life in the local area by providing a community activity which fosters social gathering and interaction.
- Use any profits, above and beyond what is needed to ensure the existence of the market, for donations and assistance to nonprofit organizations engaged in the field of agriculture or other community-support endeavors. Organizations may be working to solve or provide support for the problems of the family, farmer, and rural community.

You shall not market the products of non-members in an amount the value of which exceeds the value of the products marked for members. You shall not purchase supplies and equipment for persons who are neither members nor producers of agricultural products.

Your vendors are limited to producers, harvesters, crafters, and food producers. Products not grown or gathered by the vendor, or products grown or gathered by the prospective vendor outside a 100 miles radius may be sold only with permission of the Board of Directors. All members of your Board of Directors must be vendors. All fees are announced annually. A vendor can be a flex vendor or a seasonal vendor.

Vendors will price their own products. However, the market encourages vendors to price their products for sale at a price that reflects the cost of materials, labor, marketing expenses, and a profit. All products should be of quality, prices should be kept at a fair price, and no vendor should intentionally undercut other vendors. You are working toward the ability to accept SNAP (food stamps).

Any vendor issues will be dealt with according to your rules and regulations which may include verbal or written notices and can lead to termination. The market manager may refuse to allow vendors to setup or sell at the market. The market manager is the first and final authority at the market.

The market is open weekly April through October. You will host spring and fall events. You will allow non-profits to have a booth. Live music events will be held twice a year. Community gathering activities will encourage the community to meet and enjoy food with family and friends. Kid friendly events will be held throughout the season.

You will enhance economic opportunities for local farmers and small businesses by providing a venue where they can sell their products and test new products with low overhead. This is a way vendors can supplement their incomes through direct sales to customers. Vendors can be mentors for each other to improve their sales, skills, and products.

You state you are supplementing government services because most farmers markets are operated by a local governmental agency. Locally, these have sometimes been tried and failed. You are filling a niche in the community to provide a market without increasing the burden on governmental services. Your market will continue to maintain relationships with governmental agencies.

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) provides that, in order to be exempt as an organization described in IRC Section 501(c)(3) of the Code, 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) provides that an organization is organized exclusively for one or more exempt purposes only if its articles of organization:

- (a) Limit the purposes of such organization to one or more exempt purposes; and
- (b) Do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities that in themselves are not in furtherance of one or more exempt purposes.

Treas. Reg. Section 1.501(c)(3)-1(b)(1)(iv) provides that in no case shall an organization be considered to be organized exclusively for one or more exempt purposes, if, by the terms of its articles, the purposes for which such organization is created are broader than the purposes specified in IRC Section 501(c)(3).

Treas. Reg. Section 1.501(c)(3)-1(b)(4) states that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, for example, if, upon dissolution, such assets would, by reason of a provision in the organization's articles or operation of law, be distributed for one or more exempt purposes.

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 that accomplish one or more of such exempt purposes specified in IRC Section 501(c)(3) of the Code. 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 exempt purposes unless it serves a public rather than a private interest. To meet this requirement, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests.

Treas. Reg. Section 1.501(c)(3)-1(d)(2) provides the term "charitable" is used in IRC Section 501(c)(3) of the Code in its generally accepted legal sense and includes relieving the poor and distressed or the underprivileged, combating community deterioration, lessening neighborhood tensions, and eliminating prejudice and discrimination.

Treas. Reg. Section 1.501(c)(3)-1(d)(3)(i) provides that the term "educational" as used in IRC Section 501(c)(3) of the Code, relates to the instruction or training of the individual for the purpose of improving or developing

his/her capabilities or to the instruction of the public on subjects useful to the individual and beneficial to the community.

Revenue Ruling 67-216, 1967-2 C.B. 180, established that 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 may be exempt from tax under Section 501(c)(3) of the Code.

Rev. Rul. 69-175, 1969-1 C.B. 149, describes an organization created to provide bus transportation for school children to a tax-exempt private school. The organization was formed by the parents of pupils attending the school. The organization provided transportation to and from the school for those children whose parents belonged to the organization. Parents were required to pay an initial family fee and an additional annual charge for each child. The Service determined that “when a group of individuals associate to provide a cooperative service for themselves, they are serving a private interest.”

Rev. Rul. 70-585, 1970-2 C.B. 115, Situation 3, held that an organization formed to formulate plans for the renewal and rehabilitation of a particular area in a city as a residential community in which the housing located in the area was generally old and badly deteriorated qualified for exemption under IRC Section 501(c)(3) because the organization's purposes and activities combat community deterioration by assisting in the rehabilitation of an old and run-down residential area.

Rev. Rul. 71-395, 1971-2 C.B. 228, a cooperative art gallery was formed and operated by a group of artists for the purpose of exhibiting and selling their works and did not qualify for exemption under Section 501(c)(3) of the Code. It served the private purposes of its members, even though the exhibition and sale of paintings may be an educational activity in other respects.

Rev. Rul. 73-127, 1973-1 C.B. 221, the Service held that an organization that operated a cut-price retail grocery outlet and allocated a small portion of its earnings to provide on-the-job training to the hard-core unemployed did not qualify for exemption. The organization's purpose of providing job training for the hardcore unemployed was charitable and educational within the meaning of the common law concept of charity; however, the organization's purpose of operating a retail grocery store was not. The ruling concluded that the operation of the store and the operation of the training program were two distinct purposes. Since the former purpose was not a recognized charitable purpose, the organization was not organized and operated exclusively for charitable purposes.

Rev. Rul. 77-111, 1977-1 C.B. 144, in Situation 1, held that an organization formed to increase business patronage in a deteriorated area by providing information on the area's shopping opportunities, local transportation, and accommodations is not operated exclusively for charitable purposes and does not qualify for exemption under IRC Section 501(c)(3) of the Code. The overall thrust is to promote business rather than to accomplish IRC Section 501(c)(3) objectives exclusively.

Rev. Rul. 85-2, 1985-1 C.B. 178, held that a determination of whether an organization is lessening the burdens of government requires consideration of whether the organization's activities are activities that a governmental unit considers to be its burdens, and whether such activities actually ‘lessen’ such governmental burden. To determine whether an activity is a burden of government, the question to be answered is whether there is an objective manifestation by the government that it considers such activity to be part of its burden. The fact that an organization is engaged in an activity that is sometimes undertaken by the government is insufficient to

establish a burden of government. Similarly, the fact that the government or an official of the government expresses approval of an organization and its activities is also not sufficient to establish that the organization is lessening the burdens of government.

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279 (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. The Petitioner's activities were largely animated by non-exempt purposes directed fundamentally to ends other than that of education.

In American Institute for Economic Research v. United States, 302 F.2d 934 (Ct. Cl. 1962), the Court considered the status of an organization that provided analysis of securities and industries and of the economic climate in general. It sold subscriptions to various periodicals and services providing advice for purchases of individual securities. The Court noted that education is a broad concept and assumed that the organization had an educational purpose. The Court concluded, however, that the totality of the organization's activities, which included the sale of many publications as well as the sale of advice for a fee to individuals, was more indicative of a business than that of an educational organization. The Court held that the organization had a significant non-exempt commercial purpose that was not incidental to the educational purpose and that the organization was not entitled to be regarded as tax-exempt under IRC Section 501(c)(3).

In Ginsberg v. Commissioner, 46 T.C. 47 (1966), the court considered a collective organization created to dredge waterways. The majority of the funds for this activity came from owners of property adjacent to the waterways. The court found that the primary beneficiaries were the adjacent property owners. Any benefit to the general public because these dredged waterways would be a safe harbor for boats during a storm was secondary. Therefore, the organization was not exempt because of the significant private benefit provided.

In Living Faith, Inc. v. Commissioner, 950 F.2d 365 (7th Cir. 1991), the Court of Appeals upheld a Tax Court decision, T.C. Memo. 1990-484, that an organization operating restaurants and health food stores in a manner consistent with the doctrines of the Seventh Day Adventist Church did not qualify under IRC Section 501(c)(3) of the Code. The court found substantial evidence to support a conclusion that the organization's activities furthered a substantial nonexempt purpose, including that the operations were presumptively commercial. The organization competed with restaurants and food stores, used profit-making pricing formulas consistent with the food industry, and incurred significant advertising costs.

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 you provided in your application and supporting documentation, we conclude that you fail both tests.

Your Articles of Incorporation (AOI) and subsequent amendments do not include a purpose clause that limits your purposes to one or more exempt purposes. The purposes for which you were created are broader than the purposes specified in IRC Section 501(c)(3). Furthermore, your AOI state you are not a Section 501(c)(3) organization. Moreover, your AOI does not dedicate your assets to Section 501(c)(3) purposes upon dissolution. Accordingly, you do not satisfy the organizational test required by Treas. Reg. Section 1.501(c)(3)-1(b)(1)(i), Treas. Reg. Section 1.501(c)(3)-(b)(1)(iv), and Treas. Reg. Section 1.501(c)(3)-1(b)(4).

You are also not described in IRC Section 501(c)(3) because you fail the operational test. Specifically, you are not operated exclusively for an exempt purpose as described in Treas. Reg. Section 1.501(c)(3)-1(c)(1). The facts show you are not operated exclusively for charitable and educational purposes, but for the purpose of facilitating sales for the benefit of growers and producers at your farmers' market. For a fee, you provide space at which vendors sell their goods directly to the public; you also advertise, promote, and inform buyers about your market. You operate an open market for vendors to sell goods. Your operations result in substantial private benefit to vendors of products at your market.

Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) requires an organization show that it is not organized or operated for private interests. Although the market includes educational events, more than an insubstantial part of your activities are in furtherance of the nonexempt purpose of being a profitable outlet for your vendors to increase their sales. You not only provide the outlet for them to sell their products, but you also provide marketing and cover overhead expenses that the vendors would otherwise have to expend. All your Board of Directors must be vendors. The private benefit associated with all these services constitutes serving private interests substantially. Also, see Rev. Rul. 69-175.

Like the cooperative art gallery described in Rev. Rul. 71-395, you provide a venue for selling items that advance private interests. As explained in this ruling, an organization that operates for the purpose of exhibiting and promoting the sales of products for the benefit of private individuals does not qualify for exemption under IRC Section 501(c)(3). Like the organization described in the ruling, you are not operated exclusively for educational purposes. Even though providing information on healthy foods may be educational in other respects, it is not your primary purpose.

You are not like the organization described in Rev. Rul. 70-585 because your economic development activities and purpose does not combat community deterioration. Your economic development activities and purpose is to further the private interest of your vendors by providing them a place to sell their goods.

You are like the organization described in Ginsberg. The primary beneficiaries of the activities of your market are your members who are selling their products. Any benefit the consumers of the goods receive through education on the food's production, preparation, and growing practices is secondary to the sale of goods.

Treas. Reg. Section 1.501(c)(3)-1(d)(2) provides the term "charitable" is used in IRC Section 501(c)(3) in its generally accepted legal sense and includes relieving the poor and distressed or the underprivileged, combating community deterioration, lessening neighborhood tensions, and eliminating prejudice and discrimination. You did not provide evidence that you limit your services to the poor and distressed, or that your operations are in a deteriorated or blighted area. While you do plan to offer some charitable services, such as giving space to local non-profits and donating funds to other charitable causes, this is incidental to your operation of a market for the sale of goods. Accepting SNAP does not make your purpose charitable.

Treas. Reg. Section 1.501(c)(3)-1(d)(3)(i) provides, in part, that the term "educational" as used in IRC Section 501(c)(3) relates to the instruction or training of the individual for the purpose of improving or developing his/her capabilities or the instruction of the public on subjects useful to the individual and beneficial to the community. While you will provide some educational services there is no evidence these are substantial activities. Any education you provide is incidental to the sale of members' products and promotion of their businesses.

You are not like the organization in Rev. Rul. 67-216 because your principal purpose is not educational. Your principal purpose is to facilitate sales and pair buyers with sellers. You devote most of your resources and time to this purpose. You utilize resources to help local farmers gain visibility to potential buyers through the vehicle of your farmer's market. You maintain a vendor list and distribute marketing materials to buyers in the effort to encourage the public to support farmers at your market.

You are like the organization described in Rev. Rul. 73-127 because the operation of the farmers' market and the provision of education on healthy foods are two distinct purposes. Because the operation of your market is not an exclusively charitable or educational purpose, you are not operated exclusively for exempt purposes.

Your activities are like the management and marketing activities conducted by the organization described in Rev. Rul. 77-111. By conducting advertising and marketing as well as managing the market facility, you are engaged in activities which promote business in the marketplace generally rather than accomplish exclusively charitable purposes described in IRC Section 501(c)(3).

You are like the organization described in Better Business Bureau of Washington, D.C. Inc., because a single non-exempt purpose, if substantial, will preclude tax exemption under IRC Section 501(c)(3). The operation of your farmers' market, a substantial part of your activities, is a non-exempt purpose.

You are like the organizations described in American Institute for Economic Research and Living Faith, Inc. You are operating a farmers' market in competition with other commercial markets. Your sale of products is indicative of a business. Your sources of revenues are mainly from vendor fees and your expenses are primarily for equipment, advertising, facility maintenance and insurance. Your market is a significant non-exempt commercial activity that is not incidental to the achievement of other educational purposes.

You have not demonstrated you meet the criteria for lessening the burdens of government as described in Rev. Rul. 85-2. Generally, a governmental entity's burden would not be to establish a place where vendors can sell their goods for a profit. Most of your revenue is from vendor fees and all members of your Board of Directors must be vendors.

Conclusion

Your AOI does not have proper purpose and dissolution clauses. You do have some charitable and educational purposes; however, you have substantial non tax-exempt purposes of serving the private interests of your vendors, promoting businesses, and acting in a commercial manner. Therefore, you do not qualify for IRC Section 501(c)(3) because you fail the organizational and operational tests.

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