



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

Date:
09/13/2023
Employer ID number:

Tax years:
All
Person to contact:

Release Number: 202349014
Release Date: 12/8/2023
UIL Code: 501.33-00,
501.35-00

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:
July 17, 2023
Employer ID number:

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

Legend:

B= state
C= date
D= individual

UIL:
501.33-00
501.35-00

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 submitted Form 1023-EZ, *Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*.

You attest that you were incorporated in B on C. You attest that you have the necessary organizing document, that your organizing document limits your purposes to one or more exempt purposes within the meaning of IRC Section 501(c)(3), that your organizing document does not expressly empower you to engage in activities, other than an insubstantial part, that are not in furtherance of one or more exempt purposes, and that your organizing document contains the dissolution provision required under Section 501(c)(3).

You attest that you are organized and operated exclusively to further educational purposes. You attest that you have not conducted and will not conduct prohibited activities under IRC Section 501(c)(3). Specifically, you attest you will:

- Refrain from supporting or opposing candidates in political campaigns in any way

- Ensure that your net earnings do not inure in whole or in part to the benefit of private shareholders or individuals
- Not further non-exempt purposes (such as purposes that benefit private interests) more than insubstantially
- Not be organized or operated for the primary purpose of conducting a trade or business that is not related to your exempt purpose(s)
- Not devote more than an insubstantial part of your activities attempting to influence legislation or, if you made a Section 501(h) election, not normally make expenditures in excess of expenditure limitations outlined in Section 501(h)
- Not provide commercial-type insurance as a substantial part of your activities

During review of your Form 1023-EZ, detailed information was requested supplemental to the above attestations.

You provided Articles of Incorporation that showed your purpose is to preserve D's family history. There is no evidence of the official document limiting your purposes to one or more exempt purposes within the meaning of IRC Section 501(c)(3), or that your organizing document contains the dissolution provision required under Section 501(c)(3). Prior to the incorporation date, you operated as a small unincorporated association with primary communication to members through email, and you do not have website.

You indicated that extended family members and related individuals participate in your activities. Almost all of your time is spent researching, sharing, promoting, and educating on the topic of genealogical research of D settling in a specific area of C in the early . However, you provided no evidence of any educational programs, sessions or how your activities are useful or beneficial to the public. Your remaining time was spent on family reunions, with the caveat that it could become much larger in the year the reunion is held. There were no other activities mentioned. Your justification for research on D and his descendants was people find it interesting.

You stated research could be made available to the public by various means including email, database information sharing, and via website or social media.

You have no revenue or expenses and expect no revenue or expenses.

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.

Treas. Reg. 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) 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 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)(4) holds 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 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 must establish 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.

Treas. Reg. Section 1.501(c)(3)-1(d)(3)(i) defines the term educational as the instruction or training of the individual for the purpose of improving or developing his capabilities or the instruction of the public on subjects useful to the individual and beneficial to the community.

Revenue Ruling 71-580, 1971-2 C.B., 235 held that a non-profit organization which researches a particular family in order to compile genealogical research on that family for the purposes of performing religious ordinances of the religious denomination to which the family members belong may qualify under IRC Section 501(c)(3).

Revenue Ruling 80-301, 1980-2 C.B., 182 held an organization researching genealogy which provides instruction in genealogical research techniques, conducts genealogical research projects which are made publicly available, and provide materials for libraries, museums, and community displays may qualify for exemption under IRC Section 501(c)(3).

Revenue Ruling 80-302, 1980-2 C.B., 180 held that an organization formed to conduct genealogical activities primarily for members of a particular family, who focus on their own genealogy, with little public orientation, doesn't qualify for exemption under 501(c)(3), noting that "any benefit to the general public is merely incidental to the private benefit accruing to family member." It is distinguished from 80-301 because of the lack of emphasis on public education.

Callaway Fam. Assoc. Inc. v. Commr. of Internal Revenue, 71 T.C. 340 (Tax 1978), the organization was a family association formed to study immigration to and migration within the United States by focusing upon its own family history and genealogy. Its activities included researching the genealogy of its members for the ultimate purpose of publishing a family history. The organization's activities served the private interests of its members and was not operated exclusively for exempt purposes.

Price Genealogical Association v. United States, 44 A.F.T.R. 2d 9-5024 (D.D.C. 1979), states that an organization established for the benefit of its members, where relatives almost exclusively compromise

membership, aided in family reunions was found to have little public orientation, and public dissemination of information was not a goal of the organization. Plaintiff relied on Revenue Ruling 71-580 as justification. The court found that 71-580 was segregated because the members were required by their faith to perform the research, while the stated purpose of the organization was educational.

Application of law

A ruling on exempt status is based solely on facts and representations in the administrative file. You have not provided supporting documentation to establish you meet the requirements of IRC Section 501(c)(3). Section 501(c)(3) sets forth two main tests for qualification for exempt status. As stated in Treas. Reg. 1.501(c)(3)-1(a)(1), an organization must be both organized and operated exclusively for purposes described in Section 501(c)(3).

Your Articles of Incorporation did not have valid purpose and dissolution clauses. You did not provide any proof that you have amended these deficiencies. As a result, you have not satisfied the organizational test described in Treas. Reg. Sections 1.501(c)(3)-1(b)(1)(i) and 1.501(c)(3)-1(b)(4).

You do not meet the operational test under IRC Section 501(c)(3) because you are not operating exclusively for educational purposes as required under Treas. Reg. Section 1.501(c)(3)-1(c)(1). Although you state that you have educational purposes, you have not provided any written evidence of substantial educational activities and other statements in the administrative record contradict the public orientation of your educational efforts. You stated that members were family members and related individuals of the research subject, and that there were no activities other than research/sharing/promoting/education and the family reunion. That is, your primary education efforts are focused on private individuals, not the general public. This is supported by your statement that information “could be” disseminated to the public through various means. There is no evidence from your past operations that you provide any education to the general public. You did not provide any historical relevance/notoriety to the particular individual/family. You did not provide any educational materials which would support an educational purpose. Further, Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) provides that an organization must establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family – as evidenced by your research activities you are operating for the benefit of the D family versus the public in general. An organization is not considered to be operated exclusively for exempt purpose unless it serves a public rather than a private interest. As provided in Treas. Reg. Section 1.501(c)(3)-1(d)(3)(i), you have not established that your operations accomplish exclusively educational purposes.

As seen in Revenue Rulings 71-580 and 80-301, genealogical research can be an exempt activity that qualifies under IRC Section 501(c)(3). In those rulings, the organization provided both religious and educational justifications for performing and disseminating that research. However, you do not actively seek out public individuals/members to instruct in general techniques, curate displays, participate in museum tours, or otherwise seek to educate the public. You are more similar to the organization in Revenue Ruling 80-302, wherein the efforts of your research are focused on a particular family. There is nothing in the administrative record to suggest that you perform research outside of that family, and the results are provided almost exclusively to the members of that family. You research a specific family for the purpose of providing the fruits of that research to the members of that family; as a result any public benefit is incidental to the private purposes you serve.

Similar to Callaway Family and Benjamin Price Genealogical Association, you are not furthering educational or religious purposes with your research activities. Your membership is almost if not exclusively family members;

your focus is on the genealogy of one particular family/individual. Your activities serve private versus public purposes more than incidentally as your research is not aimed at public dissemination for educational purposes.

Your position

Your response cited an internet blog concerning family association for conducting genealogical research under Revenue Ruling 71-580. To date, specific facts and circumstances which support your exemption under Revenue Ruling 71-580 have not been provided.

Our response to your position

The information you provided did not change our application of the law. Although you cited Revenue Ruling 71-580, you did not provide evidence as to how you are similar to this organization. You have submitted no evidence that you are formed to further religious purposes.

Conclusion

You do not meet the standards of either the organizational and operational test because you have not shown you are exclusively operated for exempt purposes. Thus, you do not meet the standards of exemption 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.

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: