

Number: 200636104

Release Date: 9/8/06

UIL: 501.03-04

LEGEND:

ORG =

NUM =

DATE1 =

LOCAL =

ORG

Person to Contact:

Identification Number:

Contact Telephone Number:

Form: 990-PF

In Reply Refer to: TE/GE Review Staff

EIN: NUM

LAST DATE FOR FILING A PETITION  
WITH THE TAX COURT: \_\_\_\_\_

Dear \_\_\_\_\_ :

This is a Final Adverse Determination as to your exempt status under section 501(c)(3) of the Internal Revenue Code. Because you have not established that you are observing the conditions required to continue exempt status, recognition of your exemption from Federal income tax as an organization described in Internal Revenue Code section 501(c)(3) as well as your status as a private foundation under IRC section 501(a) is retroactively revoked to DATE1.

Our determination was made for the reason that you have failed to produce documents, records, or other information to establish that you are operated exclusively for one or more exempt purposes set forth in section 501(c)(3), or you were not operated for the benefit of private interests, or that a part of your net earnings did not inure to the benefit of private individuals.

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code. Furthermore, you are required to file Federal income tax returns on Form 1120 for all open years.

Processing of income tax returns and assessment of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination in court, you must initiate a suit for declaratory judgment in the United States Tax Court, the United States Claim Court or the District Court of the United States for the District of Columbia before the 91<sup>st</sup> day after the date this determination was mailed to you. Contact the clerk of the appropriate court for the rules for initiating suits for declaratory judgment.

You also have the right to contact the office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers. You can call 1-877-777-4778 and ask for Taxpayer Advocate assistance. Or you can contact the Taxpayer Advocate from the site where the tax deficiency was determined by calling , or writing to: Internal Revenue Service, Taxpayer Advocates Office,  
LOCAL OFFICE

Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations, nor extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

We will notify the appropriate State Officials of this action, as required by section 6104(c) of the Internal Revenue Code.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

Director, EO Examinations

Form 886-A	EXPLANATION OF ITEMS	Schedule or Exhibit No.
Name of Taxpayer ORG		Year Ended Year2

**Legend:**

**ORG = Name of Organization**

**Year1 = Effective Date**

**Year2 = End of the First Taxable Year**

**Mr X = President of the Organization**

**ISSUE:**

Has the ORG met the requirements to qualify for tax exempt status under 501(c)(3) of the Internal Revenue Code?

**FACTS:**

The ORG was recognized by the Internal Revenue Service as a tax exempt organization under 501(C)(3) of the Internal Revenue Code on Date.. The primary activities of the organization have been participation in the Housing and Urban Development (HUD) program which involves the providing of financial assistance to low or very low income first-time home buyers. The HUD program ceased its program in early year . Due to the termination of the HUD program the organization has not conducted any activities, exempt or otherwise.

On February 2, 2005, the Internal Revenue Service commenced an examination of the organization for the fiscal year ended Year2 to determine if the organization is operating exclusively for tax exempt purposes. As part of the examination, an interview was conducted and information regarding the organization's activities was requested via Information Document Requests (IDR).

IDR number 01 was sent to Mr. X on February 2, 2005 and requested the following information/documents:

1. Articles of incorporation and all amendments.
2. Bylaws.
3. IRS exemption letter.
4. Original application for exempt status.
5. Minutes of board of director's meeting from 2001 through 2005.
6. Newsletter, pamphlets, brochures.
7. Description of all events, programs and activities during the fiscal year.
8. Interview with officers.
9. All accounting records (G/L, checks, invoices, etc.).

On March 2, 2005 the Internal Revenue Service conducted an interview with Mr. X, President of the ORG. Mr. X did not provide any of the requested information listed on IDR

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01. During the interview, Mr. X stated that he did not remember what activities the organization conducted nor what the related expenses were as reported on the Form 990-PF. Mr. X stated the organization has been inactive since Year and intended to close the business.

On April 27, 2005, a letter was sent to the organization because the Internal Revenue Service had not received any response from the organization in regards to IDR 01. The letter repeated the request for information as requested in IDR 01 and also warned the organization their exempt status was in jeopardy due to a lack of response. In addition to the letter and a copy of IDR 01, another IDR (IDR 02) was sent to the organization and requested materials for terminating their exempt status. These additional materials were requested because of comments regarding the termination of the organization's exempt status.

On May 23, 2005, a cover letter, draft Form 886-A, Form 3600 and Form 895 were sent to the organization because the Internal Revenue Service had not received any response. The cover letter requested the organization to respond in 10 days. The draft Form 886-A explained the issues, laws and government's position. Form 3600 and Form 895 requested the consent to extend the statute of limitation period.

To date, the Internal Revenue Service has not received any of the requested information or documents from the organization.

## **LAW**

Internal Revenue Code Section 501(c)(3) provides for tax exemption to organizations organized and operated exclusively for charitable purposes and no part of the net earning which inures to the benefit of any individual.

Regulation section 1.501(c)(3)-1(a)(1), *Organizational and operational tests*, provides 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.

Regulation 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 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.

Regulation section 1.501(c)(3)-1(d)(1)(ii) provides an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than

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a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Section 1.6033-2(h)(2) of the Income Tax Regulations provides, in part, that every organization which is exempt from tax shall submit such additional information as may be required by the Internal Revenue Service for the purposes of inquiring into its exempt status.

Revenue Ruling 59-95 provides that a failure to file required information return or comply with the provision of section 6033 of the Code and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of an exempt status.

### GOVERNMENT'S POSITION

The ORG has not met the requirements to qualify for tax exempt status under 501(c) (3) of the Internal Revenue Code.

The ORG's activities are not exclusively in furtherance of a 501(c) (3) purpose.

The ORG has not complied with the IRS' requests for information to determine if it is still qualified for tax exempt status under 501(c)(3) of the Code.

Therefore, revocation of The ORG's tax exempt status is recommended effective Date1.