



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

TE/GE: EO Examination

625 Fulton Street, Room 503

Brooklyn, NY 11201

Date: April 27, 2006

Number: **200646020**
Release Date: 11/17/2006

UIL: 501.03-01

Taxpayer Identification Number:

Person to Contact:

Identification Number

Contact Telephone Number:

LAST DATE FOR FILING A PLEADING
WITH THE TAX COURT, THE CLAIMS
COURT, OR THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT
OF COLUMBIA:

Dear _____ :

This is a final determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code (IRC). Recognition of your exemption from Federal income tax as an organization described in Internal Revenue Code section 501(c)(3) is retroactively revoked to because it is determined that you are not operated exclusively for an exempt purpose.

IRC 501(c)(3) exempts from taxation organizations which are organized and operated exclusively for charitable or educational purposes, no part of the net earnings of which inure 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 and which do not participate in, or intervene in, any political campaign on behalf of (or in opposition to) any candidate for public office.

We have determined that you are not operating exclusively for charitable or educational purposes. Our examination reveals that you are not conducting charitable or educational activities pursuant IRC section 501(c)(3), and that you failed to meet the "operational test" under Treas. Regs. 1.501(c)(3)-1(d)(ii).

We are revoking your exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code effective

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code.

You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for all years beginning

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 file a pleading seeking a declaratory judgment in the United States Tax Court, the United States Court of Federal Claims, or the United States District Court for the District of Columbia before the 91st day after the date this final determination was mailed to you. Please contact the clerk of the appropriate court for rules regarding filing pleadings for declaratory judgments and refer to the enclosed Publication 892. You may write to these courts at the following addresses:

United States Tax Court
400 Second Street, NW
Washington, D.C. 20217

United States Court of Federal Claims
717 Madison Place, NW
Washington, D.C. 20005

United States District Court for the District of Columbia
333 Constitution Avenue, NW
Washington, D.C. 20001

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States 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. You may call too-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at: Internal Revenue Service,
Telephone Number

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,

Marsha A. Ramirez
Director, EO Examinations

Enclosure:
Publication 892



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
Internal Revenue Service

ORG

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States 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. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

R.C. Johnson

Enclosures:
Publication 892
Publication 3498
Report of Examination

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit 1 of 3
Name of Taxpayer ORG		Year/Period Ended

Legend:

ORG=Name of Organization
DATE1=Date of Incorporation
DATE2=End of the Fiscal Year
PRESIDENT=NAME OF PRESIDENT

ISSUES

1. Should the ORG. tax exempt status under 501(c)(3) of the Code be revoked because the organization has no operations and does not meet the operational test as a charitable organization under Internal Revenue Code (IRC) 501(c)(3)?

FACTS

Articles of Incorporation:

Org's Articles were filed with the California Secretary of State on DATE1 . The Articles provide that the corporation is a religions corporation. It is organized and operated exclusively for religious purposes within the meaning of IRC 501(c)(3).

The specific purpose of this corporation is to propagate the Gospel of Jesus Christ, in accordance with the Holy Bible, in customs and traditions of Evangelical Christianity, as an evangelistic association and missionary outreach. The Articles include all the legal clauses that are required under IRC 501(c)(3).

Application for Exemption:

On September 21, ORG. filed its form 1023 "Application for Recognition of Exemption under Section 501(c)(3)" with the IRS. Form 1023 Page 2 question # 1 asked that the applicant provide a detailed narrative description of all the activities of the organization -past, present, and planned. It asked to not merely refer to or repeat the language in the organizational document. Rather, it asked to list each activity separately in the order of importance based on the relative time and other resources devoted to the activity. Also, to indicate the percentage of time for each activity. Each description should include, as a minimum the following: (a) a detailed description of the activity including its purpose and how each activity furthers your exempt purpose; (b) when the activity was or will be initiated; and (c) where and by whom the activity will be conducted.

The applicant stated that the activities are: "we teach the Word of God, and preach the Gospel to every Creature, as Disciples of the Lord Jesus Christ. We provide guidance and counseling, and prayer, in all spiritual matters, as is required by mandate of the Holy Scriptures. We preach and teach wherever and whenever opportunity arises, directing our message to whosoever will hear. "

IRS' Determination Letter

IRS' letter gave the organization advance ruling as a public charity. It was granted exempt status under section 501(c)(3) and public charity status under Sections 509(a)(2) and

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit 2 of 3
Name of Taxpayer ORG		Year/Period Ended

170(b)(1)(A)(vi).

The organization did not file an annual information return for the year ending Date2. The organization was contacted in writing by IRS' letter 3611. Form 8734 was included, which asked for the organization's gross receipts' information, (in order to determine if it meets Form 990 filing requirements).

The organization's President, "PRESIDENT" replied to IRS' inquiry. His reply stated that the organization was started with the hope of doing what they said in the initial application. However, due to changes in his schedule and time, the organization never started operating to the point of never opening a bank account. He did not anticipate using the organization's ministry in the foreseeable future.

LAW:

Requirements for Exemption Under IRC 501(c)(3)

FINAL-REG, TAX-REGS. §1.501(c)(3)-1(a)(1). Organizational and operational tests. (1) 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.

(2) The term "exempt purpose or purposes", as used in this section, means any purpose or purposes specified in section 501(c)(3), as defined and elaborated in paragraph (d) of this section.

(d) Exempt purposes--(1) In general. (i) 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:

- (a) Religious,
- (b) Charitable,
- (c) Scientific,
- (d) Testing for public safety,
- (e) Literary,
- (f) Educational, or
- (g) Prevention of cruelty to children or animals.

FINAL-REG, TAX-REGS, §1.501(c)(3)-1(c)(1) Operational test --(1) Primary activities. 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).

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit 3 of 3
Name of Taxpayer ORG		Year/Period Ended

GOVERNMENT POSITION

The government contends that ORG failed to meet the “operational test” under Regulations Section 1.501(c)(3)-1(d)(ii). It failed to establish that it is operated exclusively for public and charitable purposes.

Per its President’s admission, the organization never started its operations. Although it has been properly organized and its Articles of Incorporation satisfy the requirements of IRC 501(c)(3) it is not an organization that is described in IRC 501(c)(3) because it is not “both organized and operated exclusively for one or more of the purposes specified in such section.”.

Based on the audit of the activities conducted during the year ending Date2, it was determined that the organization does not meet the “operational test” under IRC 501(c)(3) because it conducts no charitable activities. Therefore, revocation of its exempt status is proposed.

TAXPAYER’S POSITION:

The taxpayer has not submitted a written protest to the examining agent yet.