



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

Release Number: **200649037**

Release Date: 12/08/2006

Date: September 9, 2006

UIL: 501.03-01

Redaction Legend

O= organization

D1= date 1

D2= date 2

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  
COLUMBIA:

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

This is a Final Adverse Determination Letter as O's exempt status under section 501(c)(3) of the Internal Revenue Code.

Our adverse determination was made for the following reasons:

O has not been operating exclusively for exempt purposes within the meaning of Internal Revenue Code section 501(c)(3). O has failed to file returns for the tax years 1996, 1997, 1998, and 1999, and has failed to maintain adequate records of its activities. O's earnings have inured to the benefit of private individuals within the meaning of IRC section 501(c)(3). O is operated for a substantial nonexempt purpose and it is operated for the private interests of others.

Based upon these reasons, we are revoking O's IRC section 501(c)(3) tax exempt status effective D.

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 the year ending D2, and for all years thereafter.

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 91<sup>st</sup> 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 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 Advocate Services.

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.

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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

Redaction Legend  
O = organization

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:

Internal Revenue Service  
Office of Taxpayer Advocate

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,

Director, EO Examinations

Enclosures:  
Publication 892  
Publication 3498  
Report of Examination

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

**ISSUE:** Whether the tax-exempt status of O under §501(c)(3) should be revoked?

**FACTS:**

O was incorporated on D1. O was granted exempt status under §501(c)(3) with a foundation status under §509(a)(1) & 170(b)(1)(A)(vi) by letter dated D2. O identified its fiscal year as ending M.

O had not filed any annual Form 990 for any period prior to the commencement of the examination by the Service. Subsequent to the initiation of the examination, the taxpayer filed delinquent Forms 990 for the periods ended M 2001, 2002, and 2003.

O responded to IDR#11. In its response to a request for gross receipts figures, contributor figures, and other income figures for each of the years ended 1996 through 2002, O indicated that such records couldn't be located. IDR#8 also requested income figures for each of the years 1998 through 2003. No information was provided in response to this request.

IDR#12 requested documentation of the rent received from its Directors for the calendar year 2002. O responded to this IDR#12 and indicated that receipts or documentation of such rental payments to it by its Directors could not be located.

IDR#13 sought documentation of cover charges or admittance charges received by O for 2001 and 2002. O responded that such receipts or records could not be located.

IDR#1 & #2 sought source documents for a sample of deposits in 2001 and 2002. No source documents were provided in response to IDR#1. With regard to IDR#2: a deposit of \$        was associated with a source document indicating \$        with no explanation; a deposit of \$        associated with a source document indicating \$        with no explanation; and a deposit of \$        with no supporting documentation.

IDR#7 requested loan documents in order to ascertain those deposit amounts that reflected loans as opposed to income. No loan documents, promissory notes, etc. were provided.

IDR#14 requested documentation in support of exempt function activities carried on during the fiscal year. O provided no documentation in response to this request and explained that such records were "lost" in its prior computer system.

OD1 advised the Service that O filed bankruptcy.        further indicated the involvement of a CPA, with O in 2002 with regard to providing assistance to O in its financial affairs.

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No general ledgers or other books of account were provided for any period. No minutes of meetings were provided for the tax year and the only minutes provided for any prior period was for the meeting conducted in 2001.

**LAW:**

Section 501(c)(3) of the Internal Revenue Code, (Code) describes 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.

Section 6001 of the Code provides that every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title.

Section 6033(b) of the Code describes returns filed by organizations exempt from taxation under §501(c)(3). Every organization described in section 501(c)(3) which is subject to the requirements of subsection (a) shall furnish annually information, at such time and in such manner as the Secretary may by forms or regulations prescribe, setting forth:

its gross income for the year, see §6033(b)(1),

its expenses attributable to such income and incurred within the year, see §6033(b)(2),

its disbursements within the year for the purposes for which it is exempt, see §6033(b)(3),

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a balance sheet showing its assets, liabilities, and net worth as of the beginning of such year, see §6033(b)(4),

the total of the contributions and gifts received by it during the year, and the names and addresses of all substantial contributors, see §6033(b)(5),

the names and addresses of its foundation managers (within the meaning of section 4946(b)(1)) and highly compensated employees, see §6033(b)(6),

the compensation and other payments made during the year to each individual described in paragraph (6), see §6033(b)(7),

such other information with respect to direct or indirect transfers to, and other direct or indirect transactions and relationships with, other organizations described in section 501(c) (other than paragraph (3) thereof) or section 527 as the Secretary may require to prevent {see §6033(b)(9)}:

diversion of funds from the organization's exempt purpose, see §6033(b)(9)(A) or,

misallocation of revenue or expense, see §6033(b)(9)(B),

the respective amounts (if any) of the taxes imposed on the organization, or any organization manager of the organization, during the taxable year under any of the following provisions (and the respective amounts (if any) of reimbursements paid by the organization during the taxable year with respect to taxes imposed on any such organization manager under any of such provisions) {see §6033(b)(10)}:

the respective amounts (if any) of {see §6033(b)(11)}:

the taxes imposed with respect to the organization on any organization manager, or any disqualified person, during the taxable year under section 4958 (relating to taxes on private excess benefit from certain charitable organizations), see §6033(b)(11)(A), and

reimbursements paid by the organization during the taxable year with respect to taxes imposed under such section, see §6033(b)(11)(B),



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except to the extent that, by reason of section 4962, the taxes imposed under such section are not required to be paid or are credited or refunded,

such information as the Secretary may require with respect to any excess benefit transaction (as defined in section 4958), see §6033(b)(12),

such information with respect to disqualified persons as the Secretary may prescribe, see §6033(b)(13), and

such other information for purposes of carrying out the internal revenue laws as the Secretary may require, see §6033(b)(14).

Section 1.501(c)(3)-1(a) of the Treasury Regulations (Regulations) describes organizations organized and operated for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals.

The Regulations at §1.501(c)(3)-1(a)(1) details 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.

The Regulations at §1.501(c)(3)-1(a)(2) define 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.

The organizational test is detailed in §1.501(c)(3)-1(b)(1)(i). An organization is organized exclusively for one or more exempt purposes only if its articles of organization (referred to in this section as its “articles”) as defined in subparagraph (2) of this paragraph:

(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 which in themselves are not in furtherance of one or more exempt purposes.

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Section 1.501(c)(3)-1(c)(1) describes the required operational test. 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.

Section 1.501(c)(3)-1(c)(2) provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals. For the definition of the words "private shareholder or individual", see paragraph (c) of §1.501(a)-1.

Section 1.501(c)(3)-1(d)(i) defines appropriate exempt purposes. 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.

(ii) An organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (i) of this subparagraph unless it serves a public rather than 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 designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

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Section 1.6001(a) of the Regulations provides that except as provided in paragraph (b) of this section, any person subject to tax under subtitle A of the Code (including a qualified State individual income tax which is treated pursuant to section 6361(a) as if it were imposed by chapter 1 of subtitle A), or any person required to file a return of information with respect to income, shall keep such permanent books of account or records, including inventories, as are sufficient to establish the amount of gross income, deductions, credits, or other matters required to be shown by such person in any return of such tax or information.

Section 1.6001(c) of the Regulations requires, in addition to such permanent books and records as are required by paragraph (a) of this section with respect to the tax imposed by section 511 on unrelated business income of certain exempt organizations, every organization exempt from tax under section 501(a) shall keep such permanent books of account or records, including inventories, as are sufficient to show specifically the items of gross income, receipts and disbursements. Such organizations shall also keep such books and records as are required to substantiate the information required by section 6033. See section 6033 and §§1.6033-1 through -3.

Section 1.6001(d) of the Regulations further stipulates that the district director may require any person, by notice served upon him, to make such returns, render such statements, or keep such specific records as will enable the district director to determine whether or not such person is liable for tax under subtitle A of the Code, including qualified State individual income taxes, which are treated pursuant to section 6361(a) as if they were imposed by chapter 1 of subtitle A.

Section 1.6001(e) of the Regulations addresses the retention of records. The books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained so long as the contents thereof may become material in the administration of any internal revenue law.

The Regulations at 1.6033-2(a)(1) provide that except as provided in section 6033(a)(2) and paragraph (g) of this section, every organization exempt from taxation under section 501(a) shall file an annual information return specifically setting forth its items of gross income, gross receipts and disbursements, and such other information as may be prescribed in the instructions issued with respect to the return. Except as provided in paragraph

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(d) of this section, such return shall be filed annually regardless of whether such organization is chartered by, or affiliated or associated with, any central, parent, or other organization.

(2)(i) Except as otherwise provided in this paragraph and paragraph (g) of this section, every organization exempt from taxation under section 501(a), and required to file a return under section 6033 and this section (including, for taxable years ending before December 31, 1972, private foundations, as defined in section 509(a)), other than an organization described in section 401(a) or 501(d), shall file its annual return on Form 990. For taxable years ending on or after December 31, 1972, every private foundation shall file Form 990-PF as its annual information return. For taxable years beginning after December 31, 1977, every section 501(c)(21) black lung trust shall file an annual information return on Form 990-BL or any other form prescribed by the Internal Revenue Service for that purpose.

Section 1.6033-2(a)(2) (ii) of the Regulations specifies the information generally required to be furnished by an organization exempt under section 501(a):

(a) Its gross income for the year. For this purpose, gross income includes tax-exempt income, but does not include contributions, gifts, grants, and similar amounts received. Whether an item constitutes a contribution, gift, grant, or similar amount depends upon all the surrounding facts and circumstances. The computation of gross income shall be made by subtracting the cost of goods sold from all receipts other than gross contributions, gifts, grants and similar amounts received and nonincludible dues and assessments from members and affiliates.

(b) To the extent not included in gross income, its dues and assessments from members and affiliates for the year.

(c) Its expenses incurred within the year attributable to gross income.

(d) Its disbursements (including prior years' accumulations) made within the year for the purposes for which it is exempt.

(e) A balance sheet showing its assets, liabilities, and net worth as of the beginning and end of such year. Detailed information relating to

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the assets, liabilities, and net worth shall be furnished on the schedule provided for this purpose on the return required by this section. Such schedule shall be supplemented by attachments where appropriate.

*(f)* The total of the contributions, gifts, grants and similar amounts received by it during the taxable year, and the names and addresses of all persons who contributed, bequeathed, or devised \$5,000 or more (in money or other property) during the taxable year. In the case of a private foundation (as defined in section 509(a)), the names and addresses of all persons who became substantial contributors (as defined in section 507(d)(2)) during the taxable year shall be furnished. In addition, for its first taxable year beginning after December 31, 1969, each private foundation shall furnish the names and addresses of all persons who became substantial contributors before such taxable year. For special rules with respect to contributors and donors, see subdivision (iii) of this subparagraph.

*(g)* The names and addresses of all officers, directors, or trustees (or any person having responsibilities or powers similar to those of officers, directors or trustees) of the organization, and, in the case of a private foundation, all persons who are foundation managers, within the meaning of section 4946(b)(1). Organizations described in section 501(c)(3) must also attach a schedule showing the names and addresses of the five employees (if any) who received the greatest amount of annual compensation in excess of \$30,000; the total number of other employees who received annual compensation in excess of \$30,000; the names and addresses of the five independent contractors (if any) who performed personal services of a professional nature for the organization (such as attorneys, accountants, and doctors, whether such services are performed by such persons in their individual capacity or as employees of a professional service corporation) and who received the greatest amount of compensation in excess of \$30,000 from the organization for the year for the performance of such services; and the total number of other such independent contractors who received in excess of \$30,000 for the year for the performance of such services.

*(h)* A schedule showing the compensation and other payments made during the organization's annual accounting period (or during the calendar year ending within such period) which are includible in the

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gross income of each individual whose name is required to be listed in (g) of this subdivision.

(iii) *Special rules.* In providing the names and addresses of contributors and donors under subdivision (ii)(f) of this subparagraph:

(a) An organization described in section 501(c)(3) which meets the 33 1/3 percent-of-support test of the regulations under section 170(b)(1)(A)(vi) (without regard to whether such organization otherwise qualifies as an organization described in section 170(b)(1)(A)) is required to provide the name and address of a person who contributed, bequeathed, or devised \$5,000 or more during the year only if his amount is in excess of 2 percent of the total contributions, bequests and devises received by the organization during the year.

(b) An organization other than a private foundation is required to report only the names and addresses of contributors of whom it has actual knowledge. For instance, an organization need not require an employer who withholds contributions from the compensation of employees and pays over to the organization periodically the total amounts withheld, to specify the amounts paid over with respect to a particular employee. In such case, unless the organization has actual knowledge that a particular employee gave more than \$5,000 (and in excess of 2 percent if (a) of this subdivision is applicable), the organization need report only the name and address of the employer, and the total amount paid over by him.

(c) Separate and independent gifts made by one person in a particular year need be aggregated to determine if his contributions and bequests exceed \$5,000 (and in excess of 2 percent if (a) of this subdivision is applicable), only if such gifts are of \$1,000 or more.

Private benefit was addressed in American Campaign Academy v. Commissioner of Internal Revenue 92 T.C.1053 (1989). "When an organization operates 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, the organization by definition does not operate exclusively for exempt purposes. Prohibited private benefits may include an "advantage; profit, fruit; privilege; gain; or interest." Occasional economic benefits flowing to persons as an incidental consequence

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of an organization pursuing exempt charitable purposes will not generally constitute prohibited private benefits." Inurement is a component of private benefit.

Exempt status under §501(c)(3) was denied on the basis of private benefit to the founders of the organization in Church of Ethereal Joy, v. Commissioner of Internal Revenue, 83 T.C. 20 (1984). See also People of God Community v. Commissioner of Internal Revenue, 75 T.C. 127 (1980).

### **DISCUSSION:**

The issues affecting the tax-exempt status of O center on:

1. Inurement/private benefit
2. Operational Test
3. Recordkeeping

The issue of inurement is raised in the context of the rental arrangement with OD1 and OD2, husband and wife, and both Directors of O. OD1 and OD2 rent an upper level apartment as a residence, in the facility owned by O. Although a rental agreement for 2002 was provided regarding this arrangement, O could not evidence that any rent was paid by OD1 and OD2 and received by O. Further, no independent fair market value of the rent charged OD1 and OD2 was obtained by O. OD1 determined the fair rental amount.

The secondary issue of inurement is raised in the context of purported loans from various individuals, including but not limited to the

No promissory notes or other loan documents were executed with respect to any loans purportedly to O by any individual. O submitted statements from all individuals who had loaned O funds indicating that such loans had been repaid in full with the exception of the OD1, OD2 and one other individual. O provided various checks indicated as loans to O and repayments of such loans to OD1 and OD2. The reconciliation of the checks provided yielded a net outstanding loan balance owed OD1 and OD2, however, such reconciliation is only based upon the checks provided. As all checks written by O have not been made available, it is uncertain whether the reconciled net balance owed is correct. Further, no evidence of the amounts purportedly loaned by any other individual was provided; hence, it is unclear whether such loans actually existed.

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Exempt status under §501(c)(3) is a privilege as opposed to a right. An organization granted tax-exempt status under §501(c)(3) maintains the responsibility for substantiating continued eligibility for recognition thereunder. Failure to maintain adequate records causes organizations to fail the operational test under §501(c)(3).

A detailed request for records evidencing tax-exempt status and activities engaged in was made on various occasions. No correspondence or other source documentation evidencing tax-exempt activities engaged in has been provided for any period.

O has not produced records sufficient for concluding that it has met the operational test for any period. Further, O obtained assistance from a Certified Public Account in 2002 which should have improved the recordkeeping and internal controls of the organization. While it is unclear as to what extent the CPA assisted O, it is clear that record maintenance and retention did not improve for 2003 or 2004.

**TAXPAYER'S POSITION:**

The position of the taxpayer, as presented by its representative is a disagreement to the underlying basis for revocation.

The taxpayer disagrees that assets have inured to the OD1 and OD2, "based upon the fact that it has been a labor of love, to maintain the existence of O."

The taxpayer further declares "that OD1 and OD2 have made continual payments from their personal funds on behalf of O." The taxpayer submitted various copies of checks purportedly from the OD1 and OD2 to O as loans.

With regard to the fair rental value of the apartment to the OD1 and OD2, the taxpayer responds, "even if the rent was not paid by OD1 and OD2; the rent would not constitute and excessive compensation for services rendered."

**CONCLUSIONS:**

Net earnings inured to Directors of O through undocumented loans and through the rental contract with regard to rent not received from OD1 and OD2. Other undocumented loans included a purported loan from the sister OD2. The rent charged the OD1 and OD2 has not been independently determined to be at fair market value. If the taxpayer had determined that it intended to compensate OD1 and OD2 for services rendered then it should have appropriately documented such intent and treated such below market rent as remuneration for the provision of such services. The taxpayer did not however take such measures in this regard.



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With regard to the issue of loans, it is noted that the taxpayer filed delinquent Forms 990 for the years ended 2001, 2002, and 2003. None of these returns listed any indebtedness to any officer, director or trustee, as required by line item number 63. In fact, the only indebtedness was that of a mortgage of the building that houses O. Further, schedule A to such filed Forms at Part II, line number 2(b) seeks affirmation or declination as to whether any lending transactions occurred during the year with any officers, directors, creators or key employees. This question is answered in the negative.

In order to be recognized or to be eligible for continued recognition of exempt status under §501(c)(3) an organization must be both organized and operated for such purposes. O has not substantiated continued entitlement to recognition of exempt status under §501(c)(3) for any period.

Adequate recordkeeping is a requirement for continued recognition under §501(c)(3). Adequate records were not maintained and those that were provided to the Service were in disarray or irrelevant. It is unclear why the organization did not appropriately maintain adequate records given the bankruptcy experience or the intervention of a Certified Public Accountant.

For the issues detailed above, it is the recommendation of the Service to revoke the tax exempt status of O.