



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
Internal Revenue Service

August 5, 2006

Release Number: **200732030**  
Release Date: 8/10/2007

UIL: 501.03-01

Legend

Taxpayer = organization's Name  
N = EIN  
TA = Taxpayer Advocate Office  
Y = Tax Year

Taxpayer

Taxpayer Identification Number:

N

Form:

990

Tax Year(s) Ended:

Y

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:

TA

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,

Marsha Ramirez  
Director, EO Examinations

Enclosures:  
Publication 892  
Publication 3498  
Report of Examination



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
1100 Commerce Street  
Dallas, TX 75242

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

Date: 1/5/07

Legend

Taxpayer = Organization's Name  
N = EIN  
Y = Year Revoked  
TA = Taxpayer Advocates Office

Person To Contact:

Identification Number:

Contact Telephone Number:

Form: 990

In Reply Refer to: TE/GE Review Staff

EIN: N

UIL: 501.03-01

Taxpayer

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 Y.

Our determination was made for the reason that you have failed to establish that you are operated exclusively for exempt purposes within the meaning of I.R.C. section 501(c)(3) of the Internal Revenue Code. You operate for the benefit of private interests.

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

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 of 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 TA, or writing to:

TA

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,

Lois Lerner  
Director, Exempt Organizations

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATIONS OF ITEMS</b>	Schedule number or exhibit 1
Name of taxpayer  Taxpayer	Tax Identification Number  N	Year/Period ended  Y

Legend

Taxpayer = Organization's Name

City = City's Name

N = EIN

XX = Web site

Y = Year/Period Ended

Z = Name of police department

Issues:

The taxpayer was granted exemption under section 501(c)(3) of the Internal Revenue Code. After conducting the examination on the association's Form 990 for year ended Y, it was determined that the activities conducted by the organization do not meet the requirements for 501(c)(3) -- rather they are more qualified for exempt status under section 501(c)(4) of the Internal Revenue Code. As such the taxpayer's exempt status under 501(c)(3) should be revoked and the organization should be encouraged to reapply for exemption under 501(c)(4).

Facts:

As stated on the Form 990 under Part 3, the taxpayer's primary exempt purpose is to assist and promote various village projects. They work for the best interests of residents of City promoting and assisting in village improvement projects. Various pamphlets and brochures explaining the taxpayer's activities were obtained during the examination. Each season the taxpayer puts on a event that promotes the City. Also according to their web site (XX) they act as a liaison for the residents of City to the other departments such as the Z Police Department and Zoning Boards etc. etc.

A further description of their tax exempt purpose as provided by the organization states: "The Taxpayer is a non-profit organization whose purposes include acting as a non-partisan civic organization to encourage and aid all residents, both full and part-time, or the City. To work together for the best interest of the City, and to promote its civic development and improvement."

Other activities that the taxpayer is involved in are charitable in nature. For the year under examination approximately 33% of their expenses reported on the 990 were charitable in nature. They made donation to various charitable causes such as the Salvation Army, City Library, and the City Needy Fund among others.

Law:

Treasury Regulation 1.501(c)(3)-1(a): "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.

Treasury Regulation 1.501(c)(3)-1(c): "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."

Treasury Regulation 53.4942(b)-1(c): "For purposes of this section, the term substantially all, shall mean 85% or more."

Haswell v. United States

Better Business Bureau of Washington D.C. vs. United States

Taxpayer's Position:

During a conversation with the organization's CPA who holds the Power of Attorney for this examination, she informed the agent that the organization held a board meeting to discuss their exempt status. After researching the relevant sections of the Internal Revenue Code and the Treasury Regulations they informed their CPA that although the Taxpayer engages in a substantial amount of activities that are charitable in nature that their primary activities are more qualified for exemption under section 501(c)(4) of the Internal Revenue Code.

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATIONS OF ITEMS</b>		Schedule number or exhibit 2
Name of taxpayer  Taxpayer	Tax Identification Number  N	Year/Period ended  Y	

Government's Position:

Following the tax law as stated in the Treasury Regulations the government's position is that the Taxpayer does not qualify for exemption under section 501(c)(3) of the Internal Revenue Code, as it does not meet the operational test. The operational test outlined in section 1.501(c)(3)-1(c) of the Regulations states that an organization will not meet the operational test if more than an insubstantial part of its activities are not in furtherance of an exempt purpose. In order to be deemed insubstantial according to the Regulations and court precedent (Haswell v. United States) an activity must be less than 15% of the organization's total operations. The Taxpayer's primary activity is promoting their village. These activities meet the definition of social welfare under section 501(c)(4) of the Internal Revenue Code. Social welfare can also be considered a charitable activity under Treasury Regulation 1.501(c)(3)-1(d)(2). After reviewing the facts and circumstances of this case -- it was determined that the social welfare activities undertaken by the Taxpayer do not meet the definition of charitable as outlined by the Code and Regulations and as such these activities are not in furtherance of an exempt purpose under section 501(c)(3) of the Internal Revenue Code.

Conclusion:

Since the Taxpayer's primary activities are not in furtherance of an exempt purpose under section 501(c)(3) of the Internal Revenue Code, their exemption under this section should be revoked. They will be informed by the agent to reapply for exemption using a Form 1024, as a civic league under section 501(c)(4) of the Code.