



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
1100 Commerce Street, MS 4920-DAL
Dallas, Texas 75242

Release Number: 200739013

Release Date: 9/28/07

Date: June 25, 2007

UIL: 501.03-01

Org.

Person to Contact:
Identification Number:
Contact Telephone Number:
In Reply Refer to: TE/GE Review Staff
EIN: N

**LAST DATE FOR FILING A PETITION
WITH THE TAX COURT: August 24, 2007**

Dear :

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

Our adverse determination was made for the following reasons:

Org. has not been operating exclusively for exempt purposes within the meaning of Internal Revenue Code section 501(c)(3). **Org.** also is not a charitable organization within the meaning of Treasury Regulations section 1.501(c)(3)-1(d). You are not an organization which operates exclusively for one or more of the exempt purposes which would qualify it as an exempt organization. The organization has not been active and no longer meet the criteria under IRC section 509(a)(3) and the organization no longer has a charitable purpose that would qualify it as exempt under IRC section 501(c)(3).

Based upon these reasons, we are retroactively revoking your IRC section 501(c)(3) tax exempt status to **Date 1.**

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 1041. These returns should be filed with the appropriate Service Center for the year ending **Date 2** 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 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 91st 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 writing to: Internal Revenue Service, Taxpayer Advocates Office **TAO**.

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,

Marsha Ramirez
Director, EO Examinations

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended
Name	EIN	December 31,

PRIMARY ISSUE;

Should the IRC section 501(c)(3), 509(a)(3) tax exempt status of the Name be revoked because it has had no activities and has not operated exclusively for tax exempt purposes.

FACTS;

The Name (the "organization") was created with a Declaration of Trust by Founders (each being a founder), and Trustee ("Trustee"), dated Date 1. The Trust was created for the purpose of establishing an organization which is described in IRC section 501(c)(3) and section 509(a)(3). The Trust Instrument is irrevocable and the "Founder" expressly waives the right and power to alter, amend, revoke or terminate the trust or any of the terms of the Declaration.

In addition, the Trust Instrument also provides that the "Founder" renounces an interest, either vested or contingent, including any reversionary interest or possibility of reverter,, in the income or principal of the Trust estate.

The Declaration of Trust further provides that each year the Trustee shall distribute 35% of the adjusted net income of the Trust to the Leukemia Society of America, the named Primary Charity. In addition to this distribution, each year the "Trustee" shall distribute a total of 50% of the adjusted net income to one or more identified charitable organizations or to the Primary Charity as directed by a majority of the Board of Directors (the "Board").

The Declaration of Trust provides that the "Board" shall be the governing body of the Trust. The Trust Document provides that upon winding up and dissolution of the "Trust", the assets shall be distributed to a non-profit fund, foundation, or corporation, which is organized and operated exclusively for charitable, educational, religious, and/or scientific purposes and which has established its tax exempt status under section 501(c)(3).

By letter dated Date 2 the Organization was recognized by the Service as exempt from Federal income tax under section 501(a) because it is described in section 501(c)(3) and classified as an organization that is not a private foundation because it is described in section 509(a)(3). The microfiche file states that this ruling was based upon Rev. Rul. 67-149 "An organization formed for the purpose of providing financial assistance to one or more section 501(c)(3) exempt organizations, that carries on no operations of its own, may be exempt under section 501(c)(3). The organization does not accumulate its investment income and makes regular distributions to other exempt organizations.

Founders (husband and wife) spend their summer months at a home in MI and winters are spent at a home in Florida. The case was transferred from an EO agent in Tempe, AZ in coordination with an SB/SE Exam audit being conducted by an agent in Fort Myers, FL. The examination originated in Arizona, from a referral for supporting organization (SOS) promoter project. The project consists of promoters developing supporting organizations to use other supporting organizations in abusive tax schemes by selling charitable deductions. These cases have a standard feature: a standing offer that the Donor can borrow up to 85% of the contributed funds at any time.

Founders became involved with Name1 "Promoter", and entered into an Agreement for Implementation of Master Financial Plan with "Promoter". In addition to setting up the Organization, the Plan provides for the formation of various domestic and foreign programs directed at asset protection, wealth management, and tax planning objectives. A \$1,000 deposit was made by Founder's 1120S Corporation: Name 2, Inc. into a Name 1 account on 1/31/ No other deposits have been made into this account. Monies are used over the years for Account Managements Fees charged by and there is a current balance of only 29 cents. The taxpayers have been trying to close this account, but since Name 1 seems to be involved with the IRS, and is currently in receivership due to the complaint filed by the Securities and Exchange Commission (SEC) on alleging, among other things, fraud, misrepresentation, and misappropriation of client funds, the taxpayer has been unable to do this. In connection with the Complaint, a Temporary Restraining Order (TRO) was issued freezing the assets and records of Name 1. After filing of the SEC Complaint, most of the former employees of Name 1 vacated the former Name 1 offices and began operations under various new names. On January 23, Name 3 LLP Attorneys at Law located in Utah, (Name 4 Receiver) has been appointed Receiver of the funds, assets, and property of Name 1 and all affiliated entities for the purpose of marshalling and preserving the assets of Name 1.

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Name	EIN	December 31,

The Power of Attorney/CPA stated that there has been no activity from this Foundation. No contributions were taken on the personal Forms 1040 of Founders in a the \$1,000 initial deposit in the Foundation's Name 1 was made from the 1120S Corporation. Except for this deposit, no other transactions ever occurred. The POA/CPA stated the taxpayer was aware that the Promotor who set up the Trust was being investigated by several Federal Agencies, and that Name 1 was in Receivership.

LAW:

IRC section 501(c)(3) provides exemption from Federal income tax to 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 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.

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(c)(2) provides that an organization is not operated exclusively for one or more exempt purposes if it net earnings inure in whole or in part to the benefit of private shareholders or individuals. The words "private shareholder or individual" refer to persons having a personal and private interest in the activities of the organization.

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 a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that is 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.

IRC section 4947(a)(1) states in part...a trust is not exempt from taxation under section 501(a), all of the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B), and for which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 (or the corresponding provisions of prior law), shall be treated as an organization described in section 501(c)(3). For purposes of section 509(a)(3)(A), such a trust shall be treated as if organized on the day on which it first becomes subject to this paragraph.

IRC 509(a)(3) is defined as an organization which:

- (A) is organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes specified by organizations described in IRC section 501(c)(3), and
- (B) is operated, supervised, or controlled by or in connection with one or more organizations, described in IRC section 501(c)(3) and,
- (C) is not controlled directly or indirectly by one or more disqualified persons (as defined in IRC section 4946) other than foundation managers and other than one or more organizations described in IRC section 501(c)(3), and an organization described in IRC section 509(a)(2) and shall be deemed to include an organization described in IRC section 501(c)(3).

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Name	EIN	Year End

GOVERNMENT'S POSITION:

Since the organization has not been active and no longer meets the criteria under IRC section 509(a)(3) and since the organization no longer has a charitable purpose that would qualify the organization as exempt under IRC section 501(c)(3), the organization's exempt status should be revoked:

- * Additional funds have not been contributed to the organization;
- * Initial \$1,000 contribution has not earned income and has been depleted by the monthly account management fees charged by Name 1 and currently has 29 cents remaining;
- * Distributions were not made to the designated Primary Charity (Leukemia Society of America) or any other charity;
- * Board meetings have not been held;
- * Board members are no longer involved with the organization.

TAXPAYER'S POSITION:

Founders (President) requested that the organization's exempt status be revoked, since the organization has not been active and the trust fund has become worthless.

CONCLUSION:

The organization does not meet the criteria as a supporting organization under section 501(c)(3) and 509(a)(3) and should be revoked.

Revocation of exemption effective for the year ended Year Ended.

Internal Revenue Service

Department of the Treasury

Date: March 1, 2006

Org.

Taxpayer Identification Number:

N

Form:

990

Tax Year(s) Ended:

Dec. 31

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
Taxpayer Advocate
TAO
TAO

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 A. Ramirez
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination