



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

TE/GE: EO Examination

625 Fulton Street, Room 503

Brooklyn, NY 11201

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: JUL 23 2007

Release Number: 200742030

Release Date: 10/19/07

UIL Code: 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(a)(1).

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,
.....,,,

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

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

Sincerely Yours,

Enclosure:
Publication 892

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

Legend:

- A = Name of the organization**
- B = Year/Period Ended**
- C = Date incorporated**
- D = State incorporated**
- E = Date exempt status was granted**
- F = Date reclassified as a private foundation**
- G = Location of housing project**
- H = Creator 1**
- I = Creator 2**
- J = Operator of low income housing project**
- K = Effective date of revocation**

ISSUE: Proposed Revocation of 501(c)(3) Exempt Status

FACTS:

A was incorporated under the not-for-profit corporation law on C in the state of D. The organization was granted tax exempt status under IRC section 501(c)(3) as a public charity described in section 509(a)(2) on E. Based on the determination letter issued on F, the organization was reclassified as a private non-operating foundation because of no financial support during the advance ruling period. The organization has not been filing the required 990-PF return since the reclassification of its foundation status. .

Per the organization's Certificate of Incorporation, "the Corporation is organized for charitable and educational purposes pursuant to Section 501(c)(3) of the Internal Revenue Code and for the purpose of developing a housing project for persons of low income located at G, D. The Corporation is empowered to do and perform all acts necessary to accomplish the above mentioned corporate purposes, including , but not limited to, the purchase of real property and the execution of such instruments and undertaking as may be required by any governmental body giving assistance to or selling property to the Corporation and the conveyance of beneficial interest in property to a limited partnership for the purpose of facilitating development of the housing project."

The organization was created by H and I, both are 501(c)(3) organizations. H and I are the sole members of A. Based on the Limited Partnership Agreement, the low income housing project is operated by J. A does not conduct any activities and it is basically dormant. As a result, A does not report revenues and expenses nor do they maintain books and records.

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

LAW:

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal income tax organizations organized and operated exclusively for charitable, religious, scientific or educational purposes, no part of net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations 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 insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized or operated exclusively for exempt purposes unless it serves a public rather than a private interest. It further states that "to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized and operated for the benefit of private interests..."

In order to qualify under IRC 501(c)(3), an organization must be both "organized" and "operated" exclusively for one or more purposes specified in that section. If the organization fails to meet either the organizational test or the operational test, it is not exempt. (Regs. 1.501(c)(3)-1(a)(1). The organizational test relates to the rules of governing an organization and the purposes stated in its articles of organization. The operational test is related to the organization's activities.

Section 6033(a) of the Internal Revenue Code states that "every organization exempt from taxation under 501(a) shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and shall keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe."

Regulation 1.6001-1 states that "every organization exempt from tax under section 501(a) shall keep such permanent books of account or records... 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."

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

GOVERNMENT'S POSITION:

Based upon our examination, we have determined that the organization does not conduct 501(c)(3) activities and, as a result, fails to meet the operational test as defined in Regulations Sections 1.501(c)(3)-1(a)(1).

The organization failed to maintain books and records and file the required returns to establish that it is observing the conditions necessary for continuation of exempt status. As a result, A is not in compliance with Section 6033 of the Code and fails to qualify for continued exemption.

TAXPAYER'S POSITION:

The organization's Treasurer indicated that the A does not conduct low income housing activities because it is accomplish through J. The Treasurer understands that the organization's failure to meet the operational test precludes continued exemption under section 501(c)(3) of the Code and he has executed the Form 6018 agreeing to revocation of exempt status.

CONCLUSION:

The organization does not qualify for exemption under IRC Section 501 (c)(3) because it fails to satisfy the operational test. Therefore, we propose to revoke exemption under IRC Section 501(c)(3) effective K.

Internal Revenue Service

Department of the Treasury
Internal Revenue Service
625 Fulton Street, Rm 521
Brooklyn, New York 11201

Date: **MAR 20 2007**

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,

Enclosures:
Publication 892
Publication 3498
Report of Examination