



**DEPARTMENT OF THE TREASURY**

Internal Revenue Service  
TE/GE EO Examinations  
1100 Commerce Street  
Dallas, TX 75424

**TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION**

Date: August 15, 2007

Release Number: 200748019  
Release Date: 11/30/07

UIL: 501.03-01

ORG

LAST DATE FOR FILING A PETITION  
WITH THE TAX COURT: \_\_\_\_\_

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Dear :

This is a Final Adverse Determination Letter as to your exempt status under section 501(c)(3) of the Internal Revenue Code. Your exemption from Federal income tax under section 501(c)(3) of the code is hereby revoked effective March 1, 20XX. You have agreed to this adverse determination, per signed Form 6018, on November 29, 20ZZ.

Our adverse determination was made for the following reasons:

Organizations described in I.R.C. section 501(c)(3) and exempt under section 501(a) must be organized and operated exclusively for an exempt purposes. You have provided no information regarding your receipts, expenditures or activities. ORG also is not a charitable organization within the meaning of Treasury Regulations section 1.501(c)(3)-1(d). You have not established that you have operated exclusively for an exempt purpose.

You failed to meet the requirements of IRC section 501(c)(3) and Treas. Reg. section 1.501(c)(3)-1(d) in that you failed to establish that you were operated exclusively for an exempt purpose. Rather, you were operated for the benefit of private interests and a part of your net earnings inured to the benefit of your members.

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 February 28, 20YY, and for all years thereafter.

1100 Commerce Street Dallas, TX 75242

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 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 calling:

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 A. Ramirez  
Director, EO Examinations

Form <b>886-A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit 1 of 4
Name of Taxpayer <b>ORG</b>	Tax identification number	Year/Period Ended <b>20XX</b>

**Legend**

ORG = Name of Organization  
 TP = President/Exe Director  
 XYZ = Name of State  
 State County = Name of County

ABC = Original Name of Org  
 DEF = Second Name of Org  
 GHI = Third Name of Org

**Issue:**

Should the tax-exempt status of ORG, (ORG), be revoked for failure to operate for charitable and/or educational purposes as set forth in Internal Revenue Code Section 501(c)(3)?

**Facts:**

Mr. TP is the president/executive director and founder of ORG.

ORG was originally named the ABC, (ABC), and subsequently the DEF.. The ABC was incorporated on March 7, 19AA. Its stated specific purpose was to "provide dispute resolution services and to coordinate and share information concerning development, resources, operation, evaluation, and other ideas concerning alternative dispute resolution". On March 19, 19EE, an amendment to the articles of incorporation was filed with the State of XYZ changing the name to the "DEF.". On November 30, 20NN, another amendment to the articles of incorporation was filed with the State of XYZ changing the name to the "ORG". No amendments to the original purposes were filed.

ABC received an advance ruling granting exemption from Federal income tax under section 501(c) (3) of the Internal Revenue Code in March of 19FF. The organization's Advance Ruling period ended on February 28, 19GG. The organization did not respond to the advance ruling follow-up information request. Some time around August, 20WW, ABC requested a confirmation of its tax exempt status. In a letter dated August 31, 20WW, the IRS informed ABC that its tax-exempt status had been terminated and asked for some information that would be needed before tax-exempt status could be reinstated. ORG, formally ABC, then sent some information with a cover letter to the IRS Taxpayer Advocates office. The Taxpayer Advocates office then forwarded the information to TE/GE Customer Service, where it was assigned to a Determination Specialist.

Per a letter dated March 9, 20XX, the IRS sent ORG a request for additional information with a response due date of March 30, 20XX. ORG failed to provide the requested information by the due date. Thus, per a letter dated May 3, 20XX, the IRS granted ORG tax-exempt status as a Private Foundation.

On May 14, 20XX, the IRS received a late response to the IRS letter dated March 9<sup>th</sup>, 20XX. The IRS Determination Specialist reviewed the information provided by ORG

Form <b>886-A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit 2 of 4
Name of Taxpayer ORG	Tax identification number	Year/Period Ended <b>20XX</b>

and determined that they did not qualify as an organization described in Internal Revenue Code Section 509(a)(1) and issued a second letter dated September 12, 20XX again granting ORG tax-exempt status as a Private Foundation. A referral to TE/GE Examinations was then prepared by the Determination Specialist stating that the current activities of ORG were completely different than those originally approved and that those activities were more like those of a "business league" per Internal Revenue Code 501(c)(6). The determination Specialist further stated that it appears that the organization's current activities would cause revocation of exemption under Internal Revenue Code section 501(c)(3).

IRS records show a filing requirement for ORG of the form 990PF, Return of Private Foundation. Neither a form 990PF nor a form 990 was filed for the year under examination.

According to the State of XYZ Secretary of State's website under business filings, ORG's corporate status is currently suspended.

Internet research yielded a web site for ORG, however the actual name on the web site is slightly different, (ORG XYZ). The opening paragraph on the web-sites home page states, "We are pleased to offer businesses and entrepreneurs the guidance and assistance they need for successful business development in GHI XYZ and all of State County. Focused on free enterprise economic development the ORG can help you realize your business goals. The ORG will help you prepare your business plan including critical analyses required to determine the feasibility and realistic outcomes of your idea or help you analyze your current business." ORG provides the following services, Business Plans, Marketing analysis, financial analysis, financing, production analysis, and business education. Per a College University reunion website Mr. TP is quoted as saying, "I am creating ORG doing favor for development plus growth of small business plus creating a job for myself."

During an interview with Mr. TP, he was asked to explain the activities of the organization over the last year. Mr. TP could not respond. The Organization's representative asked Mr. TP about any classes ORG had presented in the past. Mr. TP stated that there were some classes that taught "Capacity Building". The agent asked Mr. TP to explain "Capacity Building". Mr. TP could not explain the concept.

No books or records were maintained, or provided to the IRS, with regards to ORG's operations.

As of 11/15/20ZZ, the balance of cash in ORG's bank account was \$ . ORG had no other assets. On 11/23/20ZZ, ORG closed out the account and the money was distributed/contributed to another unrelated organization exempt under Internal Revenue Code section 501(c)(3).

Form <b>886-A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit 3 of 4
Name of Taxpayer <b>ORG</b>	Tax identification number	Year/Period Ended <b>20XX</b>

**Law:**

Internal Revenue Code section 501(c)(3) includes 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.

Regulations section 1.501(c)(3)-1(c)(1) states 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.

Regulations section 1.6033-2(i)(2) states that every organization which is exempt from tax, whether or not it is required to file an annual information return, shall submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into its exempt status and administering the provisions of subchapter F (section 501 and following), chapter 1 of subtitle A of the Code, section 6033, and chapter 42 of subtitle D of the Code.

**Government's Position:**

In order to qualify for and maintain exemption from income tax per Internal Revenue Code section 501(c)(3), it must be demonstrated that the organization is operated for any of the exempt purposes set forth in the aforementioned section. As documented in the "facts" section of this report, the Organization could not provide any of the books and records as requested by the Internal Revenue Service. Thus, an audit of the organization's records could not be conducted by the agent. In addition, the Executive Director could not discuss/explain any of the activities that the Organization may have conducted. As a result, the organization failed to demonstrate to the Secretary that it is operated for any if the exempt purposes as described in Internal Revenue Code section 501(c)(3).

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A review of the ORG's web site indicated that the main activities/services of the organization were geared towards promoting/assisting businesses in a certain geographic location, (GHI, XYZ). These types of activities/services are not included or contemplated within Internal Revenue Code section 501(c)(3).

Per Regulations section 1.6033-2(i)(2), in order to demonstrate that an organization should be exempt from taxation, adequate and proper records must be maintained and provided to the Internal Revenue Service . The organization failed to provide a means to be contacted and thus, failed to make available to the Service, the records necessary to demonstrate that it operates for the furtherance of some exempt activity as set forth in section 501(c)(3) of the Internal Revenue Code.

Per Internal Revenue Code section 501(c)(3), to qualify as an organization described in the aforementioned code section, the entity must be a "corporation, community chest, fund, or foundation". Since the corporate status of ORG has been suspended by the State of XYZ, the entity does meet the basic requirements of IRC section 501(c)(3) as it is not a corporation, community chest, fund, or foundation.

**Taxpayer's Position:**

The ORG agrees to the proposed revocation. The Organization has signed a form 6018, Consent to Proposed Action – Section 7428.

**Conclusion:**

The tax-exempt status of ORG under Internal Revenue Code section 501(c) (3) must be revoked effective March 1, 20XX. Thus, contributions to ORG are no longer tax deductible.

**Internal Revenue Service**

**Department of the Treasury**

Date:

ORG

Taxpayer Identification Number:

Form:  
990PF

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,

Marsha A. Ramirez  
Director, EO Examinations

Enclosures:  
Publication 892  
Publication 3498  
Report of Examination