



## DEPARTMENT OF THE TREASURY

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

### TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

Number: **200749024**  
Release Date: 12/7/2007

August 29, 2007

ORG

UIL: 501.03-01

#### **CERTIFIED MAIL – Return Receipt Requested**

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

Dear :

This is a final revocation letter as to your exempt status under section 501(c) (3) of the Internal Revenue Code. The Internal Revenue Service's recognition of your organization as an organization described in section 501(c) (3) is hereby revoked effective January 1, 20XX. You are in agreement per signed Form 6018 dated June 22, 20ZZ.

We have made this determination for the following reasons:

You have not demonstrated that you are operated exclusively for charitable, educational, or other exempt purposes within the meaning of I.R.C. section 501(c) (3). 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. You have not established that you have operated exclusively for an exempt purpose.

As such, you failed to meet the requirements of I.R.C. 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.

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 December 31, 20XX, 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 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



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
Internal Revenue Service

ORG

Taxpayer Identification Number:

Form:  
990

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  
Taxpayer Advocate

Telephone

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

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

**Legend:**

**ORG = Name of Organization**

**Exec Dir = Name of Executive Director**

**ABC = Name of Church**

**Issue**

Should the tax exempt status of ORG be revoked as of January 1, 20XX for failing to maintain records and failing to file the annual Form 990?

**Facts**

Internal Revenue Service records indicate that the ORG received its tax exempt status during October 19AA as an organization described under IRC Section 501(c)(3) and classified as a public charity under Section 509(a)(1) and 170(b)(1)(A)(vi). As indicated by , the executive director, the purpose of the organization was to preserve the history of the American piano. The types of services offered by the organization were giving piano lessons, restoration of old and new instruments, concert hall rental, instrument building, tuning and they also purchased and sold pianos.

In a statement provided by Mr. Exec Dir , he indicated that due to the events of September 11, 20TT the organization began to experience financial difficulties. The ORG began to sell some of the pianos in its inventory in order to pay the rent and outstanding bills. At the end of 20WW, the organization's landlord stated that if the organization vacated the premises they would not be liable for the balance of the lease. The ORG tried to sell the remaining assets in order to pay back rent owed and the remainder of the bills. Mr. Exec Dir indicated that space which the organization used to store some of its assets was auctioned off by XYZ in order settle the outstanding liability between the two parties.

Mr. Exec Dir stated that the last two pianos, a Grand and a GS Grand, were given to Address. The organization did not provide any documentation to corroborate these statements. In addition, the organization was not able to provide any financial records to substantiate their activities for the 20VV and 20WW tax years.

The last Form 990 filed by the organization was for the year ending December 31, 20TT. The organization had not filed a Form 990 for the year ending December 31, 20VV or a final return when the ORG closed on December 31, 20WW.

**Law**

Section 501(c)(3) of the Code exempts from federal income tax organizations organized and operated exclusively for charitable, educational, and other exempt purposes, provided that no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

Treasury Regulation 1.501(c)(3)-1(a)(1) states 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.

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

Internal Revenue Code Section 6001 states 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.

Internal Revenue Code Section 6033(a)(1) provides, except as provided in IRC Section 6033(a)(2), every organization exempt from tax under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and such other information for the purposes of carrying out the Internal Revenue laws as the Secretary may by form or regulations prescribe, and 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.

Treasury Regulation 1.6001-1(a) in conjunction with Treasury Regulation 1.6001-1(c) provides that every organization exempt from tax under IRC Section 501(a) and subject to the tax imposed by IRC Section 511 on its unrelated business income must keep such permanent books or accounts or records, including inventories, as are sufficient to establish the amount of gross income, deduction, credits or other matters required to be shown by such person in any return of such tax. Such organizations shall also keep such books and records as are required to substantiate the information required by IRC Section 6033.

Treasury Regulation 1.6001-1(e) states that 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.

Treasury Regulation 1.6033-1(h)(2) provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and IRC Section 6033.

Treasury Regulation 1.6033-2(i)(2) provides 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, Chapter 1 of Subtitle A of the Code, IRC Section 6033, and Chapter 42 of Subtitle D of the Code.

Revenue Ruling 59-95, 1959-01 CB 627, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of IRC Section 6033 and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

#### **Taxpayers Position**

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

Mr. Exec Dir has agreed to the revocation.

### **Governments Position**

In order to claim tax exempt status an organization must keep records sufficient to show specifically items of gross income, receipts and disbursements and show that it is entitled to the exemption, as stated under IRC Section 6001.

The ORG failed to keep and provide records adequate to determine the full nature of its operations. The organization was not able to provide any financial documents to substantiate the activities conducted during the 20VV and 20WW tax years. If the organization did terminate at the end of 20WW, they were unable to substantiate if the ABC Church did receive the two pianos.

In addition, the ORG failed to file its annual Form 990 for the tax years ending December 31, 20VV and 20WW. Internal Revenue Code Section 6033(a)(3)(ii) states that the exception to file is any organization (other than a private foundation, as defined in Section 509(a)) described in subparagraph (c), the gross receipts of which in each taxable year are normally not more than \$25,000.00. The organization does not meet this exception. The total gross receipts for 1999, 2000 and 20TT were \$39,285.00, \$175,737.00 and \$214,221.00 respectively. The organization's average gross receipts for 1999 through 20TT are \$143,081.00. Based on this information the organization was required to file a Form 990 for the tax year ending December 31, 20VV. Although Mr. Exec Dir indicated that the organization ceased its operations at the end of December 31, 20WW, the organization failed to file a final Form 990 or notify the Internal Revenue Service of its termination.

Revenue Ruling 59-95 held that failure or inability to file the required information return or otherwise to comply with the provision of section 6033 of the Internal Revenue Code and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of an exempt status.

Using this revenue ruling and IRC Section 6001 as precedent, it is the government's position that the tax exempt status of the ORG under Section 501(c)(3) of the Internal Revenue Code should be revoked.

### **Conclusion:**

The tax exempt status of the ORG under Section 501(c)(3) of the Internal Revenue Code should be revoked because the organization has not established that it is observing conditions required for the continuation of exempt status such as filing annual Forms 990 information returns and failing to maintain or provide information that was requested from them by the Internal Revenue Service.

The effective date of revocation is January 1, 20XX the first day of the tax year under examination.

Please sign the Form 6018 and return to the address notated on the front of the attached letter.