



DEPARTMENT OF THE TREASURY

Internal Revenue Service
TE/GE EO Examinations
1100 Commerce Street, MS:4920:DAL
Dallas, TX 75242

TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

Release Number: 200751036

Release Date: 12/21/07

Date 1

UIL: 501.03-01

ORG = Name of Organization

Date 1 = 90 day letter date

Date 2 = Last Date for Filing a Petition with
the Tax Court

Taxpayer Identification Number:

XX-XXXXXXX

Person to Contact/ID Number:

ORG

Contact Numbers:

Telephone:

Fax:

Internal Revenue Code:

IRC § 501(c) (3)

LAST DATE FOR FILING A PETITION
WITH THE TAX COURT: __ Date 2 __

Dear :

This is a Final Adverse Determination as to your exempt status under section 501(c) (3) of the Internal Revenue Code.

Our adverse determination was made for the following reasons: Failure to provide records of the organization and failure to meet the reporting requirements under section 6001 and 6033 of the Internal Revenue Code.

Exemption from income tax is a matter of legislative grace and taxpayers have the burden of establishing their entitlement to exemptions. Section 6033 requires organizations exempt from tax to keep such records and render such statements as are required by such rules and regulations as the Secretary may prescribe. Treasury Regulations section 1.6033-2 (h)(2) requires organizations exempt from tax to submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into the organization's exempt status.

We requested you to provide your organization's financial information to us so that we could fully examine and audit your organization for your fiscal year ended June 30, 200X. Despite receiving our requests and being provided the opportunity to respond to our requests, you did not provide us the requested financial information.

Based on the above, we are revoking your organization's exemption from Federal income tax under section 501(c) (3) of the Internal Revenue Code, effective July 1, 200X.

You are required to file Form 1120, U.S. Corporation Income Tax Return. These returns

should be filed with the appropriate Service Center for the year ending June 30, 200X, and 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.

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 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit 1
Explanation of Items		
Name of Taxpayer The ORG EIN# XX-XXXXXXX		Year/Period Ended Date 1

Legend:

ORG = Name of Organization 1
Date 1 = Tax Year Ended
A = Acting Executive Director of Organization 1
B = Executive Director of Organization 1
C = Chairman of the Board of Directors of the Organization 1
ORG 2 = Name of Organization 2
X = Supervisor of Organization 2

Issue Name: Tax Exempt Status under 501(c)(3)

Issue: Whether exempt organization qualifies for exemption under Section 501(c)(3) of the Internal Revenue Code.

Facts:

The ORG has not complied with our requests to obtain their books and records and other organizational documents. Authority to support our request for this documentation is prescribed in IRC § 7602(a) of the Internal Revenue Code.

A meeting was scheduled with A for May 22, 200X. When I reached the organization's offices I was met by B, who introduced himself as the executive director. B indicated that A was unable to attend this meeting and asked him (B) to meet with me in his place. B explained he had been inactive in recent months but was becoming more active again. I appropriately ID'd myself and asked B if there were any questions regarding Pub. #1. There were no questions. We discussed how the organization was created, reasons for its creation and how it serves the community. B indicated that he did not have the required information requested in IDR-1 and would require an additional two weeks. We agreed to an extension through June 3, 200X. B said that would be ample time to gather the information requested. I indicated that I would pick up the information that I requested on 6/3/200X.

B & I toured the facility which consisted of several meeting rooms, two classrooms which provided computer training primarily to senior citizens and to the community at large. Costs associated were for materials used in the class. The community center also has a large commercial-size kitchen that the organization uses to administer a nutritional food program to senior citizens. The cost to a senior citizen was a small donation ranging from \$X.XX to \$X.XX; the amount was left strictly up to the senior citizen. C joined us. He asked several question about our reason for the audit. I explained that this was a compliance audit designed to determine if their organization is organized and operated in accordance with its exempt purpose(s) and should continue to be recognized as exempt from federal income taxes; that the information filed in their annual return is complete, correct, and contains all required public information; and their organization has properly filed all returns and forms for which it is liable. If their organization is liable for other taxes, the correct amount of tax would be assessed.

After several unsuccessful attempts to contact the organization, I decided to revisit their offices on May 31, 200X. I spoke with the ORG 2's Supervisor X, when I asked to speak with A or B, X indicated to me that the ORG was no longer responsible for the administration of the center. I decided to make every attempt to reach an officer of the ORG.

I was able to obtain A's telephone number, and in a conversation on May 31st he indicated that the organization was in fact no longer responsible for the community center as a result of an audit performed

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit 1
Explanation of Items		
Name of Taxpayer The ORG EIN# XX-XXXXXXX		Year/Period Ended Date 1

by the city. Based on the results of that audit, the city decided to remove the ORG's services as administrator of the ORG 2. A said the city would allow the organization to continue to use office space at the center through June 30th at which time they would be required to vacate the premises. Although this information was available to the ORG at our initial interview, it was not brought to my attention by B. When I asked about obtaining the organization's books and records, A was not specific. A said he would seek an answer from the C and return my call in a day or two. I spoke with A again on June 20th 200X. A said that he was resigning from the organization effective June 30th 200X. He said his contract with organization was one year. His other business interests required his attention. When I asked about the availability of the books and records for our audit, A said that he discussed this with the Board of Directors and that I should have been contacted by them. When I said I had not been contacted, A seemed surprised. When I asked for contact information for C or B, A said he did not have the information at that time but he would return my call later that week. As of this writing, July 3rd, 200X, A has not returned my call nor have I heard from any members of the ORG's Board of Directors or officers of the organization.

Law: Section 6001 of the Code provides that every person liable for any tax imposed by the Code, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

Section 6033(a)(1) of the Code provides, except as provided in 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 forms 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.

Section 1.6001-1(a) of the regulations in conjunction with section 1.6001-1(c) provides that every organization exempt from tax under section 501(a) of the Code and subject to the tax imposed by 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 organization shall also keep such books and records as are required to substantiate the information required by section 6033.

Section 1.6001-1(e) of the regulations 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 as long as the contents thereof may be material in the administration of any internal revenue law.

Section 1.6033-1(h)(2) of the regulations 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 section 6033.

Rev. Rul. 59-95, 1959-1 C.B. 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 section 6033 of the 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 exempt status.

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit 1
Explanation of Items		
Name of Taxpayer The ORG EIN# XX-XXXXXXX		Year/Period Ended Date 1

In accordance with the above cited provisions of the Code and regulations under sections 6001 and 6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax.

Treas. Reg. 1.501(c)(3)-1(d)(1)(ii) provides:

An organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (i) of this subparagraph 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 it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Conclusion: It is the Internal Revenue Service's position that the organization failed to meet the reporting requirements under sections 6001 and 6033 to be recognized as exempt from federal income tax under 501(c)(3) of the Internal Revenue Code. Accordingly, the organization's exempt status is revoked effective July 1st 200X.

Form 1120 returns should be filed for the tax periods ending June 30th 200X.

The effective date of the revocation will be the first day after the end of the 90-day period (91st day).



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service
TE/GE: E/O Examinations
1100 Commerce Street
Dallas TX 75242

C = Chairman of the Board of Directors
of the Organization

ORG = Name of Organization

Date 1 = Tax Year End Date

C

ORG

Taxpayer Identification Number:

XX-XXXXXXX

Form:

990

Tax Year(s) Ended:

Date 1

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, E/O Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination