



**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service  
TE/GE EO Examinations**

**Number: 200803025**

**Release Date: 1/18/2008**

September 26, 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 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 , 20 .

Our adverse determination was made for the following reasons:

ORG has not been operating exclusively for exempt purposes within the meaning of IRC section 501(c) (3) and Treas. Reg. section 1.501 (c) (3) -1(d). It is not an organization which operates exclusively for one or more of the exempt purposes which would qualify it as an exempt organization. It has been operating substantially for a non-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 all of the open years including 20 with the appropriate Service Center immediately and by the due date of Form 1120 for all subsequent years.

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 , or writing to: .

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

January 20, 2005

ORG

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,

R.C. Johnson  
Director, EO Examinations

Enclosures:  
Publication  
Publication  
Report of Examination

**Explanation of Items**

Name of Taxpayer

Year/Period Ended

ORG

December 31, 20YY

**LEGEND****ORG=****19VV=****19WW=****20XX=****20YY=****XX=****YY=****ZZ=****Issue under Consideration**

Should the tax-exempt status granted to the ORG by Internal Revenue Code section 501(c) (3) be revoked effective XX 1, 20YY?

**Facts**

The ORG was granted tax exemption under Internal Revenue Code IRC 501(c) (3) as a charitable organization under IRC 509(a) (1) and 170(b) (1) (A) (vi) from a letter from the Internal Revenue Service dated December 11, 19WW.

The organization was incorporated in the State of ZZ on YY 12, 19WW. The Articles of Incorporation states the purpose was to establish, maintain, operate, promote and conduct an educational institution of learning for the purpose of providing instruction in vocational and skill trade. To reconstruct deprived neighborhoods by organizing job training programs, food and clothing bank, drug programs, crime watch programs, and promoting better communications and relationships with police department. To join together for the betterment of the community in collective way with individual firms, institutions, and residential organizations.

Article II continuation states to achieve charitable and educational objectives including the following: reversing community deterioration; encouraging commercial and residential rehabilitation and development; obtaining municipal improvement and services for the community; securing better protection against crime and people and residents in order to combat deterioration and blight; and developing services and facilities designed in to better the community generally. To improve living conditions in the area by channeling resources, funds, and responsibility necessary and proper. To hire, train, equip, and supervise individuals to carryout the foregoing objectives of the corporation, or otherwise obtain the services of individuals to carry out the foregoing purposes. To acquire, own, lease, sell, encumber, or otherwise dispose of personal property, including equipment, supplies, materials, uniforms, and vehicles, necessary or incidental to carrying out the foregoing purposes. To accept, solicit, receive, hold invest, reinvest, and use funds and property furnished by members, any governmental, subdivision, unit or agency, individuals in the fore mentioned area, or the general public, exclusively to carry out the foregoing purposes.

A Certificate of Amendment to the Articles of Incorporation was filed on November 9, 19WW to include the 501(c) (3) purpose and dissolution clauses. A second Certificate of Amendment was filed on May 12, 19VV to include the language: All of the above provisions are for the personal and cultural improvement of participants

**Explanation of Items**

Name of Taxpayer

Year/Period Ended

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December 31, 20YY

and the community without recognition of achievement such as the conferring of credits, certificates, degrees or other recognition of achievements and in no event to conduct a school, academy, seminary, college or other institution of learning.

TE/GE and SB/SE undertook a joint examination of the exempt organization and its President simultaneously. Exempt organization involvement was a result of a SB/SE referral.

During the joint examination, it was very unclear as to whether the activities engaged in were those of the organization or the individual. Case in point, the individual reflected all of the activities on his Form 1040, U.S. Individual Income Tax Return, Form Schedule C Profit or Loss from Business, as a sole proprietor. Records were inadequate and funds were commingled to the point where it was not clear who was conducting the activities. Despite the poor recordkeeping, there does not appear to be any obvious private or excess benefit to the individual.

**Law and Argument**

Section 501(c)(3) of the Code exempts from Federal income tax: 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 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 and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for religious, charitable, or educational purposes so long as no part of the organization's net earnings inures to the benefit of any private shareholder or individual. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that in order to be exempt as an organization described in section 501(c)(3) of the Code, 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 organization or operational test, it is not exempt.

Section 1.501(c)(3)-1(c)(1) of the 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) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of any exempt purpose.

Section 1.501(c)(3)-1(d)(ii) of the regulations states that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Accordingly, it is necessary for an organization to establish that it is not organized or operated for the benefit of

**Explanation of Items**

Name of Taxpayer

Year/Period Ended

ORG

December 31, 20YY

private interests such as designated individuals, the creator, shareholders, or persons controlled, directly or indirectly, by such private interests.

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.

Section 6033(a)(1) of the Internal Revenue Code states that every organization/foundation exempt from taxation under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and 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.

Section 2.6001-1(c) of the Federal Tax Regulations states in addition to such permanent books and records as are required by paragraph (a) of regulation 1.6001-1(a) with respect to the tax imposed by section 511 on unrelated business income of certain exempt organizations every organization exempt from tax under section 501(a) shall keep such permanent books of account or records, including inventories, as are sufficient to show specifically the items of gross income, receipts and disbursements. Such organization shall also keep such books and records as are required to substantiate the information required by section 6033.

**Government's Position**

An organization's inability to comply with the provision of section 6033 of the Code and the regulations which implement it may result in the termination of the exempt status, on the grounds that the organization has not established that it is observing the conditions required for the continuation of an exempt status. Revenue Ruling 59-95-1 C.B. 627, 1959.

Due to poor recordkeeping and failure to establish a legitimate exempt purpose, revocation of the exempt status was proposed. President of the exempt organization agreed to revocation by executing the Form 6018 Consent to Proposed Action – Section 7428. Exempt status should be revoked and Form 990, Return of Organization Exempt from Income Tax, filing requirement should be removed. Since SB/SE made the appropriate tax adjustment on the individual, no further action is required of EO examination with regard to tax liability.

EO Examinations and SB/SE made a joint decision to tax the activity to the individual as a sole proprietor (See copy of attached SB/SE RAR).

**Explanation of Items**

Name of Taxpayer

Year/Period Ended

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**Organization's Position**

President of the exempt organization agreed to the revocation by execution of the Form 6018, Consent to Proposed Action – Section 7428.

**Conclusion**

Based upon the information noted above, it is proposed the exempt status of the organization be revoked as of XX 1, 20YY.