

200808035



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

1100 Commerce Street

Dallas, TX 75242

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

November 15, 2007

Legend

ORG = Organization name

Address = Org Address

UIL: 501.03-01

XX = Date

**Release Date: 2/22/08**

ORG  
Address

Employer Identification #  
Person to Contact/ID#:  
Contact Telephone Number  
Taxpayer Advocate's Office, Address,  
Telephone Number:  
Phone:  
FAX:  
LAST DATE TO FILE A PETITION  
IN TAX COURT

February 13, 20XX

Dear :

This is a final adverse determination that you do not qualify for exemption from income tax under section 501(a) of the Internal Revenue Code (I.R.C.) as an organization described in I.R.C. section 501(c)(3). Internal Revenue Service recognition of your status as an organization described in I.R.C. section 501(9(a)(1) & 170(b)(1)(a)(vi) is revoked, effective January 1, 20XX. Our adverse determination is made for the following reason(s):

You have not established you are operated exclusively for Charitable, Educational, Scientific, or Religious purposes because you failed to comply with the IRS's requests for information to determine if you still qualify for tax exempt status under IRC 501(c)(3).

Contributions made to you are no longer deductible as charitable contributions by donors for purposes of computing taxable income for federal income tax purposes. See Rev. Proc. 82-39 1982-2 C.B. 759, for the rules concerning the deduction of contributions made to you between January 1, 20XX and the date a public announcement, such as publication in the Internal Revenue Bulletin, is made stating that contributions to you are no longer deductible.

You are required to file income tax returns on Form 1120 for all years beginning after January 1, 20XX. Returns for the years ending December 31, 20XX, December 31, 20XX, and December 31, 20XX, must be filed with this office within 60 days from the date of this letter, unless a request for an extension of time is granted. Send such returns to the following address:

Internal Revenue Service

Tax returns for subsequent years are to be filed with the appropriate Campus identified in the instructions for those returns.

If you decide to contest this determination in court, you must initiate a suit for declaratory judgment in 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 rules for initiating suits for declaratory judgment. You may write to the Tax Court at the following address:

United States Tax Court,

The processing of income tax returns and assessment of any taxes due will not be delayed because a petition for declaratory judgment has been filed under I.R.C. section 7428.

The last day for filing a petition for declaratory judgment is February 13, 20XX.

If you have questions about this letter, please write to the person whose name and address are shown on this letter. If you write, please attach a copy of this letter to help identify your account. Keep a copy for your records. Also, please include your telephone number and the most convenient time for us to call, so we can contact you if we need additional information.

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. Or you can contact the Taxpayer Advocate office located nearest you at the address and telephone number shown in the heading of this letter.

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 I.R.C. section 6104(c).

Sincerely,

Lois G. Lerner  
Director, Exempt Organizations

Enclosures;  
Pub. 892

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
<b>Explanation of Items</b>		
<b>Name of Taxpayer</b> <b>ORG</b>		<b>Year/Period Ended</b>  20XX12

**Legend**

ORG = Organization name      Address = Org Address      XX = Date  
CO = Company      President = President

**Issue:**

Has the ORG met the requirements to qualify for tax exempt status under 501 (c)(3) of the Internal Revenue Code?

**Facts:**

The ORG was recognized by the Internal Revenue Service as a tax exempt organization under 501 (c) (3) of the Internal Revenue Code on August 20XX. The primary activities of the organization have been participation in the CO program which involves the providing of financial assistance to low or very low income first-time home buyers.

On April 21, 20XX, the Internal Revenue Service commenced an examination of the organization for the fiscal year ended December 31, 20XX to determine if the organization is operating exclusively for tax exempt purposes. As part of the examination, information regarding the organization's activities was requested via Information Document Requests (IDR).

IDR number 01 was sent to the organization on April 21, 20XX and requested the following information/documents:

1. Articles of incorporation and all amendments.
2. Bylaws.
3. IRS exemption letter.
4. Original application for exempt status.
5. Minutes of board of directors meeting from 20XX through 20XX.
6. Newsletter, pamphlets, brochures.
7. Description of all events, programs and activities during the fiscal year ending December 31, 20XX.
8. Interview with officers.
9. All accounting records (G/L, checks, invoices, etc.).

On August 18, 20XX the Internal Revenue Service sent a second request by certified mail addressed to President, of ORG. The certified letter was signed for on August 23, 20XX.

On September 10, 20XX, a message was left for President to call the Internal Revenue Service. He did not return the call.

On September 13, 20XX a second certified letter was sent to the organization because the Internal Revenue Service had not received any response from the organization in regards to IDR 01. The letter repeated the request for information as requested in IDR 01 and also warned the organization their exempt status was in jeopardy due to a lack of response

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To date, the Internal Revenue Service has not received any of the requested information or documents from the organization.

**Law:**

Internal Revenue Code Section 501(c)(3) provides for tax exemption to organizations organized and operated exclusively for charitable purposes and no part of the net earning which inures to the benefit of any individual.

Regulation section 1.501(c)(3)-1(a)(1), *Organizational and operational tests*, provides 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.

Regulation section 1.501(c)(3)-1(c)(1) 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 an insubstantial part of its activities is not in furtherance of an exempt purpose.

Regulation section 1.501(c)(3)-1(d)(1)(ii) provides an organization is not organized or operated exclusively for one or more exempt purposes 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 the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Section 1.6033-2(h)(2) of the Income Tax Regulations provides, in part, that every organization which is exempt from tax shall submit such additional information as may be required by the Internal Revenue Service for the purposes of inquiring into its exempt status.

Treasure Regulation § 1.6033-2(1)(2) provides, in part, 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 § 6033, and Chapter 42 of subtitle D of the Code.

IRC §6033, Treasure Regulation § 1.6001-1 (c) and Treasure Regulation § 1.6033-2(a)(1) and (i)(2) require any organization exempt from tax under IRC §501(a), to supply the Service

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with such information as is required by the revenue procedures and the instruction for the Form 990, Return of Organization Exempt From Income Tax, and Schedules thereto and to keep such books and records as are necessary to substantiate such information.

Revenue Ruling 59-95 provides that a failure to file required information return or 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 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

**Government's Position:**

The ORG has not met the requirements to qualify for tax exempt status under 501(c)(3) of the Internal Revenue Code.

The ORG has not complied with the IRS' requests for information to determine if it is still qualified for tax exempt status under 501(c)(3) of the Code.

**Conclusion:**

Revocation of ORG tax exempt status is recommended effective January 1, 20XX because it has failed to comply with the requirements for tax exemption and has not provide request information to verifying its continue qualification for exempt status..



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
Internal Revenue Service  
1100 Commerce St., M/C 4900-DAL  
Dallas, Texas 75242

ORG  
Address

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:

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