

to the benefit of private shareholders or individuals in contravention of the requirements for exemption under section 501(c)(3) of the Internal Revenue Code. Finally, you have not demonstrated that you are not operated for the private benefit of your founders as required by Treas. Reg. Subsection 1.501(c)(3)-1(d)(1)(ii).

As a result of this revocation of tax-exempt status, your organization may be required to file Form 1120 annually with the appropriate Campus identified in the instructions, for the current and all subsequent years until corporate status is formally terminated with the State.

The processing of subsequent 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.

However, 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 Claims 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 rules for initiating suits for declaratory judgment. You may write to the Tax Court at the following address:

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 and ask for Taxpayer Advocate assistance. If you prefer you may contact your local Taxpayer Advocate.

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. This is a final revocation letter.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely,

Marsha A. Ramirez
Director, Exempt Organizations
Examinations

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

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ORG = Organization name XX = Date XYZ = State address = address
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Issues:

1. Should the 501(c)(3) tax exempt status of ORG be revoked because it is not operated exclusively for tax exempt purposes?
2. Has the organization met the burden of proof incumbent on the organization, that it is primarily engaged in exempt activity and that it is in fact a church?

Facts:

ORG was incorporated as church in the State of XYZ on 12/11/XX. Incorporators are Founder-1, his brother Founder-2, his daughter Founder-3, and his wife Founder-4. On 1/22/20XX, ORG purchased the old CO-1 building at Address, City, XYZ. ORG converted the building into a retreat and conference center. ORG began renting the facility to the general public in March of 20XX. This activity was regularly carried on. ORG conducted this business under the name CO-2. Per ORG's written business plan, this was a business enterprise operated to make a profit. ORG's business plan states the following:

This "summary includes a concise, but complete, description of the market, the market's need, how we propose to satisfy that need and the projected financial rewards...With our square foot building and all of its different amenities ORG feels that its offering will be readily accepted by the market and we will quickly gain a large portion of the market share. Our seat auditorium and our fourteen other available breakout rooms surpasses anything offered in the industry. If someone is looking for a retreat that offers many recreational opportunities ORG is unsurpassed in that area. None of our competitors provide to their clients what ORG has under one roof... We have hosted four retreats as of early April 20XX and have realized a 70% profit margin on these booking."

Nine months after the commercial enterprise known as ORG Retreat and Conference began, ORG applied for 501(c)(3) exempt status as a church. ORG's application was received by the Service on 9/27/20XX. The Trustees of this organization are Founder-1, his brother Founder-2, his daughter Founder-3, and his wife Founder-4. The church had the same address as the CO-2. In the application, ORG states its purpose as:

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- A. To establish one or more places of public worship services and to promote, continue and encourage the assembly of persons on regular basis divine worship and other religious and charitable/benevolent observances and practices.
- B. To provide a vehicle and institution for the preaching and teaching of the belief and faith in God.
- C. To provide a curriculum for theological studies.
- D. To provide classes for the preparation of ministers.
- E. To ordain, to license, to commission and consecrate individuals who possess the qualifications for advancement.
- F. To teach the principles found in the Bible given by our Lord and Savior Jesus Christ.
- G. To develop a complete and active Christian Education Department to conduct regular Sunday school classes, Bible study, seminars, workshops, crisis intervention sessions, family counseling, to minister to the whole person provided for all who desire to receive instructions on how to live good Christian lives.
- H. The corporation shall conduct any and all lawful activities that may or may not be mentioned above, for the furtherance or accomplishment of the foregoing purposes, provide that such activities would not endanger the corporation's not-for-profit status under section 501(c)(3) of the Internal Revenue Code (or corresponding section of any future Federal tax code)
- I. The corporation is not a private foundation as described in IRC Section 507(d) and 4940.
- J. The corporation is a publicly supported organization as described in IRC Section 509 (a)(1) & 170(b)(1)(A)(vi).

The application further stated that ORG was a membership organization; it had 487 active members, an average worship service attendance of 450, a formal code of doctrine and discipline for its members, and a written creed and statement of faith.

On Schedule A of the application, the applicant is asked to provide a brief history of the organization's development and the reason for formation. The applicant states,

“ORG was established by God through Founder-1 to provide spiritual guidance through the teachings of the Holy Bible to all people, to spread the word of God to all people.”

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ORG further asserts on schedule A the following:

1. It has a school for the religious instruction of the young.
2. The organization has an established place of worship.
3. The organization ordains ministers.
4. No funds or property of the organization will be used by any officer, director, employee, minister, or pastor for his or her personal needs or convenience,
5. That the sources of financial support are to be derived from donations, contributions, etc.

The prospective Balance Sheet submitted with the application indicates that \$ will come from gifts, grants, and contributions. It further indicates that there will be no unrelated business income or revenue from the furnishing of facilities in any activity that is not an unrelated business within the meaning of section 513.

Nowhere in the application was it indicated that ORG was engaged in a commercial activity.

ORG was recognized as a 501(c)(3) organization on 9/25/20XX. It also was recognized as an organization described in 509(a)(1) and 170(b)(1)(A)(i).

On 12/14/20XX ORG was notified of an examination. The accompanying IDR requested the books and records of ORG and information regarding its activities. The examination was scheduled for 1/18/20XX. The agent conducting the examination communicated to Founder-1 on 1/10/20XX that the examination would take place at ORG. The agent arrived at ORG to conduct the examination. Founder-1 did not appear, nor did any other officer or Board member.

As a result, the agent conducting the examination issued summonses to Founder-1, his brother Founder-2, and his daughter Founder-3. Third parties were also summonsed to provide information. These included the accounting firm employed by ORG and financial institutions utilized by ORG.

On 4/6/20XX, the agent conducting the examination traveled to City, XYZ to conduct the interview with Founder-3. Much of the requested documentation was not provided. No documentation supporting the conducting of exempt activity was provided (See question 10 of Document Request Attachment to Summons Issued to Founder-3). No documentation was provided regarding the source of funds used to purchase and rehabilitate Address (See question 55 & 80). No documentation was provided regarding the conducting of religious services (See

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questions 60-78, 82, 83). No documentation was provided regarding the number of retreats conducted (See question 81). Founder-3 provided no clarification regarding transactions that appeared to represent inurement.

Several interview questions contradicted information provided on the application for exemption. Per Founder-3, ORG does not have a congregation, does not have a Sunday school, does not have a hierarchy, there is no authority structure, collections are not taken, and there is payment of personal expenses. (See interview questions and answers of April 6, 20XX).

Founder-1 was summonsed to appear at the City IRS office on 8/1/20XX.
 He did not appear.

Founder-2 was summonsed to appear at the City IRS on 8/12/20XX. He appeared along with counsel. Founder-2 could not or would not answer many questions. He indicated that he either did not know, or had no knowledge of many questions relating to the questionable financial transactions of ORG (See questions and responses to interview of 8/12/XX). These questions also related to transactions that appeared to represent inurement. Founder-2 was requested to provide documentation relating to church activities, exempt functions, financial transactions, funding, etc. in the "Document Request Attachment to Summons Issued to Founder-2." None was provided. However, he stated that this information would be gathered and provided. This was never done. His counsel was contacted regarding this submission of information on 9/13/20XX. Counsel stated that no additional information had been provided.

Since its inception in January 20XX, ORG has been engaged in the activity of hosting retreats and conferences. This activity entails the rental of the facility located at Address. Per ORG's marketing material, the building is equipped with all amenities. This includes an Olympic size indoor pool, 2 basketball courts, a "huge" game room that includes pool tables and arcade games, multiple conference rooms, 2 fully equipped gymnasiums, 2 racquetball courts, rock climbing wall, a 20 by 40 bent grass putting course, computer lab, a seat auditorium, 80 seat movie theater, and big screen TV viewing room. Lodging includes professionally catered meals and facilities to sleep . Rooms are advertised as \$ per person for a private sleeping room with queen size bed, \$ per person per day for private dorm room, and \$ per person per day for group sleeping. The facility is actively marketed by way of a website and brochures. These materials highlight skiing packages, golf getaways, easy access to shopping, and other day trips. These marketing materials lack any mention of a church located at the same address.

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A review of the General Ledger summonsed from ORG's accounting firm indicates that retreat income is the sole source of revenue for this organization. There is a complete lack of support from donations or grants. Retreat revenue for ORG for 20XX – 20XX is stated below:

	<u>20XX</u>	<u>20XX (through 8/31)</u>	
Retreat Income	\$\$\$		
Donations, grants, etc	\$0	\$0	\$0

ORG has provided little documentation regarding the source of funding for its operation. It has never been determined where the funding came from to purchase and establish the retreat and conference center. An analysis of the General Ledger for the period 9/1/XX - 8/31/XX indicates that ORG has access to funding in excess of its known resources. See below:

Period 9/1/XX-8/31/XX

Inflows of cash:

\$

Out flows of cash:

Listed expenses

Closing Cost

CO-1 N/P

Unaccounted for funding

The source of funding for the purchase and rehabilitation of Address is still in question. Founder-1, the founder, has not made himself available to explain or clarify the sources of funding. Information provided by his daughter, Founder-3 and his brother, Founder-2 have not shed any light on this issue. Questions regarding inurement have never been answered.

Law:

Should ORG be modified to a Private Foundation?

The term "private foundation" is defined in IRC section 509(a) as any foreign or domestic organization described in IRC section 501(c)(3) that is not a public charity or an organization that tests for public safety. Churches that qualify as public charities are described in IRC section 170(b)(1)(A)(i).

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The current IRC section 170 regulations do not define "church." The Service considers all facts and circumstances in determining whether an organization is a "church," including whether the organization has the following characteristics:

1. A distinct legal existence
2. A recognized creed and form of worship
3. A definite and distinct ecclesiastical government
4. A formal code of doctrine and discipline
5. A distinct religious history
6. A membership not associated with any other church or denomination
7. Ordained ministers ministering to its congregations
8. Ordained ministers selected after completing prescribed studies
9. A literature of its own
10. Establish places of worship
11. Regular congregations
12. Regular religious services
13. Sunday schools for religious instruction of the young
14. Schools for the preparation of ministers

In American Guidance Foundation, Inc. v. United States, 490 F. Supp. 304 (D.D.C. 1980), affirmed in an unpublished opinion (D.C. Cir, 1981) the court set forth the following conclusions:

- At a minimum, a church includes a body of believers that assemble regularly in order to worship.
- It must also be reasonably available to the public in its conduct of worship, in its educational instruction, and in its promulgation of doctrine.
- Superficially responsive documentation purporting to show that the 14 criteria have been satisfied is not sufficient to establish church status.
- An IRC section 501(c)(3) religious organization comprised of a few family members who attend worship services at a relative's apartment and made no real effort to extend its membership beyond the family was not a church for purposes of IRC section 170(b)(1)(A)(i).

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In First Church of In Theo, 56 TCM 1045, Dec. 45,419(M), TC Memo. 1989-16, an exempt religious organization which published religious materials was a **private foundation** because it failed to qualify as a church. The organization did not qualify as a church because it failed to establish a "recognizable creed or formal discipline," and it failed to satisfy the threshold criteria of communal activity necessary for a church.

Burden of Proof

The burden of proof regarding exempt status as a church is on the church, not the Service. As noted by the court in Church of Spiritual Technology v. United States, 26 CL. Ct. 713 (1992), which upheld denial of an organization's application for recognition of exemption, in demonstrating their entitlement to exemption, church and other religious organizations are subject to the same burden of proof requirements as other organizations. The court cited a long line of authority holding that the applicant bears the burden of showing it is entitled to exemption. In Harding Hospital, Inc. v. United States, 505 F.2nd 1068, 1071 (6th Cir. 1974), the court stated that "income tax exemption must be strictly construed, with any doubts to be resolved in favor of the taxing entity. Consequently, determinations of the Commissioner are presumed correct." Similarly, the court cited Welch v. Helvering, 190 U.S. 111, 115 (1933), and modern cases following its stricture that "Plaintiff thus bears the burden of proving its entitlement to an exemption." See also, Bubbling Well Church of Universal Love, Inc. v. Commissioner, 670 F.2d 104, 106 (9th Cir. 1981); Freedom Church of Revelation v. United States, 588 F. Supp. 693, 696 (D.D.C. 1984).

Other significant rulings are as follows:

In Schoger Foundation v. Commissioner, 76 T.C. 380 (1981), an organization operating a **religious retreat facility** did not qualify for exemption under 501(c)(3) because it failed to show that the retreat facility was operated exclusively for religious purposes. Although the organization's mountain lodge offered guests religious, recreational, and social activities, none were regularly scheduled or required. The court concluded that the organization had not met the **burden of proof** to show that the lodge was operated primarily for an exempt religious purpose and that the recreational and social activities at the lodge were only incidental to a religious purpose.

In Retreat in Motion, Inc., 48 TCM 334, Dec. 41,288(M), TC Memo. 1984-315, a religious organization that existed to provide fun experiences through bus trips to Florida/Disneyworld and Washington, D.C., in connection with its bus ministry, failed to qualify as a tax-exempt

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organization. The recreational aspects of the trips (involving secular sightseeing, beach-going, mountain climbing, etc.) were **not shown by the taxpayer to be insubstantial** in nature and merely incidental to religious activities.

In The Basic Unit Ministry of Alma Karl Schurig, CA-D.C., 82-1 USTC ¶9141, 670 F2d 1210, the taxpayer **failed to demonstrate** that it qualified as a tax-exempt religious organization since it failed to establish that no part of its earnings inured to the benefit of any private individual. The taxpayer did not provide sufficient evidence of the nature of its charitable disbursements or the extent of the maintenance and support of its members and the evidence indicated that it was operated for the private benefit of, and a substantial portion of its net earnings inured to, the members of the group.

In Bubbling Well Church of Universal Love, Inc., CA-9, 82-1 USTC ¶9258, 670 F2d 104, a church was not entitled to tax-exempt status because it **failed to show** that no part of its net income inured to the benefit of private individuals. There was no proof in the record of any regular or substantial church activities. Accordingly, the payments (parsonage and minister's living allowances and travel expenses) made to the minister and his family, who were the sole employees and sole voting directors of the church, constituted unreasonable benefits because few employee tasks were performed in return.

In Church of Gospel Ministry, Inc., DC D.C., 86-2 USTC ¶9497, 640 FSupp 96, the IRS properly revoked a religious organization's tax-exempt status retroactively from the date the organization was founded because it **failed to establish its entitlement** to such status and to deductible contributions. In order to qualify for tax-exempt status, the church was required to maintain records sufficient to show its items of gross income and its disbursements, and to show that it met requirements for exemption. The church failed to keep records indicating the full nature of its operations. It also failed to show that its operations did not inure in part to the private benefit of its officers.

In The Church of Eternal Life and Liberty, Inc., 86 TC 916, Dec. 43,028, an organization was not a church because it did not serve the necessary associational role in the accomplishment of any religious purpose. It also did not qualify as an exempt organization because a large part of its assets were used for the private benefit of its minister.

In Church of Ethereal Joy, 83 TC 20, Dec. 41,342, an organization was not entitled to tax exempt status as a religious organization where it was not engaged in any activities, religious or otherwise; was controlled by a self-perpetuating board of directors, one of whom participates in

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the promotion of the organization of mail-order churches; and **failed to show** that it is organized and operated, or will be operated, exclusively for public benefit.

In Universal Life Church, Inc., 83 TC 292, Dec. 41,457, a church failed to qualify for exempt status, having **failed to show** that it had a place for regular worship services, conducted regular services or performed religious functions. Church funds were used to benefit the pastor.

In United Libertarian Fellowship, 65 TCM 2178, Dec. 48,932(M), TC Memo. 1993-116, a religious organization's exempt status was revoked when it **failed to satisfy the IRS's requests for additional information regarding the organization's operations**, finances and property ownership. What little information the organization did provide was extremely vague and simply an attempt to avoid disclosing the requested information.

In J.E. Hardy, 60 TCM 1110, Dec. 46,948(M), TC Memo. 1990-557. Aff'd, CA-3 (unpublished opinion 11/3/91), an organization was **not a church absent evidence** that it was organized exclusively for an exempt purpose and that it was operated exclusively for tax-exempt purposes. Further, the entity was not organized in the proper form, and church funds were used for the benefit of the taxpayer and his family.

In Good Friendship Temple, 55 TCM 1310, Dec. 44,909(M), TC Memo, 1988-313, an unincorporated nonprofit religious organization failed to qualify as a tax-exempt organization. The trustee-president who formed the organization **did not prove** that it served public rather than private interests and he failed to rebut the determination that it was operated to serve his private interests.

In Universal Church of Jesus Christ, Inc., 55 TCM 144, Dec. 44,590(M), TC Memo. 1988-65, the tax-exempt status of an organization that was incorporated for religious purposes was properly revoked. The organization's **commercial activities were far more than incidental** to its exempt activities and the organization **failed to prove** that none of its income inured to the benefit of private individuals.

In Universal Bible Church, Inc., 51 TCM 936, Dec. 43,020(M), TC Memo. 1986-170, an exempt religious organization that had as its purpose the promotion of Bible story reading and dissemination of the word of God through the media did not qualify as a private foundation. The organization **failed to satisfy its burden of proving that it was a "church"** within the meaning of the Code. The evidence did not establish that the organization included a body of believers

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who assembled regularly to worship, and it was uncertain that the organization was fully operational.

In Good Friendship Temple, 55 TCM 1310, Dec. 44,909(M), TC Memo, 1988-313, an unincorporated nonprofit religious organization failed to qualify as a tax-exempt organization. The trustee-president who formed the organization **did not prove** that it served public rather than private interests and he failed to rebut the determination that it was operated to serve his private interests.

Primary Activity

IRC Code Sec. 501(c)(3) requires an organization to be organized and operated *exclusively* for exempt purposes in order to qualify for tax-exempt status under that provision. In this context, the term “operated exclusively for exempt purposes” is interpreted as “engaged primarily in activities” in furtherance of one or more of the organization's exempt purposes (Reg. §1.501(c)(3)-1(c)(1)). This is known as the primary purpose doctrine.

FINAL-REG, TAX-REGS, §1.501(c)(3)-1. Organizations organized and operated for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals

(a) *Organizational and operational tests*

- (1) 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.

(c) *Operational test*

- (1) *Primary activities.* —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.

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Section 1.513-1(d)(2) of the regulations provides that trade or business is "related" to exempt purposes, in the relevant sense, only where the conduct of the business activities has causal relationship to the achievement of exempt purposes, and is "substantially related," for purposes of section 513 of the Code, only if the causal relationship is a substantial one. Thus, for the conduct of trade or business from which a particular amount of gross income is derived to be substantially related to purposes for which exemption is granted, the production or distribution of the goods or the performance of the services from which the gross income is derived must contribute importantly to the accomplishment of those purposes. Where the production or distribution of the goods or the performance of the services does not contribute importantly to the accomplishment of the exempt purposes of an organization, the income from the sale of the goods or the performance of the services does not derive from the conduct of related trade or business. Whether activities productive of gross income contribute importantly to the accomplishment of any purpose for which an organization is granted exemption depends in each case upon the facts and circumstances involved.

Section 1.513-1(b) of the regulations provides that, in general, any activity of an exempt organization which is carried on for the production of income and which otherwise possesses the characteristics required to constitute "trade or business" within the meaning of section 162 of the Code is a trade or business for purposes of sections 511-513. Further, the term "trade or business" generally includes any activity carried on for the production of income from the sale of goods or performance of services.

In Schoger Foundation v. Commissioner, 76 T.C. 380 (1981), an organization operating a religious retreat facility did not qualify for exemption under 501(c)(3) because it failed to show that the retreat facility was **operated exclusively for religious purposes**. Although the organization's mountain lodge offered guests religious, recreational, and social activities, none were regularly scheduled or required. The court concluded that the organization had not met the burden of proof to show that the lodge was operated primarily for an exempt religious purpose and that the recreational and social activities at the lodge were only incidental to a religious purpose.

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In Airlie Foundation, DC D.C., 2003-2 USTC ¶50,719, 283 FSupp2d 58, an organization that operated its **conference center** in a manner consistent with that of a commercial business did not qualify for tax-exempt status. The taxpayer brought a declaratory judgment action against the IRS seeking reinstatement of its exempt status based on the argument that its conference activities were undertaken principally to advance educational and charitable purposes. However, the totality of the circumstances established that it furthered a substantial nonexempt purpose.

In Christ's Church of Golden Rule (P.L. Riker), CA-9, 57-1 USTC ¶9588, 244 F2d 220. Cert. denied, 355 US 839, a religious organization whose **primary activity was the operation of a commercial restaurant** was not exempt.

In the Better Business Bureau of Washington, D.C. v US, SCt, 326 US 279, 66 SCt 112, the U.S. Supreme Court has declared that “the presence of a single (nonexempt) purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly (exempt) purposes.”

In Living Faith, Inc., CA-7, 92-1 USTC ¶50,003, 950 F2d 365, a not-for-profit corporation that operated vegetarian restaurants and health food stores did not operate exclusively for exempt purposes and accordingly did not qualify as a tax-exempt organization. Although the restaurants and health food stores were operated to further the dietary goals of the Seventh Day Adventist church, the purpose of the restaurants and health food stores was substantially commercial.

In New Faith, Inc., 64 TCM 1050, Dec. 48,572(M), TC Memo. 1992-601, a nonprofit public benefit corporation that obtained most of its revenues from providing food to the general public from lunch trucks in exchange for donations was not operated exclusively for a tax-exempt purpose. The commercial activity accounted for nearly all of its gross revenues and there was no evidence that any food items were offered at below-cost prices to needy persons.

In Make a Joyful Noise, Inc., 56 TCM 1003, Dec. 45,405(M), TC Memo. 1989-4, an organization did not satisfy its burden of proving that the IRS' revocation of its tax-exempt status under Code Sec. 501(c)(3) was erroneous. The organization was not regarded as “operated exclusively” for one or more exempt purposes because it did not engage primarily in activities in order to accomplish its exempt purpose. Its primary activity was the management and operation of bingo games for other exempt organizations —a trade or business activity that did not qualify as an exempt activity under Code Sec. 501(c)(3).

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In Senior Citizens of Missouri, Inc., 56 TCM 480, Dec. 45,126(M), TC Memo. 1988-493, a taxpayer that was organized for aiding handicapped and elderly citizens was denied tax-exempt status because it did not prove that it operated exclusively for such tax-exempt purpose.

In Housing Pioneers, Inc., CA-9, 95-1 USTC ¶50,126, 49 F3d 1395, a housing corporation that was organized to provide affordable housing for low-income and disabled people did not qualify for tax-exempt status as a charitable organization because it was not operated exclusively for exempt purposes. The organization became a co-general partner in two for-profit limited partnerships in order to take advantage of a state (California) property tax reduction for low-income rentals, by receiving a portion of the tax credits with which to pursue its charitable purposes.

In Federation Pharmacy Services, Inc. v. Commissioner, 625 F.2d 804 (8th Cir. 1980), aff'g 72 T.C. 687 (1979), the appellate court held that a nonprofit pharmaceutical service was not exempt as a charitable organization because it was operated for the substantial commercial purpose of providing pharmacy services to the general public. Although it provided special discount rates for handicapped and senior citizens in its area, it was not committed to providing any drugs below cost or free to indigent persons. Therefore, although its services did improve health in the area, it was primarily a commercial venture operated in competition with other area pharmacies.

In Senior Citizens Stores v. United States, 602 F.2d 711 (5th Cir. 1979), an organization whose stated purpose was to provide training, jobs, and recreation for senior citizens by operating retail stores did not qualify for exemption under IRC 501(c)(3). Although it incidentally served the needs of senior citizens, the evidence indicated that the retail sales operation was an end in itself. Proceeds from the business were used almost exclusively for its perpetuation. Thus, the organization's primary activity was the operation of the retail store, which was not devoted exclusively to charitable purposes.

The Service's position on the operational test and primary activities is consistent with the above case law.

Taxpayer Position:

The taxpayer position is unknown. Numerous attempts were made to contact the taxpayer, but without success. The taxpayer's counsel was contacted and informed the Service of his non-representation of the taxpayer.

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

LEGEND

ORG = Organization name XX = Date XYZ = State address = address
 Founder 1-4 = 1st, 2nd, 3rd, 4th founders City = city
 CO-1 = 1st company CO-2 = 2nd company

SERVICE POSITION:

The Service's position is that this organization lacks any public support. Since its inception, ORG has received no grants or donations. All revenue has been from non exempt activity. As such, the organization's foundation status should be modified to that of a private foundation.

Secondly, this organization fails the operational test. All revenue has been generated through the operation of a commercial non exempt enterprise. This retreat activity is not exempt activity. This organization is not operated primarily for exempt purposes. As such, ORG's status as a 501(c)(3) organization should be revoked.

ORG's status as a church is irrelevant. Before an organization can qualify for church status, it must first be organized and operated primarily for an exempt purpose. This is not the case. Also, ORG has not met the burden of proof that it is in fact a church. There have been many opportunities for ORG to make its case to the service that the organization is in fact a church. This has never been done.

CONCLUSION:

ORG does not qualify for its current foundation status. ORG has not demonstrated that it qualifies as a 501(c)(3) organization. ORG's exempt status should be revoked.