



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

TE/GE: EO Examination

625 Fulton Street, Room 503

Brooklyn, NY 11201

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

UIL: 501.03-01

Number: **200817057**

Release Date: 4/25/2008

Legend

ORG = Organization name XX = Date Address = Address

Date: January 28, 2008

ORG

Address

Taxpayer Identification Number:

Person to Contact:

Identification Number

Contact Telephone Number:

**LAST DATE FOR FILING A PLEADING
WITH THE TAX COURT, THE CLAIMS
COURT, OR THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT
OF COLUMBIA:**

Dear :

This is a final determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code (IRC). Recognition of your exemption from Federal income tax as an organization described in Internal Revenue Code section 501(c)(3) is retroactively revoked to August 2, 20XX, because you have not established that you are organized and operated exclusively for exempt purposes.

IRC section 501(c)(3) exempts from taxation organizations which are organized and operated exclusively for religious, charitable or educational purposes, no part of the net earnings of which inure 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 do not participate in, or intervene in, any political campaign on behalf of (or in opposition to) any candidate for public office.

You failed to meet the requirements of Treasury Regulation section 1.501(c)(3)-1(b) in that you are not organized exclusively for an exempt purpose. On August 2, 20XX, you amended your Articles of Incorporation to include non-exempt purposes.

Section 1.6001-1 of the regulations requires that each person required to file a return maintain books and records to allow the Service to establish whether the taxpayer is liable for any tax liability. In addition to the general recordkeeping rules, organizations

exempt from taxation under section 501(a) must also maintain the records required by section 6033 of the Code.

You failed to meet the requirements of Treasury Regulation section 1.501(c)(3)-1(d) in that you have failed to establish that you were operated exclusively for an exempt purpose, you have failed to file the required tax form (Form 990) for the year ended December 31, 20XX, and you failed to demonstrate that you are observing the conditions necessary for continuation of your exempt status.

We are revoking your exemption from Federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code effective August 2, 20XX. 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 years beginning August 2, 20XX. 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 file a pleading seeking a declaratory judgment in the United States Tax Court, the United States Court of Federal Claims, or the United States District Court for the District of Columbia before the 91st day after the date this final determination was mailed to you. Please contact the clerk of the appropriate court for rules regarding filing pleadings for declaratory judgments and refer to the enclosed Publication 892. You may write to these courts at the following addresses:

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 too-free and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer advocate at:

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
TE/GE: E/O Examinations
1100 Commerce Street
Dallas TX 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.

Letter 3618 (04-2002)
Catalog Number 34809F

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:
Publications 892; 3498
Report of Examination
Form 6018&Form886A

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit #1
Name of Taxpayer ORG		Year/Period Ended 12/31/20XX & 12/31/20XX

Legend:

ORG = Organization name ORG-2 = Re-named Organization XX = Date
 XYZ = State President = President President1 - 1st president
 Secretary = Secretary Secretary-1 = 1st secretary
 CO1 = 1st company

ISSUES:

Whether an organization, whose primary purpose is to engage and operate a club for pleasure, recreation and to operate a family investment and protection society qualifies as operating exclusively for charitable purposes within the meaning of IRC § 501(c)(3)?

FACTS:

In August 19XX the CO1 was granted exemption under section 501(c)(3) of the Internal Revenue Code. The organization was classified as one that is not a private foundation within the meaning of 509(a) of the code because it is an organization described in sections 509(a)(1) and 170(b)(1)(A)(vi). On August 26th 19XX the CO1 filed a Certificate of Amendment of Articles of Incorporation with the XYZ secretary of State changing its name to ORG. The amendment was signed by President, president and Secretary, secretary on April 24th 19XX. The organization did not change its purpose according to the certificate of amendment. ORG again filed a Certificate of Amendment of Articles of Incorporation with the XYZ Secretary of State on August 2, 20XX. The Amendments to Articles of Incorporation were signed by: President-1, president and Secretary-1, secretary. Article I and II are amended to read as follows:
 "Article I - the name of this corporation is:

ORG-2

Article II - This Corporation is a nonprofit Mutual Benefit Corporation organized under the nonprofit Mutual Benefit Corporation Laws. The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under such law.

The specific purpose of this corporation and the primary purpose is to engage and operate a club for pleasure, recreation, a family fraternal beneficiary society within the meaning of section and of the XYZ Code and to operate a family investment and protection society within the meaning of section 501(c)(7) of the Internal Revenue Code." Based on this most recent documentation received by the Internal Revenue

Service **ORG-2** is no longer organized and/or operated exclusively for charitable purposes within the meaning of Treasury Regulation 1.501(c)(3)-1 but may qualify for

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exemption under Treasury Regulation §1.501(c)(7)-1, reflecting changes made by, P.L.100-647, P.L. 100-203, P.L. 99-514, P.L. 96-601, P.L. 94-568 .

LAW:

Section 501 of the Code provides for the exemption from federal income tax of corporations organized and operated exclusively for charitable or educational purposes, provided that no part of the net earnings inures to the benefit of any private shareholder or individual. *See* § 501(c)(3).

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that an organization operates exclusively for exempt purposes only if it engages primarily in activities that accomplish exempt purposes specified in § 501(c)(3). An organization must not engage in substantial activities that fail to further an exempt purpose. In *Better Business Bureau of Washington, D.C. v. U.S.*, 326 U.S. 279, 283 (1945), the Supreme Court held 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."

Section 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized or operated exclusively for exempt purposes unless it serves a public rather than a private interest. To meet this requirement it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests.

Section 1.501(c)(3)-1(d)(2) defines the term "charitable" as used in § 501(c)(3) as including the relief of the poor and distressed or of the underprivileged, and the promotion of social welfare by organizations designed to lessen neighborhood tensions, to eliminate prejudice and discrimination, or to combat community deterioration. The term "charitable" also includes the advancement of education.

Section 1.501(c)(3)-1(d)(3)(i) provides, in part, that the term "educational" as used in § 501(c)(3) relates to the instruction of the public on subjects useful to the individual and beneficial to the community.

Section 1.501(c)(3)-1(e) provides that an organization that operates a trade or business as a substantial part of its activities may meet the requirements of § 501(c)(3) if the trade or business furthers an exempt purpose, and if the organization's primary purpose does not consist of carrying on an unrelated trade or business.

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GOVERNMENT'S POSITION:

In order to qualify for 501(c)(3) exempt status, an organization must be organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes. The organization's most recent amendments to its articles of incorporation, filed and approved by the XYZ Secretary of State on August 2, 20XX, states in **Article II** that the **ORG-2** the successor organization of ORG is no longer organized and/or operated for charitable purposes within the meaning of Treasury Regulation 1.501(c)(3)-1. According to Article II, "The specific purpose of this corporation and the primary purpose is to engage and operate a club for pleasure, recreation, a family fraternal beneficiary society within the meaning of section and of the XYZ Code and to operate a family investment and protection society within the meaning of section 501(c)(7) of the Internal Revenue Code". The Internal Revenue Service has made several unsuccessful attempts to contact the **ORG-2** through correspondence to clarify information provided to the Internal Revenue Service regarding the new organization under IRC § 501(c)(7).

I contacted President-1 on February 23, 20XX. President-1 indicated that the organization has been inactive for ten years and that the CO1 was never active because he did not want to compete with other organizations in the . The organization has never received any contributions and has no revenue/expenses. President-1 says that he has not kept records or maintained books because of organization's inactivity. President-1 is currently working with XYZ's attorney general's office to have his organization reinstated. The XYZ secretary of state's website show **President-1's-Secretary-1's** as currently "suspended". Based on the latest documentation received by President-1, ORG. is no longer organized and/or operated as an organization described in Treasury Regulation 1.501(c)(3)-1 and its exemption as a 501(c)(3) organization can not be sustained. Its successor organization President-1's-Secretary-1's must reapply for exempt status as an organization described within the meaning of § 501(c)(7)-1 of the Treasury Regulation reflecting changes made by appropriate public laws.

TAXPAYER'S POSITION:

President-1's position is that "an initial interview between the Internal Revenue Service and himself is unnecessary because the ORG-2 has not been active for several years. The organization did not have any books and records, no sources of support and/or expense and

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refused to set an appointment for an initial interview". When I asked President-1 if there were reasons for changing the organization's purpose, he said "it was not his intention to compete with other organizations and as a result of changes within his organization due to several family members dying, he decided to change the organizations purpose and its name". President-1 also stated "that he is currently revising the Articles of Incorporation and By-Laws but he was not clear about **ORG-2's** purpose or whether it would be reinstated by the XYZ, secretary of state. President-1 did say that he was working with the XYZ, attorney general's office on reinstatement". I asked President-1 for a current address which he gave as Address, City, XYZ. When I asked for a street address he said that was the current address. President-1 would not comment further and he concluded the conversation.

CONCLUSION:

President-1's Secretary-1's is not operating exclusively for charitable purposes, and, consequently, does not qualify for exemption from federal income tax as an organization described in § 501(c)(3) of the Internal Revenue Code and § 1.501(c)(3)-1(c)(1); § 1.501(c)(3)-1(d)(1)(ii); § 1.501(c)(3)-1(d)(2); § 1.501(c)(3)-1(d)(3)(i); § 1.501(c)(3)-1(e) of the Income Tax Regulations. The new organization **ORG-2's** purposes have changed. The organization's August 19XX determination letter granting 501(c)(3) exemption to the original entity, CO1, no longer applies. The **ORG-2** must file a new Form 1024 Application for Recognition of Exemption under Section 501(a) for a determination. This is based on their August 2, 20XX certificate of amendment of articles of incorporation changing ORG's name to ORG-2 and redefining its purpose(s) in Article II as an organization more appropriately exempted under § 501(c)(7) of the Internal Revenue Code. The proposed revocation of ORG's 501(c)(3) exempt status is effective August 2, 20XX the date of the organization's certificate of amendment of articles of incorporation, changing its name from ORG to ORG-2 and its purpose(s) from an organization defined in § 501(c)(3) of the Internal Revenue Code to an organization described in § 501(c)(7) of the Internal Revenue Code.