



DEPARTMENT OF THE TREASURY

Internal Revenue Service
TE/GE EO Examinations
1100 Commerce Street
Dallas, TX 75242

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

Release Number: 200822034
Release Date: 5/30/08

February 11, 2008

Legend
Org = Organization Name

XX = DATE ADDRESS = ADDRESS

UIL: 501.03-01

ORG
ADDRESS

Identification Number:
Contact Telephone Number:
In Reply Refer to: TE/GE Review Staff

**LAST DATE FOR FILING A PETITION
WITH THE TAX COURT: May 11, 20XX**

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

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 July 1, 20XX.

Our adverse determination was made for the following reasons:

Organizations described in I.R.C. section 501(c)(3) and exempt under section 501(a) must be organized and operated exclusively for an exempt purpose. Your primary activity and purpose since your inception has consisted of the operation of bingo games. In addition, your executives appropriated funds for their personal use. I.R.C. section 501(c)(3) requires organizations to operate exclusively for an exempt purpose. See Treas. Reg. section 1.501 (c)(3)-1(a). Section 501 (c)(3) precludes Federal income tax exemption if net earnings inure to the benefit of private shareholders or individuals. See Treas. Reg. section 1.501 (c) (3) - 1 (c) (2). Your organization is not a charitable organization within the meaning of Treasury Regulations section 1.501(c)(3)-1(d). You have not established that you have operated exclusively for an exempt purpose.

You failed to meet the requirements of IRC section 501(c)(3) and Treas. Reg. section 1.501 (c)(3) -1(d) in that you failed to establish that you were operated exclusively for an exempt purpose. Rather, you were operated for the benefit of private interests and a part of your net earnings inured to the benefit of specific members.

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 the year ending June 30, 20XX, and for all years thereafter. We have secured 1120 returns for 20XX06 and 20XX06.

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. You can call 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 you can contact the Taxpayer Advocate nearest you by calling: or writing to: Internal Revenue Service, Office of 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.

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 Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer		
ORG		20XX06 & 20XX06

LEGEND

ORG = Organization
CO-1 = 1st company

Organization = Organization
CO-2 = 2nd company

Owner = Owner

XX = Date

Issue:

Should the tax-exempt status of ORG (ORG) be revoked?

Facts:

ORG was granted tax exempt status as a 501(c)(3) on October 3, 19XX.

ORG is organized to lessen the financial burdens of the gymnastics teams' members' parents.

In May 20XX ORG merged with the Organization. Prior to that ORG was aligned with CO-1.

ORG is closely associated with a privately owned for-profit facility, The Organization, which is open to the public and offers various classes in gymnastics. The competitive teams that ORG sponsors compete at ten different skill levels. All teams use Organization for training.

ORG's activities consist primarily of hosting weekly bingo sessions and providing financial support to the children of the parents that volunteer to work at the bingo sessions.

The gymnastic teams that are sponsored by ORG compete in state and national competitions.

Organization maintains separate billing accounts for each gymnasts.

ORG does not provide training for members of the gymnastic teams that it sponsors. The staff of Organization, which included coaches of the sponsored teams, provided the daily training of the team members. The training is paid for by the gymnast's parents at a monthly rate. The rate was approximately \$ a month. The rate varied based on skill level. The gymnasts practiced approximately 10 – 20 hours per week.

Membership in ORG is available upon payment of a \$ annual fee. Parents of the gymnasts on the sponsored teams become members and are assessed the annual fee. The initial fees are paid to Organization.

ORG's only fund raiser is weekly bingo sessions including the sale of pull-tabs. Parents of the gymnasts work the bingo sessions. Anywhere from five to ten workers show to up work a bingo session.

For every bingo session that a parent works, a \$ credit is applied to the gymnast's account at Organization. ORG wrote monthly checks to Organization is possible.

The gymnast's account is used to pay for monthly fees, registration fees at tournaments, and withdrawals can be made to pay for hotels during the tournaments.

If a child's parent did not work at a bingo sessions, that child's account would not receive a credit. Simply stated: *If you don't help raise money at the bingo session, you won't share in the distribution of raised funds.*

ORG had a valid charitable gaming license () from 4/9/20XX through 3/9/20XX.

Explanation of Items

Name of Taxpayer

ORG

20XX06 & 20XX06

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Prior to obtaining a charitable gaming license, parent's of the gymnasts worked bingo sessions for the (): The parents that worked the bingo sessions received the same credit applied to their child's account. The amount was \$.

ORG conducted no activity after the 4/9/20XX bingo license expired. The gymnasts and their parents joined different gymnastic organizations after a series of problems with the training from the Organization staff.

ORG current has no assets and it owes CO-2 over \$. Owner has been making weekly payments of \$ from her personal account. When ORG ceased operations, the balance was approximately \$.

The Bylaws of ORG stated the following:

Article VI Finances, Section 6 (hand written) states:

"All Monies from working volunteer hours for charity be will distributed among membership per membership benefits."

Law:

IRC 501(c)(3) 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 to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), 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 (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

FINAL-REG, TAX-REGS, §1.501(c)(3)-1*(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.

(2) **Distribution of earnings.** —An organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals. For the definition of the words "private shareholder or individual", see paragraph (c) of §1.501(a)-1.

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(e) Organizations carrying on trade or business

(1) *In general.* —An organization may meet the requirements of section 501(c)(3) although it operates a trade or business as a substantial part of its activities, if the operation of such trade or business is in furtherance of the organization's exempt purpose or purposes and if the organization is not organized or operated for the primary purpose of carrying on an unrelated trade or business, as defined in section 513. In determining the existence or nonexistence of such primary purpose, all the circumstances must be considered, including the size and extent of the trade or business and the size and extent of the activities which are in furtherance of one or more exempt purposes. An organization which is organized and operated for the primary purpose of carrying on an unrelated trade or business is not exempt under section 501(c)(3) even though it has certain religious purposes, its property is held in common, and its profits do not inure to the benefit of individual members of the organization. See, however, section 501(d) and §1.501(d)-1, relating to religious and apostolic organizations.

(2) *Taxation of unrelated business income.* —For provisions relating to the taxation of unrelated business income of certain organizations described in section 501(c)(3), see sections 511 to 515, inclusive, and the regulations thereunder.

(f) *Applicability of regulations in this section.* —The regulations in this section are, except as otherwise expressly provided, applicable with respect to taxable years beginning after July 26, 1959. For the rules applicable with respect to taxable years beginning before July 27, 1959, see 26 CFR (1939) 39.101(6)-1 (Regulations 118) as made applicable to the Code by Treasury Decision 6091, approved August 16, 1954 (19 F.R. 5167; C.B. 1954-2, 47). [Reg. §1.501(c)(3)-1.]

Government's Position:

ORG's tax exempt status should be revoked.

ORG method of operation results in the inurement of its income to its parent-members. Inurement of income is strictly forbidden under IRC 501(c)(3) without regard to the amount involved. The way in which ORG was organized and operated permitted the earning of the organization to inure to the benefit of specific insiders (the parents and their children).

The tax-exempt status of ORG should be revoked effective July 1, 20XX.

Taxpayer's Position:

At a conference on January 24, 20XX, Owner (Treasurer) agreed that the tax-exempt status of ORG should be revoked. She was unaware that the \$ credit to gymnast's account was forbidden.

The tax payer agreed to the revocation by signing a Form 6018.

Conclusion:

The tax-exempt status of ORG will be revoked effective July 1, 20XX.



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
Internal Revenue Service

ORG
ADDRESS

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.

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, Exempt Organizations

Enclosures:
Publication 892
Publication 3498
Report of Examination