



## DEPARTMENT OF THE TREASURY

Internal Revenue Service  
TE/GE EO Examinations  
1100 Commerce Street  
Dallas, TX 75424

### TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

Release Number: **200844022**

Release Date: 10/31/08

UIL: 501.03-01

April 22, 2008

#### LEGEND

ORG = Organization name      XX = Date      Address = address

ORG

ADDRESS

Person to Contact:

Identification Number:

Contact Telephone Number:

In Reply Refer to: TE/GE Review Staff

EIN:

LAST DATE FOR FILING A PETITION  
WITH THE TAX COURT: July 21, 20XX

#### CERTIFIED MAIL – RETURN RECEIPT

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 November 1, 19XX. You have agreed to this adverse determination, per signed Form 6018, on September 11, 20XX.

Our adverse determination was made for the following reasons:

1. ORG is not operated for an exclusive exempt purpose, as is required by IRC section 501(c)(3) and Treas. Reg. section 1.501 (c)(3) -1(d).
2. A substantial part of the activities of ORG furthers private interests (monies returned to trustee) rather than public interests, which is prohibited by Treas. Reg. section 1.501(c)(3)-1(d)(1)(ii). The foundation failed to make financial distributions or provide any activity as a supporting organization to a specified organization.
3. The organization did not operate exclusively for exempt purposes because it was organized and operated for the benefit of private interests, rather than public interests and its net earnings and assets inured to the benefit of its creators, trustees and directors., which is prohibited by IRC section 501(c)(3).

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 1041. These returns should be filed with the appropriate Service Center for the year ending December 31, 20XX, and for all years thereafter.

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

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

**LEGEND**

ORG = Organization name      XX = Date      Donor Family = donor family  
 Donor-1 & Donor-2 = 1<sup>st</sup> & 2<sup>nd</sup> donor, BM-1, -3 = 1<sup>st</sup>, 2<sup>nd</sup> & 3<sup>rd</sup> board members  
 CO-1, CO-2, CO-3, CO-4, CO-5, CO-6, CO-7, CO-8, CO-9, CO-10, CO-11, CO-12 &  
 CO-13 = 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup>, 10<sup>th</sup>, 11<sup>th</sup>, 12<sup>th</sup> & 13<sup>th</sup> COMPANIES

**PRIMARY ISSUE:** Should the IRC § 501(c)(3) tax exempt status of the ORG be revoked because it is not operated exclusively for tax exempt purposes.

**FACTS:**

The ORG (the "Organization") was created with a Declaration of Trust on November 1, 19XX by Donor-1 and Donor-2 (Donors). Donor-1 is listed as Trustee on the document. The Trust was created for the purpose of establishing an organization which is described in IRC § 501(c)(3) and IRC § 509(a)(3). The Trust Instrument provides that the Donor renounces any power to determine or control, by alteration, amendment, revocation, termination or otherwise, the income or principal of the Trust estate. In addition, the Trust Instrument also provides that the Founder renounces any interest, either vested or contingent, including any reversionary interest or possibility of reverter, in the income or principal of the Trust estate.

In July 19XX, the ORG received notification that they were an exempt organization under 501(c)(3) of the Internal Revenue Code and that they weren't a private foundation because they met the requirements of § 509(a)(3).

The Declaration of Trust requires that each year the Trustee shall distribute 35% of the adjusted net income to CO-1, the named Primary Charity. In addition to this distribution, each year the Trustee shall distribute a total of 50% of the adjusted net income to one or more identified charitable organizations or to the Primary Charity as directed by the majority of the Board of Directors (the "Board"). Schedule A of the trust document identifies the supported charities. Schedule A has one hundred and four organizations listed, including CO-1.

Section 2.4 of the Trust says that in the event the Trustee determines, in the Trustee's sole and complete discretion that the Trust Fund is too small to economically administer, then in such event the trustee shall distribute the trust fund in its entirety outright and free of trust to such organization or organizations as described in section 170(c)(2) of the Code as the Trustee, in Trustee's total and complete discretion, shall determine.

Section 2.5 provides that at the time of dissolution the remaining assets shall be distributed to a non-profit fund, foundation or corporation which is organized and operated exclusively for charitable, educational, religious, and/or scientific purposes and which has established its exempt status under Section 501(c)(3) of the Code.

The Declaration of Trust provides that the Board shall be the governing body of the Trust and that the members of the Board shall be determined as follows:

- One Board member shall be appointed by the Primary Charity.
- One Board member shall be from the class consisting of Donor-1 and Donor-2 and each of their descendants (the Donor Family).
- The other members of the Board shall be appointed by majority vote of the remaining board members. The initial remaining board members were BM-1 and BM-2.

In their response to our questionnaire the organization has said that the Primary Charity appoints 3 members of the board, BM-1, BM-3 and BM-2. BM-1 is the Trustee of CO-1.

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A promissory note dated December 18, 19XX shows a loan of \$ with a simple interest rate of 6.25% was made to Donor-1 by the organization. The interest was to be paid annually. The note was due on December 18, 20XX. There was no requirement to make principal payments on the note.

On December 18, 20XX the first note was extended for another 5 years by a new promissory note. The interest is to be paid annually and the principal paid off on December 18, 20XX. The interest rate is 6.25%.

On December 30, 20XX Donor -1and Donor-2 donated \$ to the Organization. There is a copy of a cancelled check that shows this money was given to the Organization.

On January 6, 20XX Donor-1 borrowed \$ from the Organization. The interest rate was 6.25%, interest to be paid annually and principal pay off on December 31, 20XX.

At the end of 20XX the notes receivable, shown on the balance sheet of the Form 990, was \$.

There were three promissory notes provided by the Organization on the notes. According to the response provided by the Organization there is no collateral on the notes.

The Form 990 for the year ending December 31, 20XX indicated the Organization received \$ in interest payments. The amount due on the note, for that year, was \$0. The Form 990 for the year ending December 31, 20XX indicated Organization received \$ in interest.

The chart below was received from the Organization on November 15, 20XX. It shows what they have for the amount of interest due and paid on the notes for the years 20XX through 20XX. Instead of the large interest payment shown on the Form 990 the Organization said it received charitable donations from the Donor.

from taxpayer's  
response

year	note	interest due	interest pd	difference
20XX		\$	\$	\$ over
20XX		\$	pd from 20XX	\$ over
20XX		\$	pd from 20XX	(\$) short
20XX		\$	\$	(\$) short
20XX		\$	\$	\$ over

In their response they also said, "Both notes are interest only notes with all principal due at the end of the note. Maker of the note did not wish to pay any principal, nor did the trust request any payment of principal."

There were no payments on the principal from 20XX to 20XX.

The Application for Exemption, Form 1023, was received by the IRS on February 5, 19XX. It was signed on January 25, 19XX. The balance sheet of the Form 1023, for the end of 19XX shows there was a cash asset of \$. There was no entry for notes receivable on the balance sheet.

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The Statement of Revenue & Expenses, on the Form 1023, shows that from 1/XX to 12/XX the organization received \$.

There is no mention on the Application that there was a loan outstanding at the beginning of 19XX.

According to the Donor when the Organization gave a donation to the Primary Charity, CO-1, they could request the money be used for specific items. In their letters the Organization says that there was no actual or implied obligation given by CO-1 that the requests would be honored.

The following chart shows the amounts the Organization paid to CO-1 and the amounts CO-1 paid on behalf of the Donors.

	20XX	20XX	20XX	20XX
amount paid to CO-1	\$	\$	\$	\$
amounts paid by CO-1				
to CO-2 for tuition	\$	\$	\$	\$
To CO-3	\$	\$	\$	\$

The Forms 990 list cash and notes receivable as the assets. The income is from interest and some donations.

The Donor has stated that he gave cash to the Organization in 19XX and that he took a charitable deduction on his Form 1040. He no longer has the return or any checks or bank statements showing this. There is a cancelled check for the \$ that was donated in 20XX. The copy of the Form 1040 of the Donor shows that he took a charitable deduction of \$ on his personal return for 20XX.

In October 20XX Donor-1 paid \$ to various charities. He has provided cashier checks that show the remitter is Donor-2 and Donor-1. The chart below shows the charities that received money and the amount of money received.

check #	date	payee	amount
	10/5/20XX	CO-3	\$
	10/5/20XX	CO-4	\$
	10/5/20XX	CO-5	\$
	10/5/20XX	CO-6	\$
	10/5/20XX	CO-7	\$
	10/5/20XX	CO-8	\$
	10/4/20XX	CO-9	\$
	10/4/20XX	CO-10	\$
	10/4/20XX	CO-11	\$

The \$ that was paid to charities, in October 20XX, includes amounts to repay the \$ loan, the \$ taken out of the organization for the education expenses of the founder's children and interest on the loan and education amounts.

The organizations shown in the above chart are exempt under section 501(c)(3) of the Internal Revenue Code per IRS Publication 78.



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ORG has prepared the Forms 1041 for the years ending December 31, 20XX and 20XX. There was tax of \$ due for the year 20XX and \$ due for the year 20XX. The chart below shows the payment of those taxes.

check #	date	payee	amount
	10/18/20XX	CO-12	\$ F1041 for 20XX12
	10/15/20XX	CO-12	\$ F1041 for 20XX12

On 9/24/20XX the organization closed its bank account by sending the money to CO-13. The amount of the check was \$. CO-13 Inc is exempt under section 501(c)(3) of the Internal Revenue Code.

## LAW

Section 501(c)(3) of the Internal Revenue 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.

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

Section 1.501(c)(3)-1(c)(2) of the Income Tax Regulations provides that 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. The words "private shareholder or individual" refer to persons having a personal and private interest in the activities of the organization.

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax 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. 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.

In Better Business Bureau v. United States, 326 U.S. 279 (1945), the United States Supreme Court held that regardless of the number of truly exempt purposes, the presence of a single substantial non-exempt purpose will preclude exemption under section 501(c)(3).

In Founding Church of Scientology v. U.S., 412 F. 2d 1197 (Ct. Cl. 1969) the court stated that loans to an organization's founder or substantial contributor can constitute inurement that is prohibited under section 501(c)(3). In that case, the church made loans to its founder and his family and failed to produce documentation that demonstrated that the loans were advantageous to the church. The church also failed to produce documentation to show that the loans were repaid. Significantly, the court stated that "the very

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existence of private source of loan credit from an organization's earnings may itself amount to inurement of benefit."

In Revenue Ruling 67-5, 1967-1 C.B. 123, it was held that a foundation controlled by the creator's family was operated to enable the creator and his family to engage in financial activities which were beneficial to them, but detrimental to the foundation. It was further held that the foundation was operated for a substantial non-exempt purpose and served the private interests of the creator and his family. Therefore, the foundation was not entitled to exemption from Federal income tax under section 501(c)(3).

Greg R. Vinikoor v Commissioner, T.C. Memo, 1998-152 states the determination of whether a transfer was made with a real expectation of repayment and an intention to enforce the debt depends on all the facts and circumstances.

Patrick v. Commissioner, T.C. Memo 1998-30 also set down criteria to determine if a note existed.

Best Lock Corporation v. Commissioner, 31 T.C. 1217, 1235-37 (1959).

Haag v. Commissioner, 88 T.C. 604, 615 (1987)

Section 601.201(n)(6)(i) of the Regulations provides that an organization may be revoked retroactively if the organization omitted or misstated a material fact, operated in a manner materially different from that originally represented, or it engaged in a prohibitive transaction of the type described in Section 601.210(n)(6)(vii). The types of prohibited transactions referred to are those that divert corpus or income from the organization's exempt purpose.

#### GOVERNMENT'S POSITION:

The IRC § 501(c)(3) tax exempt status of ORG (the "Organization") should be revoked because the assets of the Organization inure to the benefit of the Founder Donor-1 and it is not operated exclusively for tax exempt purposes.

The Organization received some interest payments and contributions. A portion of this income was paid to CO-1 and a portion of that was used to pay school tuition for the Donor's children. Also, in December 20XX the Organization received a donation of \$ that amount was then transferred to Donor-1 in January 20XX. The amounts received by Donor-1 and used for his children's school tuition are inurement under Section 1.501(c)(3)-1(c)(2) of the Regulations.

An organization must be both organized and operated exclusively for one or more of the purposes specified in Section 501(c)(3) of the Internal Revenue Code. Whether an organization has satisfied the operational test is a question of fact.

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for charitable purposes. The requirement that an organization operate exclusively for charitable purposes is further amplified in section 1.501(c)(3)-1(c)(1) of the regulations. This section 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. In the fundamental case of Better Business Bureau of Washington, D.C., Inc. v. United States, supra, the Court concluded that the



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presence of a single nonexempt purpose, if substantial in nature, would preclude exemption regardless of the number or importance of statutorily exempt purposes.

The facts show that the Organization is not operated exclusively for a tax exempt charitable purpose. Rather, the Donors have operated the Organization for their own personal benefit. The Donors have also used the Organization for tax avoidance purposes. The promissory notes, the repayment practices on the loans and the requests made to the Primary Charity show the Organization was established to obtain tax benefit of a charitable deduction without relinquishing control of the assets that they claimed to have contributed to the Organization.

In December 19XX, the Donors signed a promissory note for \$. The Application for Exemption, Form 1023, shows the Organization didn't receive any donations until 19XX. The application also shows the Organization had a cash balance of \$ at the end of 19XX. The timing of the transactions and the information on the Form 1023 suggests the Organization received a promissory note instead of cash for the initial donation. This suggests that the Donor wanted a charitable deduction without actually giving anything away.

In 20XX, the Donor made a payment of \$ to the Organization. All of this was applied to interest even though only \$ was due for the interest payment. When asked why none of the interest was applied to the principal the response was, "Both notes are interest only notes with all principal due at the end of the note. Maker of the note did not wish to pay any principal, nor did the trust request any payment of principal." The Donor is operating in a manner that is beneficial to the donor and not to the organization. To be beneficial to the Organization the interest would have to be received on a regular basis so that the Organization would have the resources to carry out its exempt purpose.

The first promissory note was due on December 18, 20XX. At that time a new note was written with the same amount and terms. On December 30, 20XX the Donors gave \$ to the organization. None of this was applied to the principal balance on the first note. The \$ was claimed as a charitable deduction on the personal return of the Donor. On January 6, 20XX the Donor borrowed the \$ from the organization. The Donor hadn't given up control of the money since he wrote a check to the Organization and received the money back within a week. This is tax avoidance because the Donor was able to take a deduction on his personal return and still had use of the money.

There wasn't any collateral on the notes. There was no requirement for payment of the principal. The Organization hasn't enforced the requirement that the interest be paid on an annual basis. Also, the Organization didn't demand payment when the first note was due but allowed the Donor to give \$ and then let them borrow it right away. This shows the Organization is letting the Donor set up the terms for his own benefit and not for the benefit of the Organization.

In *Greg R. Vinikoor v. Commissioner* the court used nine factors to determine if a note existed; 1) there was a promissory note or other evidence of indebtedness. 2) Interest was charged. 3) There was security or collateral. 4) There was a fixed maturity date. 5) A demand for repayment was made. 6) An actual repayment was made. 7) The transferee had the ability to repay. 8) Any records maintained by the transferor and/or the transferee reflected the transaction as a loan; and 9) the manner in which the transaction was reported for Federal Tax purposes is consistent with the loan.

In *Patrick v. Commissioner* the following criteria was used to determine if a note existed: 1) the existence or nonexistence of a debt instrument; 2) provisions for security, interest payments, and a fixed repayment date; 3) whether the parties' records, if any, reflect the transaction as a loan; 4) the source of repayment and ability to repay; 5) the relationship of the parties; 6) whether any repayments have been made; 7)



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whether a demand for repayment has been made; and 8) failure to pay on the due date or to seek a postponement.

For a payment to constitute a loan, when the payments are received, the recipient must intend to repay the amounts and the transferor must intend to enforce payment. *Haag v. Commissioner*, 88 T.C. 604, 615 (1987), *aff'd* without published opinion, 855 F.2d 855 (8<sup>th</sup> Cir. 1988); *Beaver v. Commissioner*, 55 T.C. 85, 91 (1970).

In this case there are promissory notes between Donor-1 and the Organization. But there is no indication that Donor-1 intended to pay the note or that the Organization expected to receive payment. In December 20XX, when the first note was due, it was extended for another five years. Two weeks later Donor-1 donated another \$ to the Organization. None of this was applied to the amount owed on the first note. The \$ was loaned back to Donor-1 in a week.

When the Organization received a large interest payment, in 20XX, the excess wasn't applied to the principal. The Organization let Donor-1 use that as his interest payment for the next two years. The next payment on interest was made in 20XX. The amount paid didn't cover the past due interest and the current year's interest. The Organization has made no effort to enforce the notes and has not required payment of interest each year. This showed the Organization didn't expect the amounts to be repaid.

The loan was repaid as part of the resolution of the case in October 20XX.

The Organization, which is controlled by the Donors, is operated to enable the Donors to engage in financial activities which are beneficial to them, but detrimental to the Organization. Accordingly, it is operated for a substantial non-exempt purpose. See Revenue Ruling 67-5.

When the Organization gave money to the Primary Charity the Donors could request that the money be spent on certain items. Part of the money given to the Primary Charity by the Organization was used to pay tuition at the CO-2 for the children of the Donors and to pay part of their tithing to the CO-3. Since he was able to request that monies be used by the Primary Charity the Donor is using this for his benefit and not to benefit the actual charity.

A substantial part of the Organization's activities appear to serve private interests. It appears that the Organization is operated as part of a tax avoidance scheme. Tax avoidance schemes do not further an exempt purpose. *Freedom Church of Revelation v. United States*, 588 F. Supp 693, 696 (D.D.C.1984)

According to Regulation section 1.501(c)(3)-1(d)(1)(ii) an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. As stated in the court case *Best Lock Corporation v. Commissioner*, 31 T.C. 1217, 1235-37 (1959) loans to disqualified persons promote private rather than charitable purposes. Donor-1 is a disqualified person because he is the Trustee of the Organization.

The very presence of a private source of loan credit may amount to inurement. *Founding Church of Scientology v. United States*, 412 F.2d 1197 (Ct. Cl. 1969). Loans to disqualified persons promote private rather than charitable purposes. *Best Lock Corporation v. Commissioner*, 31 T.C. 1217, 1235-37 (1959).

At the time of filing for exempt status the Organization's only asset was a promissory note signed by the Donor, but on the application it listed it received cash and that cash was its only asset. The application stated that the principal financial support would be contributions from the Donors and made no mention of the note. The amount of the note was \$ which was a substantial amount of assets of the Organization.

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The Organization should be revoked back to inception because it misstated a material fact on its application, has not been operating in the manner it represented and it has engaged in prohibited transactions with the Donor.

Accordingly, the Organization's status as an organization described under section 501(c)(3) should be revoked, effective November 1, 19XX, because it did not operate exclusively for exempt purposes, its assets inured to the Donor, and it served the private interests of its creators.

**TAXPAYER'S POSITION**

The Organization has agreed to revocation of exempt status. On October 24, 20XX the IRS received Forms 1041 "U.S. Income Tax Return for Estates and Trusts" for the years ending December 31, 20XX, 20XX, 20XX and 20XX. Included with the returns were checks to pay the taxes owed for the years 20XX and 20XX.

The taxpayer feels that the transaction entered into in January 20XX was a legitimate loan. Please see the attached letter from the Power of Attorney explained the Taxpayer's Position in detail.

**CONCLUSION**

ORG needs to be revoked back to inception. The Organization needs to file Forms 1041 "U.S. Income Tax Return for Estates and Trusts" for all open years until the organization has terminated its existence.



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service  
30 E. 7th St., Suite 1130B  
St. Paul, MN 55101

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.

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