



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: **200844029**

Release Date: 10/31/08

Legend

ORG = Organization name

ORG

ADDRESS

July 28, 2008

UIC: 501.03-01

XX - Date Address 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: October 26, 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 January 1, 20XX. You have agreed to this adverse determination.

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 organization is not a charitable organization within the meaning of Treasury Regulations section 1.501(c)(3)-1(d).

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.

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 period 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 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 886-A (Rev. January 19XX)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number	Year/Period ended 20XX12

LEGEND

ORG = Organization name XX = Date XYZ = State Motto = motto President = president
 EMP-1, EMP-2 = 1st and 2nd employee

Issue

Is ORG (ORG) operating for charitable purposes as described in section 501(c)(3) of the Internal Revenue Code?

Facts

ORG was incorporated in XYZ on January 24, 19XX.

The organization was formed to provide high quality comprehensive motto and training, research, development and marketing of professional degree programs in Motto, Motto, Motto, Motto and Management, Motto, Motto, Motto and Other related disciplines.

Internal Revenue Service granted exemption under section 501(c)(3) of the Code in February, 20XX. The organization was also determined to be a school as described in section 509(a)(1) and 170(b)(1)(A)(ii) of the Code.

ORG has not offered any classes related to motto and training, research, development and marketing of professional degree programs from the date of incorporation to the present.

ORG offered several free charitable remainder trust seminars during the year 20XX. ORG charged from \$ to \$ in consulting fees for setting up a charitable remainder trust for the people attending these seminars.

ORG charged an annual management fee for each trust set up with ORG. The annual fee charged was 1% of the total trust assets.

Examination of ORG records revealed that ORG sources of income were from the consulting fees and trust management fees. The total consulting fees and management fees received during the year 20XX was \$

ORG failed to file the Form 990 for the year 20XX. ORG should have filed a Form 990 for the year 20XX since ORG received \$ or more during the year.

ORG had a verbal contract with an individual, EMP-1. EMP-1 helped ORG attract individuals to come to the charitable remainder trust seminars. ORG paid EMP-1 up to \$ for each trust set up with ORG. ORG paid EMP-1 \$ during the year 20XX. ORG did not file either Form W-2 or Form 1099-Misc to report the compensation paid to EMP-1. (See Exhibit 1 for REQUEST FOR IRREVOCABLE CHARITABLE REMAINDER UNITRUSTS prepared by ORG and EMP-1.)

During the examination, it was also discovered that the treasurer of ORG, EMP-2, used ORG funds totaling \$ for her personal benefit. EMP-2 withdrew cash from ATMs, issued checks to herself, and issued checks

Form 886-A (Rev. January 19XX)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
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ORG		20XX12	

to pay her personal insurance. No Form W-2 was filed by ORG to report the funds used by EMP-2 for her personal benefit.

Laws

Internal Revenue Code Section 501(c)(3) provides exemption from taxation for corporation, community chests or foundations 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, 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 shareholders or individuals.

Treasury Regulation §1.501(c)(3)-1(a)(1) states that in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Treasury Regulation §1.501(c)(3)-1(c)(1) holds 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 *Christian Stewardship Assistance, Inc. v. Commissioner*, 70 T.C. 1037 (1978), an organization was formed as a nonprofit corporation to assist charitable organizations in their fundraising activities with individual contributors. The organization engaged in a service which provided financial planning advice on charitable giving and tax planning to wealthy individuals referred to it by subscribing charitable organizations. The court held that the organization's tax planning services are a nonexempt activity that is substantial in nature and not incidental to its charitable purpose. Therefore, the organization failed to qualify for exemption under section 501(c)(3) of the Code.

Government's Position

ORG exempt status was granted based on its stated purpose of providing high quality comprehensive motto. This was to be done by offering traditional and innovative motto programs. However, ORG has not offered any classes related to the motto and training, research, development and marketing of professional degree programs from the date of incorporation to present.

ORG conducted several free charitable remainder trust seminars in 20XX. The attendees who were interested in setting up charitable remainder trusts with ORG would pay a consulting fee of \$ to \$ for setting up the trust with ORG. IRS records provided that there were more than 40 charitable remainder trusts set up under the address of ORG. During the interview, the secretary/treasurer of the organization, EMP-2 told the examiner that some of the seminars were held in EMP-1's residence.

ORG had a verbal agreement with EMP-1 to split the consulting fees. ORG received and deposited all of the consulting fees. ORG would pay EMP-1 up to \$ for each trust that was set up with ORG.

Form 886-A (Rev. January 19XX)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
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The activity of offering the seminars to the general public by ORG is similar to for-profit entities that offer free estate planning seminars, free trust set up seminars, etc. The activity of offering free seminars, is not in itself a charitable or educational activity within the meaning of Internal Revenue Code §501(c)(3).

ORG charged 1% of the total trust assets annually as a management fee for managing the trust set up with ORG. ORG received the total of \$ in management fees from three trusts. EMP-2 told the examiner during the examination that the reason why ORG only received management fees of \$ was that most of the trusts had no assets placed in the trusts or EMP-2 lost contact with the trustees of the trusts. The activity of managing trusts, is not in itself a charitable or educational activity within the meaning of Internal Revenue Code §501(c)(3).

Taxpayer's Position

President, the president of the organization, agreed to the proposal of revocation. The Form 6018 was signed by President.

Conclusion

The organization has not met the operational test of IRC §501(c)(3). The organization is not exempt from tax under IRC §501(a). Accordingly, the organization's exempt status is revoked effective January 1, 20XX.

EXHIBIT 1:

EXPLANATIONS OF ITEMS

Name of taxpayer

Tax Identification Number

Year/Period ended

ORG

20XX12

REQUEST FOR IRREVOCABLE CHARITABLE REMAINDER UNITRUST
(Please read Definitions & Points to Ponder before completing this form)

1. EFFECTIVE DATE:			
2a. DONOR Name:			
2b. SSN:	Birthdate (mm/dd/yyyy)		
2c. Address Street:			
City:	State:	Zip:	
2d. Tel. (Home):	Tel. (Work):		
Fax (Home):	Fax (Work):		
3a. PRIMARY BENEFICIARY Name:			
3b. SSN:	Birthdate (mm/dd/yyyy)		
3c. Address Street:			
City:	State:	Zip:	
3d. Tel. (Home):	Tel. (Work):		
Fax (Home):	Fax (Work):		
3e. Check here <input type="checkbox"/> if additional sheet used for more primary beneficiaries and list in same format			
4. SURVIVOR BENEFICIARIES & THEIR RELATIONSHIP TO BENEFICIARY:			
Name	Relationship (parent, child, friend)	Social Security Number	Birthdate (mm/dd/yyyy)
4a.			
4b.			
4c.			
4d. Check here <input type="checkbox"/> if additional sheet used for more survivor beneficiaries and list in same format			
5. CHURCH AND/OR 501(c)(3) CHARITABLE INSTITUTIONS			
5a. Name:			
Street:	City:	State:	Zip:
5b. Name:			
Street:	City:	State:	Zip:
5c. Name:			
Street:	City:	State:	Zip:
6. SUCCESSOR TRUSTEES (list at least 2 more):		6a.	
6b.		6c.	

7. The cost for a husband and wife pair of CRUTs and up to 10 hours of consultation is \$ _____, payable to _____. Knowing HOW to properly use the CRT System is vital, so we include consultation in the package price. We are NOT substitutes for your professional legal, tax, and investment advisors but we are happy to consult as part of your team to help you and your family create, protect and enjoy more wealth to benefit yourselves and society!

8. Please call before mailing to

Telephone: _____ Fax: _____
Email: _____



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service

TE/GE Exemption Organizations Examination

1100 Commerce Street, MC 4980 DAL

Dallas, TX 75242

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. You have indicated your agreement to the revocation by signing Form 6018, Consent to Proposed Action - Section 7428.

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,

Director, EO Examinations
Marsha A. Ramirez

Enclosures:
Publication 892
Publication 3498
Report of Examination