



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

Release Number: 200850044

Release Date: 12/12/08

LEGEND

UIL:501.03-01

ORG = Organization name XX = Date Address = address

ORG
ADDRESS

Date: September 9, 2008
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: December 8, 20XX.

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 March 1, 20XX because it is determined that you have not established that you are observing the conditions required for the continuation of an exempt status.

IRC 501(c)(3) exempts from taxation organizations which are organized and operated exclusively for 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.

IRC 6033 provides that every organization, except as provided therein, exempt from taxation under section 501(a) of the Code shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and shall keep such records, render under oath such statements, make such other returns and comply with such rules and regulations as the Secretary of the Treasury or his delegate may from time to time prescribe.

Revenue Ruling 59-95, 1959-1 CB 627 held that failure or inability to file the required information return or otherwise to comply with the provision of section 6033 of the Code

and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of an exempt status.

In accordance with IRC 6033 and Revenue Ruling 59-95, we have determined that the organization has not established that it is observing the conditions required for continuation of 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 March 1, 20XX. Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code.

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: Internal Revenue Service, telephone number.

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,

Vicki L. Hansen
Acting Director, EO Examinations

Enclosure:
Publication 892

Form 886-A (Rev. January 19XX)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
ORG	Tax Identification Number	Year/Period ended 20XX02

LEGEND

ORG = Organization name XX = Date XYZ = State CFO = CFO CO-1
 thru CO-4 = 1st, 2nd, 3rd & 4th COMPANIES

Issue:

Whether the tax-Exempt status of an organization exempt under §§501(a), as a 501(c)(3) which operates a CO-1, whose mission is to promote and guide the health, social, educational, and character of the members of the club should be revoked?

Facts:

The ORG – CO-1 was chartered under resolution 01-XX, by the ORG on 21 January 19XX. Its Charter was signed and accepted on 9 April 19XX. The organization was incorporated under the laws of XYZ as a non-profit corporation on 19 November 19XX. In its advance ruling letter dated 10 January 20XX, the organization was held to be exempt from federal income tax as an IRC §501(c)(3), with an advance ruling foundation status under IRC §509(a)(1) – 170(b)(1)(A)(vi). Indicating that contributions to the organization are tax deductible and the organization is primarily supported by contributions, gifts, and grants from the general public.

The organization’s primary purpose, as stated in its application for exemption (Form 1023) is to operate a CO-1 at the CO-2, to augment and support current after school efforts. The organization intended to organize activities under the following categories:

- Sports & Recreation: Hiking, Basketball, Volleyball, Track/Field, etc
- Camp Programs: Summer Leadership Camps, Drug Education Camps, etc
- Community/Youth Service: Youth would identify and implement activities within the six villages, such as litter control, upgrading facilities, etc.
- Mentoring /Training: Efforts based at the middle school and in the six villages
- Drop-In Center: All six villages have recreation centers and serve as “Safe Havens” and the focal points for after school events for the entire village.
- Jobs, Career & Planning: Career Fairs for the community, tribal JTPA program assists with training resume preparation, school to work projects were planned.
- Support programs for teen parents: a task force of teen parents coordinates all the activities, parent discussions in schools that discuss safe sex and abstinence, etc.
- Student support services: Teen court is being developed, in-school suspension at the CO-3.

Under the technical requirements section of its application for exemption, the organization indicated it’s directors serve as members of the governing body by reason of being a public official and or appointment by a public official. All the directors are appointed by the tribal council of the ORG, a federally recognized CO-4. In addition, the organization is responsive to the ORG Tribal Government, as such the organization will report to the tribal council, and the Department of Education will provide accounting services for the organization.

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CO-4s (CO-4) was contacted in June to advise that an examination of the organization would be conducted. Discussion between the Organization and the CO-4 representative indicated that the organization's CO-1 was no longer in existence, it ceased operations in October 20XX, and as such there is no need for an examination of the organization.

As such, a letter was sent to the organization on 26 June 20XX, indicating that in order to properly terminate the organization that documents entailing the dissolution of the organization would need to be provided. CFO, the organization's CFO contacted the examiner to discuss the dissolution of the organization; however, no additional documentation was submitted to the IRS. Through attempts to contact the organization through CO-4, and telephone, a follow-up letter was sent to the organization on 26 January 20XX. No Response was received by the required due date. As Such CO-4 was notified, and through additional interaction, telephone calls were held between the organization and the examiner. However, no additional information was provided to the examiner.

A final letter was sent to the organization on 26 April 20XX, requesting that additional information be provided to properly dissolve the organization. No additional has been received by the examiner.

The organization has failed to file information returns to the service since its inception in 20XX. In addition, the organization did not file a final return when it dissolved itself in 20XX.

Law:

IRC Sec. 501(c)(3) allows for the exemption from Federal income tax an organization that is: 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”

Treasury Regulation §1.501(c)(3)-1(a) provides, in general: 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) provides, 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.

Treasury Regulation §1.501(c)(3)-1(c)(2) provides,

Form 886-A (Rev. January 19XX)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
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That the operational test is not satisfied where any parts of the organization's earnings inure to the benefit of private shareholders or individuals, and where the organization serves a private rather than public interest.

Treasury Regulation §1.501(c)(3)-1(d)(1)(ii) provides:

That an organization is not organized or operated exclusively for one or more of the purposes specified in IRC §501(c)(3) unless it serves a public rather than a private interest.

Treasury Regulation §1.501(c)(3)-1(e) provides, 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."

IRC § 6001 provides:

that every person liable for any tax imposed by the IRC, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

IRC § 6033(a)(1) provides:

except as provided in IRC § 6033(a)(2), every organization exempt from tax under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Treas. Reg. § 1.6001-1(a) in conjunction with Treas. Reg. § 1.6001-1(c) provides:

that every organization exempt from tax under IRC § 501(a) and subject to the tax imposed by IRC § 511 on its unrelated business income must keep such permanent books or accounts or records, including inventories, as are sufficient to establish the amount of gross income, deduction, credits, or other matters required to be shown by such person in any return of such tax. Such organization shall also keep such books and records as are required to substantiate the information required by IRC § 6033.

Treas. Reg. § 1.6001-1(e) states:

that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.

Treas. Reg § 1.6033-1(h)(2) provides:

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ORG	Tax Identification Number	Year/Period ended 20XX02

that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and IRC § 6033.

Rev. Rul. 59-95, 1959-1 C.B. 627, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of IRC § 6033 and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

Governments Position:

Contact with the organization has been attempted multiple times; each attempt to contact the organization has not persuaded the organization, or its tribal government to provide the necessary documents needed in the determination of the organization's continued exempt status.

In accordance with the above cited provisions of the Code and regulations under IRC §§ 6001 and 6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax. The organization has not filed a return since its inception, and request to provide information to substantiate the organization's ongoing exempt status have largely gone ignored.

Taxpayer's Position:

The Taxpayer does not currently have a stated position.

Conclusion:

It is the IRS's position that the organization failed to meet the reporting requirements under IRC §§ 6001 and 6033 to be recognized as exempt from federal income tax under IRC § 501(c)(3). Accordingly, the organization's exempt status is revoked effective March 1, 20XX

Internal Revenue Service

Department of the Treasury
Tax Exempt & Government Entities Division
1244 Speer Blvd, Suite 442
Denver, Colorado 80204

Date: March 20, 2008

Taxpayer Identification Number:

Form:

ORG
ADDRESS

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 Ramirez
Director, E.O. Examination

Enclosures:
Publication 892
Publication 3498
Report of Examination