



DEPARTMENT OF THE TREASURY

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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: August 27, 2008

Release Number: 200850047

Release Date: 12/12/08

UIL: 501.03-01

LEGEND

ORG = Organization name XX = Date Address = address

ORG
ADDRESS

Employer Identification Number:
Person to Contact/ID Number:
Contact Numbers:
Voice:
Fax:

LAST DATE FOR FILING A PETITION
WITH THE TAX COURT: November 25, 20XX

CERTIFIED MAIL-RETURN RECEIPT

Dear

This is a final revocation letter as to your exempt status under section 501(c)(3) of the Internal Revenue Code. The Internal Revenue Service's recognition of your organization as an organization described in section 501(c)(3) is hereby revoked effective January 1, 20XX.

We have made this determination for the following reasons:

You have not demonstrated that you are operated exclusively for charitable, educational, or other exempt purposes within the meaning of I.R.C. section 501(c)(3). You failed to comply with the conditions of your exemption in that you did not fully respond to repeated reasonable requests to fully describe your activities and provide information regarding certain identified expenditures. You have not demonstrated you primarily engaged in activities furthering exempt purposes and admitted that your 20XX information return (Form 990) misrepresented the facts of your operations.

As such, you failed to meet the requirements of I.R.C. 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.

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 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 may write to the Tax Court at the following address:

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 office located nearest you by calling or by writing:

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.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Vicki L. Hansen
Acting Director, EO Examinations

LEGEND

ORG = Organization name XX = Date DIR-1, DIR-2, DIR-3 & DIR-4 = 1st, 2nd, 3rd
& 4th directors EMP-1 = 1st employee CO-1, CO-2, CO-3, CO-4 & CO-5 = 1st, 2nd,
3rd, 4th & 5th companies POA = POA City = city

Issue:

Is ORG an organization exempt from tax under section 501(c)(3) of the Internal Revenue Code?

Facts:

According to IRS records, ORG was formed in 19XX and received a favorable determination letter in January 19XX.

The organization filed Form 990 for the year 20XX, which was received by the Ogden Service center on August 23, 20XX. Page 4 of the return lists the directors of the organization as DIR-1, . DIR-2, DIR-3, and DIR-4

On December 22, 20XX, the IRS send an initial examination letter and Forms 8001, 8002 and 8005, along with Publication 1, to the organization asking for information about the year ending December 31, 20XX.

Form 8001 asked the organization to describe its activities and complete the support schedule of Part IV-A, Schedule A, of Form 990.

Form 8002 asked the organization to describe the activities which produced the income of \$ shown of line 6a of its return (Gross Rents), the income of \$ shown on line 10a of its return (Gross Sales of Inventory) and the income of \$ shown on line 11 of its return (Other income). The form also asked the organization to explain the expenditure of \$ shown on line 43d of its return (Other itemized expenses).

Form 8005 asked the organization to provide a list of properties it had sold, documents showing how the purchasers of its properties were selected, a list of individuals it had given financial assistance and how it had selected these individuals for assistance.

No response was received.

On June 21, 20XX, the IRS sent a second request for this information to the organization, stating that if there was no response, the service would consider revocation of the organization's tax exempt status.

On July 27, 20XX, the IRS received copies of 114 cancelled checks, dated from January 6, 20XX, to December 19, 20XX, from the organization. It did receive answers to any of the questions in the previous two letters.

The IRS sent a third request for information to the organization on October 4, 20XX, repeating the requests previously sent. The request also asked for information about some of the cancelled checks, and asked the organization to include documentation with its response, such as invoices or receipts. These checks the IRS asked about were:

5 checks payable to EMP-1 totaling \$
22 checks payable to DIR-3 totaling \$
5 checks payable to Cash totaling \$
1 check payable to CO-1 for \$
1 check payable to CO-2 for \$
15 checks payable to CO-3 totaling \$
1 check payable to CO-4 for \$\$
1 check payable to CO-5 for \$
1 check payable to DIR-1 for \$
2 checks payable to DIR-4 totaling \$.

On December 8, 20XX, the service received from POA, Power of Attorney, bank statements for the year 20XX, a one page document entitled "Explanations for 20XX Checks", a list of three homes sold including related settlement documents, and a document entitled "Amid Strenuous Conditions, How ORG Made Low Income Housing In City Possible". This document told the problems the organization had in purchasing, rehabilitating and selling three properties in City. The document did not include documentation, explain how the organization selected its beneficiaries, or explain how the organization received rental income or over \$ dollars in gross receipts in 20XX.

On March 15, 20XX, the IRS sent the organization a document request asking for documentation of the claims made in the document "Explanations for 20XX Checks". The IRS also asked for copies of any forms W-2 or 1099 issued for 20XX, (the IRS had no record of receiving any of these forms); repeated once again the requests made on forms 8001, 8002 and 8005 previously sent; and asked the organization to explain why its 20XX form 990 showed \$ in gross receipts, but its banks statements showed only \$ in deposits for the same period.

No reply was received to this request.

On September 11, 20XX, the IRS repeated this request for information, stating that if there was no response, the service would consider revocation of the organization's tax exempt status.

No reply was received to this request.

Law:

Section 501(c)(3) of the Internal Revenue Code provides for exemption from taxation for organizations "organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur athletic 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 shareholder or individual..."

Section 1.501(c)(3)-1(c)(1) of the Income tax regulations states 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)-1(d)(1)(ii) of the Income tax regulations states that "An organization is not organized or operated exclusively for one or more of the purposes specified ... 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 designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests."

Section 1.6033-2(i)(2) of the Income tax regulations provides that "Every organization which is exempt from tax, whether or not it is required to file an annual information return shall submit such additional information as may be required by the Internal Revenue Service for the purpose in inquiring into its exempt status and administering the provisions of subchapter F (section 501 and following), chapter 1 of subtitle A of the Code...."

Government's Position

Despite showing over _____ dollars in gross receipts on its annual return, including gross income from rents, ORG did not describe any of its activities other than the rehabilitation and sale of three homes in _____ City. Even in the case of these three houses, it did not explain how it acquired the properties, provide any documentation of its expenses of rehabilitation, or state how the purchasers of the properties were members of a charitable class. Its operations can not be distinguished from an ordinary commercial enterprise engaged in real estate development.

In addition, it was unable to provide documentation or full explanations of numerous disbursements to individuals, including large sums paid to individuals who were directors or appear to be related to directors of the organization.

Because the organization cannot show that it is engaged exclusively in exempt activities, and is unable to show that no net earnings inured to the benefit of private shareholders or individuals, it is not entitled to tax exempt status.

Taxpayer's Positions

The organization has not provided its position.

Conclusion

Effective as of January 1, 20XX the organization is no longer recognized as tax exempt. It is required to file Form 1120 for the year 20XX and subsequent years.

Internal Revenue Service

Department of the Treasury

TE/GE Division
450 Golden Gate Avenue MS SF 7-4-01
San Francisco, California 94102-3412

Date: October 25, 2007

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, please sign and return the enclosed Form 6018, Consent to Proposed Adverse Action. We will send you a final modification or 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