



**DEPARTMENT OF THE TREASURY**

INTERNAL REVENUE SERVICE

1100 Commerce  
Dallas, Texas 75242

September 23, 2008

Number: **200851029**

Release Date: 12/19/2008

EO

LEGEND

ORG = Organization name

XX = Date

UIL: 501.07-01

Address = address

ORG

ADDRESS

Person to Contact:

Identification Number:

Contact Telephone Number:

In Reply Refer to: TE/GE Review Staff

Dear :

This is a Final Adverse Determination as to your exempt status under section 501(c) (7) of the Internal Revenue Code.

Our adverse determination was made for the following reasons: Organization is not operating exclusively for pleasure, recreation, and other non-profitable purposes.

The ORG fails to meet the requirement for exemption under IRC 501(c) (7). Section 1.501(c)(7) of the Income Tax Regulations defines social clubs as clubs organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, but does not apply to any club if any part of its net earnings inures to the benefit of any private shareholder.

As a result of a recent audit of your organization's activities and Form 990 for the period ended December 31, 20XX, the operation did not respond to our request for information made under the authority of Section 1.6033-2 (i)(2) of the Income Tax Regulations. Section 1.6033-2(i)(2) of the Income Tax Regulations provides, in part, that every organization exempt from tax shall submit additional information as may be required by the Internal Revenue Service for the purpose of inquiring into its exempt status.

Based on the above, we are revoking your organization's exemption from Federal income tax under section 501(c) (7) of the Internal Revenue Code effective January 1, 20XX.

You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for all years beginning after December 31, 20XX.

You are required to file Form 1120, U.S. Corporation Income Tax Return. Form 1120 must be filed by the 15<sup>th</sup> day of the third month after the end of your annual accounting period. A penalty of \$ a day is charged when a return is filed late, unless there is reasonable cause for the delay. However, the maximum penalty charged cannot exceed \$ or 5 percent of your gross receipts for the year, whichever is less. This penalty may also be charged if a return is not complete, so please be sure your return is complete before you file it.

You 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 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.

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



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
Internal Revenue Service  
TE:GE:EO:7956  
1122 Town & Country Commons Drive  
Chesterfield, MO 63017-8293

March 25, 2008

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 an adjustment of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process*, explains 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.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action*. We will then send you a final letter modifying or revoking exempt status. If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final. In that event, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

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  
Form 6018  
Report of Examination  
Envelope

LEGEND

ORG = Organization name      XX = Date      XYZ = State      Address = address      City  
= city      Treasurer = treasurer      President = president

**ISSUE:**

Whether an organization that fails to submit sufficient information and/or records in order to conduct an examination should have its exempt status revoked.

**FACTS:**

The ORG, Inc. (hereinafter referred to as the "organization") was incorporated in the state of XYZ on February 28, 19XX for the purpose of providing and operating swimming facilities for its members.

On May 1, 19XX, the organization was issued Form L-179 (Rev. 6-64) granting it exempt status under section 501(c)(7) of the Internal Revenue Code.

On September 26, 2007 an attempt to contact the organization using the telephone number on the 20XX Form 990 was unsuccessful. The telephone number is disconnected. The return is signed by Treasurer. Additionally, line 42a of Part V of Form 990-EZ provides the books and records are in the care of Treasurer. Accordingly, an attempt was made to contact Treasurer using the telephone number provided for her on the return. A voice message was left requesting Treasurer make contact with the examining officer.

Having received no response to the September 26, 2007 telephone call, Letter 3606 was mailed to the organization on October 1, 2007 informing the organization that its December 31, 2007 ("exam period") Form 990 is being examined. The letter served as a cover to Form 4564 "Information Document Request" which includes a detailed itemization of the records and information needed to complete the examination ("IDR"). The letter, IDR and Publication 1 "Your Rights as a Taxpayer" (Exhibit A) was mailed to Address, City, XYZ. The organization was asked to provide the requested records and information by November 2, 2007.

On October 19, 2007, telephone contact was made with Treasurer, during which she confirmed she is the organization's Treasurer and return preparer. Treasurer advised that she maintains a day-to-day record of the organization's fiscal activities. She confirmed that the organization's administrative and fiscal records for the exam period are in her possession, however they are in disarray due to a personal loss she suffered in 2007, the death of her son. According to Treasurer, her loss contributed to the inaccurate entries on the return. Pursuant to her request, a copy of Letter 3606, the IDR, and Publication 1 (Exhibit B) were mailed to the organization in care of Treasurer at Address, City, XYZ via certified mail. The response date was extended to November 19, 2007. The certified mail return receipt received on November 5, 2007 confirms Treasurer signed for the certified mail on November 1, 2007 (Exhibit B-1).

When no information had been received by February 26, 2008, a second copy of Letter 3606, the IDR, and Publication 1 was mailed to the organization's record address via certified mail (Exhibit C), and Treasurer's address (Exhibit D). The organization's address per the web page, located at is Address, City, XYZ. Additionally, the web site provided President is President of the organization. The 20XX State of XYZ Corporation Annual Registration for the organization lists President as CEO. The address provided for him and the organization on the annual registration is Address, City, XYZ. Accordingly, copies of the initial contact letter, IDR, and Publication 1 were also mailed to the Address and Address Addresses as shown in Exhibits E and F. All of the February 26 letters were sent via certified mail. The organization was given a response date of March 18, 2008, and was advised that if there was no response by the date provided, we will

have no alternative than to propose revocation of the organization's exempt status.

A certified mail receipt was received on March 6, 2008 confirming Treasurer signed for the letter sent to the address on March 1, 2008 (Exhibit D-1). The letter mailed to the address was returned on March 11, 2008 due to insufficient address (Exhibit E-1). The letters addressed to the organization's record address, was returned "unclaimed" on April 7, 2008 (Exhibit C-1). A certified mail receipt confirms President signed for the letter mailed to the Address on March 27, 2008 (Exhibit F-1).

**LAW:**

Section 501(c)(7) of the Internal Revenue Code defines, as an organization exempt from taxation under section 501(a), clubs organized for pleasure, recreation, and other non-profitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private share-holder.

Section 6001 of the Internal Revenue Code provides that every person liable for any tax imposed by the Internal Revenue Code, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

Section 6033(a)(1) of the Internal Revenue Code provides in part, every organization exempt from taxation 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 purpose of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and shall 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.

Section 1.501(c)(7)-1 of the Regulations prescribes the requirements for exemption for social clubs:

- (a) The exemption provided by section 501(a) for organizations described in section 501(c)(7) applies only to clubs which are organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, but does not apply to any club if any part of its net earnings inures to the benefit of any private shareholder. In general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues, and assessments. However, a club otherwise entitled to exemption will not be disqualified because it raises revenue from members through the use of club facilities or in connection with club activities.
- (b) A club which engages in business, such as making its social recreational facilities available to the general public or by selling real estate, timber, or other products, is not organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, and is not exempt under section 501(a).

Section 1.6001-1(a) in conjunction with 1.6001-1(c) of the Regulations provides every organization exempt from tax under section 501(a) shall keep such permanent books of account or records including inventories, as are sufficient to show specifically the items of gross income, receipts and disbursements. Such organizations shall also keep such books and records as are required to substantiate the information required by section 6033.

Section 1.6001-1(e) of the Regulations provides the books and records referenced in paragraph (c) shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be

retained so long as the contents thereof may become material in the administration of any internal revenue law.

Section 1.6033-1(h)(2) requires every organization exempt from tax, whether or not it is required to file an annual return of information, to submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring further into its exempt status and administering the provision of subchapter F (section 501 and following), chapter 1 of the Code, and of section 6033.

Section 1.6033-2(i)(2) requires every organization exempt from tax, whether or not it is required to file an annual return of information, to submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring further into its exempt status and administering the provision of subchapter F (section 501 and following), chapter 1 of subtitle A of the Code, section 6033, and chapter 42 of subtitle D of the Code.

Revenue Ruling 59-95, 1959-1 C.B. 637 informs that an exempt organization's failure or inability to file the required information return or otherwise comply with the provision of section 6033 of the Internal Revenue Code and the regulations which implement it, may result in the termination of the exempt status of the organization on the grounds that the organization has not established that it is observing the conditions required for the continuation of an exempt status.

**Government's Position:**

Internal Revenue Code Sections 6001 and 6033 and their corresponding Regulations require any organization exempt from tax to file an annual return, keep adequate, permanent books of account or records as are sufficient to show specifically items of gross income, receipts and disbursements, and to submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring further into its exempt status and administering the provisions of section 501 of the Internal Revenue Code. The exempt status of an organization that fails or is unable to file the required information return or otherwise comply with such provisions may be terminated on the grounds that the organization has not established that it is observing the conditions required for 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 support the information provided on the information returns and that such entity is operated for the purposes for which it was granted tax exempt status.

Section 1.6033-1(h)(2) of the Regulations provides, in part, that every organization which is exempt from tax shall submit additional information as may be required by the Internal Revenue Service for the purpose of inquiring into its exempt status.

On numerous occasions, we requested information regarding substantiation of your Form 990 for the year ended December 31, 20XX. Despite repeated requests, we have not received the requested information necessary to support any claim that your organization continues to satisfy the legal requirements of an organization exempt under section 501(a), and described at section 501(c)(7).

**Conclusion:**

Since you have not provided the requested information, we hereby revoke your organization's exemption from Federal income tax under section 501(c)(7) of the Internal Revenue Code effective January 1, 20XX.



As a taxable entity, you will be required to file the appropriate federal income tax return. Form 1120 returns should be filed for the tax periods ending on or after December 31, 20XX, December 31, 20XX, and December 31, 20XX by mailing the completed returns to:

Subsequent year returns should be mail in accordance with the tax return's instructions.

We previously sent this proposal on March 25, 2008 to the organization's address officially on record with the IRS; however we have no confirmation as to whether it was picked up from the post office. We are resending this as a courtesy. If you desire to maintain your tax exempt status, please contact us immediately to make arrangements to review the requested information or to schedule an examination closing conference. Otherwise a final revocation letter will be issued.