



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

EO

Number: **200851034**
Release Date: 12/19/2008

LEGEND

Date: September 12, 2008

UIL:501.03-01

ORG = Organization name XX = Date Address = address

ORG
ADDRESS

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 11, 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 January 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 January 1, 20XX. 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 all years beginning January 1, 20XX.

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 toll-free and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate.

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



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service
1100 Commerce Street
Dallas, Texas 75242

May 21, 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 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.

Letter 3618 (04-2002)
Catalog Number 34809F

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

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	EIN:
Name of Taxpayer ORG		Year/Period Ended December 31, 20XX

LEGEND

ORG = Organization name XX = Date EMP-1 - 1st employee

ISSUE:

Whether ORG, exemption under Section 501(c)(3) of the Internal Revenue Code should be revoked due to their failure to establish the right to maintain such exemption?

FACTS:

ORG, was granted tax-exemption status under Section 501(c)(3) of the Internal Revenue Code, as of February 19XX. During the course of the examination numerous attempts were made to contact the organization by telephone and mail. The purpose of the examination was to determine the organization's filing status and whether the operational activities of the organization were in accordance with the guidelines governing organizations exempted under Section 501(c)(3) of the Internal Revenue Code.

A Chronology Sequence of Events are Listed as Follows:

- A review of ORG, filing requirements discloses that the organization failed to file Form 990 for tax year ending December 31, 20XX. The Service Center secured Form 990 for December 31, 20XX and referred the case for a field examination.
- Agent called the organization on January 9, 20XX and left a message requesting the organization contact the Service for an appointment.
- Agent called the organization on January 10, 20XX and left a message. January 10, 20XX, Agent mailed the Appointment Letter 3611, IDR, and Publication 1 to the address noted on record for ORG, requesting an examination date.
- Agent called the organization on May 1, 20XX with no answer. May 1, 20XX, Agent mailed a certified letter to the organization requesting them to contact the Internal Revenue Service upon receiving the letter to initiate the examination.
- Agent received return receipt on May 14, 20XX from organization with a signature of EMP-1, dated May 7, 20XX.

LAW:

Section 501(c)(3) of the Internal Revenue Code, describes corporations, and any community chest, fund, or foundation, 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, no part of the net

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	EIN:
Name of Taxpayer ORG		Year/Period Ended December 31, 20XX

earnings of which inures 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 (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

Section 6001 of the Internal Revenue Code provides that every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title.

Section 1.501(c)(3)-1(a) of the Federal Tax Regulations describes organizations organized and operated for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals.

Federal Tax Regulation §1.501(c)(3)-1(a)(1) details 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.

Federal Tax Regulation §1.501(c)(3)-1(a)(2) define the term "exempt purpose or purposes", as used in this section, means any purpose or purposes specified in section 501(c)(3), as defined and elaborated in paragraph (d) of this section.

The organizational test is detailed in §1.501(c)(3)-1(b)(1)(i). An organization is organized exclusively for one or more exempt purposes only if its articles of organization (referred to in this section as its "articles") as defined in subparagraph (2) of this paragraph:

- (a) Limit purposes of such organization to one or more exempt purposes; and
- (b) Do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Federal Tax Regulation §1.501(c)(3)-1(a)(1) states "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. (2) The term 'exempt purpose or

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	EIN:
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purposes', as used in this section means any purposes specified in section 501(c)(3), as defined and elaborated in paragraph (d) of this section."

Federal Tax Regulation §1.6001-1(c) states that in addition to such permanent books and records as are required by paragraph (a) of this section with respect to the tax imposed by section 511 on unrelated business income of certain exempt organizations, 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.

Federal Tax Regulations §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.

Federal Tax regulations section §1.6033-2(i)(2) states 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 of inquiring into its exempt status and administering the provisions 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.

Federal Tax Regulations section 1.6033-1(h)(2) provides 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 Internal Revenue Code and section 6033.

Revenue Ruling 59-95, 1959-1 C.B. 627, describes an organization previously recognized as exempt. When requested shall provide a financial statement of its operations, the organization was unable to do so due to its incomplete records. The Service concluded that failure or inability to file the required information return or otherwise to comply with Section 6033 of the Code and its implementing regulations may result in termination of its exempt status, on the grounds that the organization has not established that it is observing the conditions required for the continuation of its 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

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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.

ARGUMENT:

The organization has been contacted by regular mail, by registered mail and by telephone on numerous occasions requesting the filing of overdue returns and most recently to provide its books and records for examination to verify its continuing qualification for exemption. The organization is unresponsive to scheduling appointment or providing the requested information authorized under IRC 6033.

GOVERNMENT POSITION:

Since the organization has failed to furnish the information necessary to conduct an examination of its financial and operational activities which in turn is used to determine continuing qualification for tax exempt status, ORG no longer qualifies for tax exempt status, effective January 1, 20XX. This is the first day of the tax period in which the organization fails to qualify for exemption under IRC 501(c)(3). Also, as of January 1, 20XX, contributions are no longer deductible as charitable contributions. In addition, ORG will be required to file U.S. Corporation Income Tax Return Form 1120, for all periods subsequent to December 31, 20XX.

CONCLUSION:

Since the organization did not comply with the Internal Revenue Service's request for an examination, we can not determine whether their activities are consistent with their exempt status under Section 501(c)(3) of the Internal Revenue Code. It is the IRS's position that the organization failed to meet the operational test for an organization exempt under Section 501(c)(3) of the Internal Revenue Code. Since the organization does not meet the requirements of Treasury Regulation 1.501(c)(3)-1, it is our position that their tax exempt status be revoked. As an examination of the Form 990 for the period ending December 31, 20XX was not completed accordingly, the organization's exempt status is revoked effective January 1, 20XX.