



DEPARTMENT OF THE TREASURY

Internal Revenue Service
TE/GE EO Examinations
1100 Commerce Street
Dallas, TX 75424

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Number: **200909070**
Release Date: 2/27/2009

October 31, 2008

UIL: 501.03-01

ORG
ADDRESS

Person to Contact:
Identification Number:
Contact Telephone Number:
In Reply Refer to: TE/GE Review Staff
EIN:

CERTIFIED MAIL – RETURNED RECEIPTS

LAST DATE FOR FILING A PETITION
WITH THE TAX COURT: January 29, 20XX

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.

Our adverse determination was made for the following reasons:

Organizations exempt from Federal income tax under section 501(c)(3) of the Code are required to operate exclusively for charitable, educational, or other exempt purposes. Organizations are not operated exclusively for exempt purposes if the net earnings of the organization inure in whole or in part to the benefit of private shareholders or individuals of the organization. See Treas. Reg. § 1.501(c)(3)-1(c)(2). During 20XX, and 20XX we have determined your net earnings inured to the benefit of your founders and principal officers by regularly paying their personal automobile and living expenses without contemporaneously recording the expenditures as salary or compensation. The funds inuring to your founders and principal officers were substantial in comparison to your total expenditures and were multiple or repeated over a pattern of years. You have not implemented safeguards to prevent a recurrence of funds inuring to the officers. As such, you have not operated exclusively for exempt purposes and have operated for the benefit of the private interests of your principal officers in contravention of the requirements of Treas. Reg. § 1.501(c)(3)-1(d)(1)(ii).

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 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 1-877-777-4778 and ask for Taxpayer Advocate assistance. Or you can contact the 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,

Vicki L. Hansen
Acting, Director EO examinations

Internal Revenue Service

Department of the Treasury
TE/GE Exempt Organizations Examinations
1220 SW Third Avenue M/S O540
Portland, Oregon 97204

Date: January 23, 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.

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	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12, 20XX12

LEGEND

ORG = Organization name XX = Date Address = address City = city
 XYZ = State President = president Vice-President = vice president
 VOL-1 = 1st volunteer CO-11 service = 11th company service CO-1, CO-2,
 CO-3, CO-4, CO-5, CO-6, CO-7, CO-8, CO-9, CO-10, CO-11, CO-12, CO-13, CO-14,
 CO-15, CO-16 & CO-17 = 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th,
 13th, 14th, 15th, 16th & 17th COMPANIES

Issue

Should ORG's 501(c)(3) status be revoked on the grounds that its net earnings inured to the benefit of its President and Vice-President?

Facts

ORG ("ORG") was incorporated in the State of XYZ on December 15, 19XX. In April of 20XX, the IRS issued a letter advising ORG that it would be exempt under §501(c)(3) of the Internal Revenue Code, and would be treated as a public charity during the advance ruling period. On March 30, 20XX, the IRS issued a determination letter to ORG, confirming that it was exempt as a 501(c)(3) public charity. ORG's purpose, as stated in its Constitution, is:

- “(A) To provide housing, rehabilitation of medical treatment and behavior issues of abandoned, abused and neglected dogs.
- (B) To do all in the organization's power to protect the interest of dogs from abuse, abandonment and neglect.
- (C) To provide overflow housing and medical care and rehabilitation of behavior issues to shelters and other dog rescue groups.
- (D) To educate the public regarding the abuse and neglect of purebred and mix breed dogs.
- (E) To provide counseling and obedience training on a donation basis to frustrated owners to keep the dog in the home and out of a shelter.
- (F) To better society by aiding in stopping the over population of dogs.”

ORG's President, and its Vice-President, President's daughter. The two have served in these capacities since ORG's inception. ORG had operated out of President's residence in City, XYZ until early 20XX when, due to City land-use laws, it was forced to relocate. ORG now operates, in terms of holding dogs until new owners are found, out of Vice-President's residence at Address, City, XYZ. ORG takes dogs from shelters that would otherwise be euthanized. It then arranges for any necessary veterinary care, and ultimately tries to find someone to adopt the dog; generally at the local CO-1.

Investigation by XYZ Department of Justice

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
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ORG was referred to the IRS by the XYZ Department of Justice ("D.O.J.") in October of 20XX, following the D.O.J.'s investigation of ORG. This investigation was precipitated by allegations by Vice-President's neighbor that ORG was violating certain City land-use laws, and operating a kennel without a permit.

D.O.J., in an October 17, 20XX Case Status Report, which was shared with IRS, made the following assertions:

- Vice-President is living on the property where the dogs are housed.
- Vice-President's personal expenses are commingled with the expenses of the organization.
- Vice-President has no other income.
- Vice-President does not file a personal income tax return.
- All assets paid for with ORG's program service revenue, including the house, property, and vehicles, are in the name of either Vice-President or President.
- On August 2, 20XX, in response to the D.O.J.'s opening audit letter, Vice-President produced a box of documents, and indicated that the box contained all of the documents that she had in her possession.
- During the D.O.J.'s August 2, 20XX interview with the President & Vice-President, they explained that they were telling people that the adoption fees were 100% tax-deductible, and did so because they had been so instructed by an attorney whose name they could not recall.
- Vice-President stated during the August 2, 20XX interview that all adoption fees were paid to ORG and deposited into the organization's checking account, and that all organization expenses were paid from that account.
- Vice-President stated during the August 2, 20XX interview that, while it "may be true" that ORG was paying her living expenses, she "had almost no personal expenses", and that President bought all her food and clothing.
- During the August 2, 20XX interview, Vice-President admitted that there was no accounting for how any of ORG's money was spent.
- On September 21, 20XX, in response to the D.O.J.'s second request for information, Vice-President stated that no personal expenses for either herself or her mother are paid for with ORG funds, and that the only personal assets paid for by ORG are: the vehicles, the property in City, a riding lawnmower, and large stainless steel dog washing tubs.

D.O.J., in an October 19, 20XX letter to the IRS, made the following assertions:

- Vice-President had been commingling her personal expenses with the expenses of the organization
- Vice-President's house and vehicle and President's vehicle were purchased with organization funds

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12, 20XX12

- There had been no recordkeeping
- There was no Board of Directors
- The President & Vice-President had been telling the public that 100% of ORG's dog adoption fee was tax-deductible

Forms 990

The Forms 990-EZ filed by ORG for the years ended December 31, 20XX and December 31, 20XX were prepared by hand and signed by Vice-President. They were not mathematically correct, and were incomplete as filed (e.g. fund balances do not carry over from one year to the next, no public support information is provided in Parts IV and IV-A of Schedule A). On line 42a of both the 20XX and 20XX Forms 990-EZ, the books and records are listed as being in the care of Vice-President. The returns reported as follows:

	<u>20XX</u>	<u>20XX</u>
Contributions, gifts, grants, and similar amounts:		
Total revenue:		
Occupancy, rent, utilities, and maintenance:		
Printing, publications, postage, and shipping:		
Other expenses:		
Total expenses:	_____	_____
Excess or (deficit) for the year):	=====	=====
Net assets or fund balances at beginning of year:		
Net assets or fund balances at end of year:	=====	=====

Bank Statement Analysis

ORG's bank statements for the years ended December 31, 20XX and December 31, 20XX reflect that the following yearly totals of deposits and disbursements were made:

	<u>20XX</u>	<u>20XX</u>
Deposits:		
Disbursements:		

The amounts from 20XX partially reflect a \$ loan that VOL-1, an ORG volunteer, is said to have made to ORG. The deposits for 20XX include a \$ deposit made May 25, 20XX. The disbursements for this year include a \$ "Customer Withdrawal" on May 26, 20XX, as well as a check for \$ made out to Vice-President and signed by Vice-President, which cleared ORG's bank account in June of 20XX. The memo on this check reads "Transfer from Accts". These three events coincided with Vice-President's purchase of her house in City, XYZ. The sales deed for this purchase was recorded in City on May 27, 20XX.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12, 20XX12

Loan from VOL-1

The President & Vice-President have stated that the \$ loan from VOL-1 was meant to be ORG's loan. They have not produced, nor has the Revenue Agent observed any loan document to confirm the substance of this transaction. The President & Vice-President stated during an August 2, 20XX interview with the D.O.J. that VOL-1 loaned the money so that Vice-President could purchase the property in City, XYZ. Regarding the property's being in Vice-President's name, the President & Vice-President cited ORG's inability to get a mortgage. They stated that the mortgage was \$. They further stated during the interview with the D.O.J. that not all of the \$ went toward purchasing the house, but that some was used to make repairs to the house and to build fences and kennels on the property. Beginning in November of 20XX, ORG began making payments of roughly \$ per month to VOL-1.

Nature of ORG's Income

ORG did not maintain a general ledger or any other kind of accounting system for the years under examination. According to a Web page that was active as of August 9, 20XX under the name CO-2¹, ORG's only source of income is from "adoption fees" charged for placing dogs with new owners. This same Web page states that the adoption fees range from \$ to \$ per dog. The President & Vice-President stated during their August 2, 20XX interview with the D.O.J. that fees ranged from \$ to \$ per dog. The Forms 990-EZ for 20XX and 20XX do not provide information about the numbers of dogs adopted. ORG's 20XX Form 990-EZ states under Part III, Statement of Program Service Accomplishments, "2,756 adoptions". In a letter from President received by the Revenue Agent August 27, 20XX, she stated that ORG adopted out 252 dogs in 20XX and 204 dogs in 20XX.

Expenditures made by ORG

The Revenue Agent reviewed the bank statements and cancelled checks for 20XX and 20XX, and found that, in addition to expenditures that are germane to a dog rescue organization (e.g. pet stores, veterinary clinics), payments were made to CO-3, CO-4, CO-5, and to various utilities, restaurants, grocery stores, and movie rental and entertainment retailers. These types of expenditures have been summarized and totaled below, along with the \$ disbursement made the day before the purchase of Vice-President's City property, the \$ paid to Vice-President shortly thereafter, and the yearly amounts paid to gas stations and for car maintenance and car washes. The complete details of expenditures for both years are attached at Exhibits "A" and "B".

* * * *

¹ During a June 19, 20XX interview, the Revenue Agent asked the President & Vice-President if ORG had changed its name. The President & Vice-President did not give a definitive answer. The Web posting referenced above contained President's phone number for contact information and an email address of.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12, 20XX12

	<u>20XX</u>	<u>20XX</u>
Mortgage Payments (including \$ disbursement)		
Check to Vice-President cleared June 20XX		
Car Payments:		
Electricity / Heat:		
Restaurants:		
Grocery Stores:		
Television / Entertainment:		
Gas Stations:		
Maintenance / Car Washes:		

Interview with the President & Vice-President

The Revenue Agent conducted an interview with President and Vice-President on June 19, 20XX at the IRS office in Portland, XYZ. Noteworthy answers given and statements made during this interview included the following:

- ORG does not rent or lease any land or building from anyone.
- No one rents or leases any land or building from ORG.
- Vice-President resides at Address, City, XYZ.
- There has been no formal arrangement whereby ORG agreed to pay a certain amount on the mortgage on Vice-President's City property. That is, the monthly mortgage payments are simply the amounts shown due on the statements.
- When the Revenue Agent asked about the \$ loan from VOL-1, the President & Vice-President stated that he was a friend, that it was meant to be ORG's loan (as opposed to being either of the President & Vice-President'), and that there was no promissory note or other loan document.
- ORG does not own any vehicles.
- President's 19XX Ford Explorer and Vice-President's 20XX Chevrolet Suburban are used in ORG's activities (e.g. transporting dogs, getting supplies).
- President and Vice-President both have their own bank accounts in their own names, and did during 20XX and 20XX as well.
- No governing body of ORG ever documented an intent to compensate either President or Vice-President.
- When the Revenue Agent presented the President & Vice-President with the names of the payees noted in ORG's bank statements and asked them to indicate which were personal expenditures and which were for ORG, they made the representation that all of the expenditures were for ORG, with the exception of what amounts to about \$ in minor purchases over the two years.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12, 20XX12

- When the Agent inquired about the expenditures at restaurants, which amounted to over \$ over the two years, the President & Vice-President stated that they were all made to treat ORG's volunteers.

During the interview, the Revenue Agent handed to the President & Vice-President copies of all of ORG's documents (bank statements, credit card statements, mortgage and car loan statements, etc.) that D.O.J. had provided to the IRS. The Revenue Agent then explained the significance of the Administrative Record in the context of Declaratory Judgment cases.

Deductibility of Adoption Fees

Among the documentation that the D.O.J. provided to the IRS were copies of ORG's adoption contract and its "Donation Receipt". This particular adoption contract is dated December of 20XX, but has a date of August of 20XX in the footer (i.e. this version of the contract was used in 20XX, but appears to have been created in 20XX). Under the "conditions" section of the contract is condition #1, which reads:

"There is an adoption fee. It is not refundable. The fee is put in a general fund that goes toward all the needs of all the rescue dogs. The fee is tax deductible."

The Donation Receipt, which the Revenue Agent confirmed with the President & Vice-President was the document given to individuals who adopted dogs from ORG during the years under examination, reads, in part:

"This is your receipt for tax purposes."

ORG's Records

In referring ORG to the IRS, the D.O.J. advised that it was turning over all of the records that it had in its possession. As noted above, according to D.O.J., these included all records that Vice-President said she had in her possession. Included in these records were some billing statements for the following 9 payees: CO-3, CO-6, CO-7, CO-8, CO-9, CO-4, CO-10, CO-11, and CO-12.

The CO-3 billings were for Vice-President's City property. The President & Vice-President indicated during the June 19, 20XX interview that the balances reflected on the CO-8 and CO-9 billings originated with the purchase of fencing materials for the kennel area at Vice-President's City property. They indicated that the balances reflected on the CO-3 statements originated with the purchase of a riding lawn mower, and that the balances reflected on the CO-7 statements originated with the purchase of a washer and dryer. The CO-4 statements were billings for Vice-President's 20XX Chevrolet Suburban. The CO-10 statements reflected a variety of transactions ranging from CO-13, CO-14, and CO-1, to CO-15 CO-16, and CO-17. The CO-11 billings were

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12, 20XX12

billed to Vice-President at her City address and were for \$ per month for "CO-11 service" service. The one CO-4 statement provided to the Revenue Agent, dated March 25, 20XX, was billed to ORG at the City address and reflected 4 phone numbers on the account; 3 in President's name and 1 in Vice-President's name. None of these phone numbers match the one noted on the Forms 990-EZ. One of President's phone numbers, is listed on the Web page under the name CO-2.

The Revenue Agent issued to ORG Information Document Requests ("IDRs") #2 and #3 on June 19, 20XX and June 20, 20XX, respectively. IDR #2, which the Revenue Agent handed to President at the conclusion of the interview, requested documents that had already been requested in IDR #1, but which were not provided at the June 19, 20XX office audit, as well as information on numbers of dogs adopted in 20XX and 20XX. IDR #3 was the Revenue Agent's transcript of the June 19, 20XX interview and a request that ORG (i.e. President or Vice-President) sign and return the transcript to indicate that it was accurate, or that it be corrected as necessary and signed and returned. The Revenue Agent did not receive any response to these requests, nor any returned phone calls to the 3 messages left for the President & Vice-President, until August 27, 20XX.

On August 27, 20XX, the Revenue Agent received from President a letter indicating the number of dogs adopted in 20XX and 20XX, and enclosed CO-10 credit card statements for 3 of the 16 months that the Revenue Agent had requested in IDR #2. The Revenue Agent called President and pointed out that most of what was requested was still missing, and that the Revenue Agent had not received a response to IDR #3. Vice-President indicated that she would get the requested materials to the Revenue Agent promptly.

On October 5, 20XX, the Revenue Agent issued IDR #4² under a 21-day cover letter (requesting a response within 21 days). IDR #4 requested information concerning how much the President & Vice-President's vehicles were used for personal purposes, as opposed to ORG's purposes. It also requested detailed information concerning how the proceeds from the \$ VOL-1 loan were used (i.e. what the actual down payment was on Vice-President's house and how the balance of the money was spent). As of January 23, 20XX, no response had been received with respect to either IDR #4 or IDR #3, or to the information still missing from IDR #2.

Law

§6033(a)(1) of the Internal Revenue Code provides that, except as provided in paragraph (3) of that section, 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

* * * *

² IDR #4 was inadvertently numbered as #5 as sent to ORG. It was, however, the 4th IDR.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12, 20XX12

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.

§501(c)(3) of the Internal Revenue Code provides for exemption from Income Tax for 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 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.

§1.501(c)(3)-1(a)(1) of the Treasury Regulations provides 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.

§1.501(c)(3)-1(c)(2) of the Treasury Regulations provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Government's Position

ORG's net earnings have inured to the benefit of President and Vice-President, in that their personal expenses have been paid out of ORG's bank account.

Vice-President owns the property at Address, City, XYZ. The mortgage on this property has been paid with ORG's funds. Although a certain amount of activity in furtherance of ORG's exempt purpose is ostensibly conducted there, Vice-President has benefited substantially from these mortgage payments by virtue of her residence at this property. She also benefits by virtue of her ownership of this property and her ability to sell it if she chooses to, and to receive the proceeds from the sale.

The down payment on Vice-President's property represents inurement. The President & Vice-President stated that the \$ VOL-1 loan was made to ORG so that Vice-President could purchase the City property. The Revenue Agent requested information on the amount of the down payment, as well as how the \$ paid to Vice-President in June of 20XX was used, and what happened to the balance of the loan. No response to this request has been received. In the

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12, 20XX12

absence of any information to the contrary, the \$ "Customer Withdrawal" from ORG's bank account made May 26, 20XX will be presumed to have been the down payment on Vice-President's City property, the sales deed for which was recorded in City the next day. Similarly, until documentation is produced establishing ORG's use of the \$ or any portion thereof, this amount will be presumed to have inured to Vice-President's benefit.

Information concerning the use of the President & Vice-President's vehicles has been requested, but no response has been received. In any case, irrespective of whether and how much President and Vice-President's vehicles are used for ORG's activities, they each benefit from having full use of these vehicles. As with the City property, either of these vehicles could be sold, and the proceeds would go to President or Vice-President. ORG's payments on these car loans therefore constitute substantial inurement to the benefit of President and Vice-President, as do the payments for gas, maintenance, and car washes. Unless and until records are produced substantiating a particular percentage of miles put on these vehicles for ORG's activities (as opposed to the President & Vice-President's personal use), or reasoned percentages are otherwise proposed, the car payments, and payments for gas, maintenance, and car washes will be deemed inurement in their entirety.

The payments of utilities at Vice-President's residence represent inurement inasmuch as every household needs electricity and heat. Since there was no accounting system maintained whereby an allocation of utilities benefiting ORG could have been made, all of these amounts are deemed to have benefited Vice-President. The payments for such things as satellite television and movie rentals, bearing no relationship to a dog rescue and placement operation, also constitute inurement.

ORG is required under §6033(a)(1) of the Internal Revenue Code to keep records and to file complete and accurate returns. It has failed to comply with this statute. The Forms 990-EZ were inaccurate and incomplete as received by the IRS. ORG took out a \$ loan for the down payment on, and to make improvements to the City property, yet no promissory note or loan document has been produced. The D.O.J. turned over to the IRS all of the records that it was able to obtain from Vice-President, in whose care they were supposed to be. Of the over 200 payees to whom ORG funds were paid during the years under examination, Vice-President produced for the D.O.J. documentation to substantiate expenditures to only 9 of them. The Revenue Agent asked ORG to produce a limited number of documents, in light of the amount of information already compiled by D.O.J. In spite of this, ORG produced very little of the requested documentation.

Beyond the prima facie instances of inurement cited above (mortgage and car payments, utilities, and entertainment), a determination has to be made with respect to other economic events whose substance is less certain. These would include the ATM withdrawals, checks written to "cash", and the many expenditures at the restaurants and grocery stores detailed in Exhibits "A" and "B". Given the lack of responsiveness from ORG's officers in the course of this examination, attempting to establish whether and how much of these expenditures inured to

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12, 20XX12

the President & Vice-President' benefit would not be an effective use of government resources. Rather, the inurement represented by the down payment, mortgage payments, car payments and expenses, utilities, and entertainment expenditures are substantial enough on their own to make a determination with respect to ORG's tax-exempt status. The yearly totals of these expenditures, which inured to the benefit of one or both of ORG's officers were as follows:

	<u>20XX</u>	<u>20XX</u>
Mortgage Payments and \$ down payment		
Check to Vice-President cleared June 20XX		
Car Payments:		
Electricity / Heat:		
Television / Entertainment:		
Gas Stations:		
Maintenance / Car Washes:		
Total	_____	_____

In light of these amounts, notwithstanding any pro rata allocation that could be made between ORG expenses and personal expenses, ORG's net earnings have inured, in substantial part, to Vice-President's and President's benefit.

Taxpayer's Position

ORG has not yet taken a position with respect to this report.

Conclusion

ORG's net earnings have inured, in substantial part, to the benefit of President and Vice-President. This violates §1.501(c)(3)-1(c)(2) of the Treasury Regulations, and warrants revocation of ORG's 501(c)(3) status effective January 1, 20XX. Form 1120, U.S. Corporation Income Tax Return, should be filed for 20XX, 20XX, 20XX, and each year thereafter as long as ORG remains subject to Federal Income Tax. If the proposed revocation becomes final, appropriate State officials will be notified of such action in accordance with §6104(c) of the Internal Revenue Code.