



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

TE/GE: EO Examinations

625 Fulton Street, Room 503

Brooklyn, NY 11201

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

November 20, 2008

Number: 200910062

Release Date: 3/6/2009

LEGEND

ORG = Organization name

UIL: 501.03-01

Address = address

XX = date

**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:
February 18, 20XX**

CERTIFIED MAIL

Dear :

This is a final adverse determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code (the Code). Our favorable determination letter to you dated August 31, 20XX, is hereby revoked and you are no longer exempt under section 501(a) of the Code effective January 1, 20XX.

The revocation of your exempt status was made for the following reason(s):

In our letters dated December 3, 20XX; January 15, 20XX; and May 22, 20XX, we requested information necessary to conduct an examination of your Form 990 for the year ended December 31, 20XX. You refused to provide the requested information.

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

Since you have not provided the requested information, we hereby revoke your exemption from Federal income tax under section 501(c)(3).

Contributions to your organization are no longer deductible under IRC §170 after January 1, 20XX.

You are required to file income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the tax year ending December 31, 20XX and for all tax years thereafter in accordance with the instructions of the return.

Processing of income tax returns and assessments 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 under the declaratory judgment provisions of section 7428 of the Code, a petition to the United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia must be filed before the 91st Day after the date this determination was mailed to you. Please contact the clerk of the appropriate court for rules regarding filing petitions for declaratory judgments by referring to the enclosed Publication 892. You may write to these courts at the following addresses:

You also 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:

We will notify the appropriate State Officials of this action, as required by Code section 6104(c). You should contact your State officials if you have any questions about how this final determination may affect your State responsibilities and requirements.

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

Enclosure:
Publication 892



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service
MS:4957:DAL:KT
1100 Commerce Street
Dallas, TX 75242

July 28, 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 886-A (Rev. January 1994)	EXPLANATION OF ITEMS	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended December 31, 20XX

LEGEND

ORG = organization name Address = Address City = city XYZ =
State President = president Secretary = secretary Treasury =
treasury EMP-1 = 1st employee

ISSUE:

Whether ORG (ORG) qualifies to be exempt from Federal income tax as an organization described in Internal Revenue Code section 501(c)(3).

FACTS:

The case was referred by an SBSE agent who examined Forms 1040 of the President and ORG's clients.

The initial letter and a general Information Document Request (IDR) were sent to ORG on December 3, 20XX to schedule the examination. Then, the president sent a letter to provide notice that ORG did not have any information available for review since ORG had submitted the requested information to District Court in City to file a claim against its employee, EMP-1. ORG accused his employee of stealing \$. However, per the website of City District Court, the case filed by ORG has been discharged.

On January 5, 20XX, another IDR was sent to ORG to address the president's concerns on the letter sent to ORG on December 3, 20XX and to request some information that should not have been submitted to District Court.

As of May 22, 20XX, the agent working on the case had not received any responses or information requested on January 5, 20XX. Therefore, the agent sent another IDR on May 22, 20XX. After receiving that IDR, instead of providing the requested information, the president sent a letter and some forms to the agent threatening to sue all agents who examines ORG's return and who had examined his personal tax returns.

ORG's cancelled checks and bank statements have been summoned by the SBSE agent from ORG's bank. Per bank statements and cancelled checks, ORG has paid its employee, EMP-1 but neither employment tax returns have been filed nor have employment tax liabilities been remitted. The president used ORG's fund to pay for his wife's immigration fees although he paid back to ORG a few days later.

Per Form 990, ORG's primary activity is to "complete tax returns for individuals, sent by the IRS." ORG filed tax returns for several businesses and individuals that are not considered part of a charitable class. Per the bank information, ORG received the tax preparation fees from several clients.

Form 886-A (Rev. January 1994)	EXPLANATION OF ITEMS	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended December 31, 20XX

On July 2, 20XX, the agent and her manager went to ORG's office to serve the summons to the president. The office was closed. The only sign at the front window said "*Bookkeeping Service.*" No signage about ORG is present at the front of the office. The group manager called the president via the phone number listed at the front window. The president answered the phone but said he would not be available due to his trip to XYZ. The group manager had a discussion about requirements to discuss about ORG's activities and to review books and records. During the conversation, the president alluded to the lawsuit he was processing and threatened to file the document if we did not leave him along. The manager told the president that we had no business with him but ORG. The group manager also asked the president whether he and ORG were synonymous. The president flustered; then the conversation ended.

Per the information listed on Comptroller's website, ORG did not have an independent Board of Directors; all listed officers and Board members are related; for example, his wife, is listed as director/secretary and is listed as Director/Treasurer. Also, ORG is listed as "Not in Good Standing" on that website since it has not satisfied all franchise tax requirements.

The activities and operational information as described in the Form 1023 were as following: The mission of ORG is to make a positive difference in the lives of low to middle income families, primarily through a professionally supported, one-to-one relationship with a tax professionals and to assist them in achieving and receiving help with the preparation of tax returns and negotiations with the Internal Revenue Service. The corporation will also provide legal tying and simple letter writing.

The purpose: to assist middle and low income individuals with tax preparation free charge. Also to help fight bias, bigotry, and racism in America.

The Business: advocacy, conflict resolution, and the taxpayer education The value: understanding and respect among all races, religious, and cultures, and to provide a forum to assist all people with professional issues.

ORG has activities in the following four areas: A. Maintaining and developing a volunteer group. The primary activity of ORG, occupying about 90%of our organization time, is the operation of a public-access tax clinic, on a volunteer basis. This tax clinic is currently housed in a rental building at Address, City XYZ. It is operated by a volunteer staff under the direction of ORG board of directors and currently has about 200 registered clients. The volunteer group provides a wide range of service to the community that further the mission of ORG.

LAW:

Form 886-A (Rev. January 1994)	EXPLANATION OF ITEMS	Schedule No. or Exhibit
Name of Taxpayer ORG	Year/Period Ended December 31, 20XX	

Section 501(a) of the Internal Revenue Code provides that an organization described in section 501(c)(3) is exempt from income tax. Section 501(c)(3) of the Code exempts from federal income tax corporations must be organized and operated exclusively for charitable, educational, and other purposes, and provide that no part of the net earnings inure to the benefit of any private shareholder or individual. The term charitable includes relief of the poor and distressed. See section 1.501(c)(3)-1(d)(2), Income Tax Regulations.

Section 1.501(c)(3)-1(a)(1) of the 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.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities that 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. The existence of a substantial nonexempt purpose, regardless of the number or importance of exempt purposes, will cause failure of the operational test. *Better Business Bureau of Washington, D.C. v. U.S.*, 326 U.S. 279 (1945).

Section 1.501(c)(3)-1(e)(1) of the regulations provides that 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 purposes of carrying on an unrelated trade or business. 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)(3), 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,

Form 886-A (Rev. January 1994)	EXPLANATION OF ITEMS	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended December 31, 20XX

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 § 1.6033-2(i)(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 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.

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.

TAXPAYER'S POSITION

This area is left blank. Agent has not been able to contact the taxpayer in spite of repeated efforts.

GOVERNMENT'S POSITION

ORG has failed to submit information that is required for the purpose of enabling Internal Revenue Service to inquire further into its exempt status. ORG's primary activity is to

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prepare tax returns for fees like any normal tax preparation services. Therefore, the tax exempt status of ORG should be revoked.

CONCLUSION:

ORG is not organized and operated exclusively for charitable purposes. ORG is not entitled to exemption from Federal income tax as an organization described in section 501(c)(3) of the Code. Ruling and determination letters which have been issued granting exemption from income tax under section 501(c)(3) of the Code to such organization should be revoked, effective January 1, 20XX.

Forms 1120 should be filed for the tax periods ending on or after December 31, 20XX.