



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

TE/GE: EO Examinations

625 Fulton Street, Room 503

Brooklyn, NY 11201

501.03-00

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

December 22, 2009

Release Number: 201013056

Release Date: 4/2/10

LEGEND

ORG = ORGANIZATION NAME XX = DATE

ADDRESS = ADDRESS

Taxpayer Identification Number:

Person to Contact:

Identification Number:

Contact Telephone Number:

ORG

ADDRESS

LAST DATE FOR FILING A PLEADING
WITH THE TAX COURT, THE CLAIMS,
COURT, OR THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT OF
COLUMBIA: March 22, 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 December 19XX is hereby revoked and you are no longer exempt under section 501(a) of the Code effective April 1, 20XX.

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

As a result of our examination and information submitted by you for the year ended March 31, 20XX, it was determined that your organization has been inactive and that there have been no operations or financial activities conducted or planned. As such, you failed to meet the operational requirements for continued exemption under IRC 501(c)(3).

Contributions to your organization are no longer deductible under IRC §170 after April 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 March 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 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,

Nanette M. Downing
Acting Director, EO Examinations

Enclosure:
Publication 892

Letter 3607(04-2002)
Catalog Number: 34198J



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service
200 Sheffield Street, 3rd Floor
Mountainside, New Jersey 07092

September 23, 2009

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,

Sunita Lough
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		Year/Period Ended March 31, 20XX
ORG		

LEGEND

ORG = Organization name XX = Date Address = address City = City
 State = State CO-1 = 1st company

ISSUE

Should an organization’s tax exemption under section 501(c)(3) of the Internal Revenue Code be revoked because their activities have not met the requirements of section 501(c)(3) of the internal Revenue Code?

FACTS

The organization was recognized as a tax exempt organization under 501(c)(3) of the Internal Revenue Code in December, 19XX. The primary purpose of the organization was to provide low-income housing under the auspices of the US Department of Housing and Urban Development to senior citizens. The organization was located at Address, City State and was commonly known as “ORG It was a unit apartment complex primarily for elderly and handicapped persons of low and moderate income pursuant to Section 8 (HUD). The organization generated over \$ in annual rentals. On September 26, 20XX, the corporation sold the unit apartment complex and virtually all other assets and liabilities and retired all debt. Since the sale of the building, there has been no further activity.

The organization is not engaged in activities that further the organization’s exempt purpose and as a result does not qualify for exemption. The organization’s exempt status would have to be revoked due to the fact that they no longer meet the operational test of IRC 501(c)(3).

LAW

Internal Revenue Code Section 501(c)(3) exempts from Federal income tax “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 all or 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 distribution of statements), and political campaign on behalf of (or in opposition to) any candidate for public office.”

Federal Regulations Section 1.501(c)(3)-1(c)(1) states, “ Primary Activities. 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 as not in furtherance of an exempt purpose.”

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended March 31, 20XX

Federal Regulations section 1.501(c)(3)-1(c)(2) 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. The words ‘private shareholders or individual’ refer to persons having a personal and private interest in the activities of the organization. The term ‘private shareholder or individual’ is defined in regulation section 1.501(a)-1(c).

Regulation section 1.501(c)(3)-1(d)(1)(ii) provides an organization is not organized or operated exclusively for one or more exempt purposes 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 the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

GOVERNMENTS POSITION

The organization is no longer operated exclusively for 501(c)(3) purposes as defined by the Internal Revenue Code and the Regulations. The organization has ceased its operations on September 26, 20XX. Based on information gathered from conversations with the organization’s officials and from its representatives, and from documentation received during this examination, including the final filing of form 990 for the year ended March 31, 20XX, it was found that the organization has been idle and has no plans to operate in the future. It has sold its assets to CO-1. Due to the organization’s idleness with its exempt activities, the organization is not operating exclusively for one or more exempt purposes specified in 501(c)(3) of the Internal Revenue Code. The organization is not furthering its exempt purpose by being inactive and not planning to perform any exempt activities in the future and therefore does not qualify for exemption under 501(c)(3) of the internal Revenue Code. The organization’s officials understand that they fail to qualify for exemption.

TAXPAYERS POSITION

The organization’s officials understand that they fail to qualify for exemption under Internal Revenue Code section 501(c)(3).

CONCLUSION

The organization does not meet the operations test and accordingly fails to qualify for exemption under section 501(c)(3) of the Internal Revenue Code. The organization’s exemption status is being revoked effective April 1, 20XX.