



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

1100 Commerce Street
Dallas, TX 75242

501.03-00

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Release Number: 201017060

Release Date: 4/30/10

LEGEND

ORG = Organization name XX = Date

Address = address

ORG
ADDRESS

Date: February 1, 2010

Person to Contact:

Badge Number:

Contact Telephone Number:

Contact Address:

Employer Identification Number:

Deadline to Petition Tax Court:

CERTIFIED MAIL

Dear

This is a final notice of adverse determination that your exempt status under section 501(c) (3) of the Internal Revenue Code is revoked. Recognition of your exemption under Internal Revenue Code section 501(c)(3) is revoked effective January 1, 20XX the following reason(s):

You are not organized and operated exclusively for an exempt purpose as required by Internal Revenue Code section 501(c)(3). You are not and have not been engaged primarily in activities which accomplish one or more exempt purposes. You are not a charitable organization within the meaning of Treasury Regulation 1.501(c)(3)-1(d); rather, your activities further a substantial nonexempt commercial purpose and serve private rather than public interests.

Contributions to your organization are no longer deductible effective January 1, 20XX.

Since your exempt status has been revoked, you are required to file Form 1120, U.S. Corporation Income Tax Return, for all years beginning on or after January 1, 20XX.

Income tax returns for subsequent years are to be filed with the appropriate Service Center identified in the instructions for those returns.

It is further determined that your failure to file a written appeal constitutes a failure to exhaust your available administrative remedies. However, 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 Claims Court, or the district court of the United States for the District of Columbia before the (ninety-first) 91st day after the date that this determination was mailed to you. Contact the clerk of the appropriate court for rules for initiating suits for declaratory judgment. To secure a petition form, write to the following address:

Please understand that filing a petition for a declaratory judgment under IRC section 7428 will not delay the processing of subsequent income tax returns and assessment of any taxes due.

The last day for filing a petition for declaratory judgment is May 3, 20XX.

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 and ask for the Taxpayer Advocate assistance or you can contact the Advocate from the site where this issue was determined by writing to:

Taxpayer Advocate assistance cannot be used as substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determination, nor extend the time fixed by law that you have to file a petition in 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.

This letter should be kept within your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely,

Nanette M. Downing
Acting Director, EO Examinations

Enclosures:
Publication 892

Internal Revenue Service

Department of the Treasury
200 Sheffield Street, 3rd Floor
Mountainside, NJ 07092

Date: August 6, 2008

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

ORG
ADDRESS

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,

Vickie L. Hansen
Acting 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 December 31, 20XX

LEGEND

ORG = Organization name XX = Date State = state

ISSUE:

Does the organization continue to qualify for exemption under Internal Revenue Code section 501(c)(3)?

FACTS:

ORG was incorporated in the State of State on October 27, 19XX. The purpose of the organization, as stated in the Certificate of Incorporation, is to provide credit counseling.

The organization receives fees for its services including enrollment deposits, service charges and also receives "fair share contributions" from many of the creditors.

The organization offers debt management plans to get its clients out of debt and to develop programs to pay off the debt, set realistic budgets and will attempt to negotiate favorable repayment plans.

The organization states it does both counseling and debt management plans as substantial parts of their activities. However the web site, along with other activities, indicates that counseling programs are limited and that the debt management program is the main thrust. Counselors speak with clients and potential clients in person or by telephone. There is no activity through the internet and no classes, seminars, films or publications are used. A newsletter is issued monthly, and while it has considerable educational content, it is a tool to service clients and to seek new DMP clients.

The organization used the yellow pages to offer those people responding, debt management plans and solutions to eliminate or reduce their debts.

The Board of Directors consists of the two officers who are related and two others. Most of the minutes relate to debt management plan service fees, fair share payments and number of new accounts.

LAW:

Section 501(c)(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 organized and operated exclusively for charitable, educational and other purposes.. provided that no part of the net earnings inure to the benefit of any private stockholders or individual. The term charitable includes relief of the poor and distressed. Section 1.501(c)(3)1(d)(2), Income Tax Regulations. The term educational includes (a) instruction or training of the individual for the purpose of improving or developing his capabilities and (b) instruction of the public on

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

subjects useful to the individual and beneficial to the community. Treasury Reg 1.501(c)(3)-1(d)(3). In other words, the two components of education are public education and individual training.

Section 1.501(c)(3)-1(d)(2) of the regulations provides that the term "charitable" is used in section 501(c)(3) of the Code in its generally accepted legal sense and includes the relief of the poor and distressed or of the under privileged as well as the advancement of education.

Section 1.501(c)(3)-1(d)(3) of the regulations provides that the term "education" refers to:

- (a) The instruction or training of the individual for the purpose of improving or developing his capabilities; or
- (b) The instruction of the public on subjects useful to the individual and beneficial to the community.

TAXPAYER POSITION:

The taxpayer has not adequately addressed the Services request for more information, so therefore the organization has no position at this time except that the taxpayer had indicated that its principal activity is budget counseling and credit report review and that debt management programs was not it's main activity.

CONCLUSION:

It is the IRS's position that the organization has failed to meet the requirements under IRC 501(c)(3) to be recognized as exempt from federal income tax.

Since the organization's web site suggests debt management plans only and makes no reference to education and since the organization has failed to verify that education takes place during sessions held with clients, it is determined that the organization has not conducted programs to improve a debtors understanding of his financial problems.

Accordingly, the organization's exempt status is revoked effective January 1, 20XX.