

Internal Revenue Service
Appeals Office
701 Market Street Suite 2200
Philadelphia PA 19106

Number: **201018020**
Release Date: 5/7/2010

Date: February 10, 2010

A

B

UIL - 0501 .33-00

Department of the Treasury

Person to Contact:

Employee ID Number:

Tel:

Fax:

Refer Reply to:

In Re:

EO Revocation

Form Required to be Filed:

1120

Tax Period(s) Ended:

Form Number

990

Employer Identification Number:

C

**Last Day to File a Petition with the
United States Tax Court, United
States Claims Court, or the District
Court of the United States for the
District of Columbia:**

CERTIFIED MAIL

MAY 11 2010

Dear :

This is a final adverse determination as to your exempt status under section 501(c) (3) of the Internal Revenue Code. It is determined that you do not qualify as exempt from Federal income tax under Section 501(c)(3) of the Internal Revenue Code, effective January 1, 2003.

Our adverse determination was made for the following reason(s):

A substantial part of your activities during the year under examination consisted of providing down payment assistance to home buyers. To finance the assistance you relied on home sellers and other real-estate related businesses that stood to benefit from these down payment assistance transactions. Your receipt of a payment from a home seller corresponded to the amount of the down payment assistance provided in substantially all of your down payment assistance transactions. The manner in which you operated demonstrates you were operated primarily to further business interest of home sellers and other real-estate related businesses. Therefore you were operated for a substantial nonexempt purpose. In addition, your operations furthered the private interests of the persons that finance your activities. Accordingly, you were not operated exclusively for exempt purposes described in section 501(c) (3).

Contributions to your organization are not deductible under Code Section 170.

You are required to file Federal income tax returns on Form 1120 for any years that are still open under the statute of limitations. File the returns in accordance with their instructions and do not send them to this office.

If you decide to contest this determination under declaratory judgment provisions of Code section 7428, a petition to the United States Tax Court, the United States Court of Claims, or the district court of the United States for the District of Columbia must be filed before the 91st day after this determination was mailed to you. Contact the clerk of the appropriate court for rules for filing petitions for declaratory judgment. To secure a petition form from the United States Tax Court, write to the United States Tax Court 400 Second Street, N.W., Washington, D.C. 20217. 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 is not able to reverse legally correct tax determinations, or extend the time fixed by law that you have to file a petition in the U.S. 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. If you want Taxpayer Advocate assistance, please contact the Taxpayer Advocate for the IRS office that issued this notice of deficiency. See the enclosed Notice 1214, Helpful Contacts for Your "Notice of Deficiency", for Taxpayer Advocate telephone numbers and addresses.

You should contact your state officials if you have any questions about how this 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,

CHARLES FISHER
TEAM MANAGER

Enclosures:

Notice 1214 Helpful Contacts for your 'Deficiency Notice'

Internal Revenue Service

Department of the Treasury

Date: August 11, 2008

A

B

Taxpayer Identification Number:

C

Form:

990

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,

Vicki L. Hansen
Acting Director EO Examination

Enclosures:
Publication 892
Publication 3498
Report of Examination

LEGEND

ORG = ORGANIZATION NAME xx = Date State = State President =
President Vice President = Vice President Treasurer = Treasurer
Agent = Agent News-1, News-2 & News-3 = News-1, News-2 & News-3

ISSUES:

1. Whether an organization, whose primary purpose is operating a "down-payment assistance" program, is operated exclusively for charitable purposes within the meaning of IRC 501 (c) (3)?

FACTS:

ORG. was incorporated in the State of State. The Articles of Incorporation were signed on April 26, 20XX by President, President. The corporation was formed under the State Nonprofit Corporation Code for the purpose of providing "down payment assistance in the form of gift funds to low to moderate level income persons who purchase a home." The corporation's initial board members were President, President/Secretary, Vice President, Vice President and Treasurer, Treasurer.

The organization filed Form 1023 Application for Recognition of Exemption in 20XX. The application was signed by President, President/Treasurer, on May 15, 20XX.

In Part II, Question 1 of the application, ORG. originally stated. that "Down payment assistance will be provided to any individual who qualifies for a loan under FHA guidelines." The organization also stated that "The organization will only collect a moderate service fee from the home seller". This was later amended by the organization to state that "it would 'provide down payment assistance in the form of gift funds to low income .persons who purchase a home", "provide free educational seminars and home ownership classes", and "provide charitable services such as crime watches and debris clean-up for low income neighborhoods to help combat deterioration in their communities at large."

In Part II, Question 2, ORG. originally stated that the sources of income consist of fees for services received from home sellers. This was later amended to state that the organization's support would consist of contributions and donations from the general public.

In Part II, Question 3, the organization stated that there would be no fundraising program.

In a letter from the IRS to ORG. dated July 30, 20XX, the Service requested additional information regarding the Form 1023 filed by the organization. In this letter, the EO Determinations Specialist noted that it appeared that the organization would not qualify for exemption under section

501(c) (3) of the Code. The specialist reached this conclusion for a number of reasons. "First, you indicate an important part of your operation, and your source of income, will be the performance of services to persons attempting to market their homes in exchange for a fee comprised of a percentage of the final sales price. There is no information from which it can be concluded that the services you describe will further or advance any charitable purpose. It appears the described services provide a convenience and a benefit to homeowners who are not members of a charitable class of person. Because services you describe further no exempt purpose, and because they result in benefits to private persons, you do not meet the operational test of section 501 (c) (3) of the Code which requires that you operate exclusively for charitable purposes."

"Second, you indicate another important part of your operations will be providing financial benefits to persons of low and moderate income to assist them in acquiring a home. While the providing of assistance to low ~income, or needy individual~ to enable them to acquire housing would otherwise be considered a charitable activity, providing these benefits to moderate income persons would not be deemed charitable. You have not explained how benefits you propose to provide to moderate income persons furthers a charitable purpose. . . ."

In response, ORG submitted a response on August 7, 20XX. President stated that he determined "that there were errors on the application, in the Articles of Incorporation, and in the By-Laws that would cause ORG. to fail both the organizational and organizational tests for exemption.

President then stated that he was amending his response to Part II, Question 1 of the Form to read "100% of our time and resources will be devoted to the following activities: 1. To provide down payment assistance in the form of gift funds to low income persons who purchase a home. This will further our charity purpose of helping more low income persons become homeowners, 2. To provide free educational seminars and home ownership classes. This will further our charity purpose of educating more people on the benefits and responsibilities of home ownership and 3. To provide charitable services such as crime watches and debris clean-up for low income neighborhoods to help combat deterioration in their communities at large. This will further our charity purpose of helping to provide safer neighborhoods for low income persons."

President also stated that he was changing his response to Part II, Question 2 of the Form 1023 to state that the sources of financial support would be contributions and donations from the general public.

President included a corrected page 2 of the Form 1023 to be included in the original application.

In addition, President submitted an amendment to the Articles of

incorporation which revised the purpose of ORG. The revised primary purpose stated that ORG. would "provide down payment assistance in the form of gift funds to low income persons who purchase a home." Other purposes include providing "educational opportunities in the form of free home ownership classes and seminars to the public that anyone partaking thereof may advance their knowledge of the responsibilities of home ownership" and providing "expertise and other forms of support and/or charitable services to combat community deterioration". There is no evidence that the amendment was filed with the State Secretary of State.

The Service issued a favorable determination letter to ORG. on August 23, 20XX. The determination letter stated that ORG. was exempt from federal income tax under section 501(a) of the Code as an organization described in section 501(c)(3). The letter also determined that the organization was not a private foundation with the meaning of section 509(a) of the Code, because it was described in sections 509(a) (1) and 170(b) (1) (A) (vi).

ORG has never filed Form 990. On March 28, 20XX, the IRS requested information in information document requests (IDRs) #1, #2 and #3 to determine if the organization continues to qualify for exemption under section 501(c)(3).

IDR #2 requested, in part, a description of the organization's programs, including the funding sources; a sample copy of a down payment assistance contract; minutes of meetings of the governing body; a copy of the organization's website; copies of promotional materials; copies of sample correspondence and acknowledgements sent to contributors; a manual of standard operating procedures; copies of loan agreements; a chart of accounts, general ledger and working trial balance; copies of journals; a check register; down payment assistance transactions and closing statements and a list of home sellers names, addresses and social security numbers.

IDR #3 requested copies of Forms 941, 1099, and W-2 prepared for the year ending December 31, 20XX. It also requested copies of Forms 990 for the years ending December 31, 20XX and December 31, 20XX (if filed) as well as copies of audit reports for the years ending December 31, 20XX, December 31, 20XX and December 31, 20XX.

Receiving no response, this agent contacted President who first stated that he had sent a letter responding to the information request by noting that he had provided all the information to Agent (IRS SB/SE) and was waiting for her to return the original records. When I asked if he could forward a copy of his letter to me, he said that his brother had mailed it and he would have to check with his brother. President later stated that he had contacted his brother and the brother had misplaced the letter.

I spoke with Agent and informed President that there were a number of

items I had requested on IDRs #1, 2 and 3 that were not included in the materials provided to Agent.

As a result, the IRS issued IDRs #4 and #5 on April 26, 20XX. IDR #4 requested information specific to the organization's down payment assistance program. IDR#5 included copies of IDRs #1, #2 and #3. IDR#5 noted that President had stated that the materials pertaining to the first three information requests had been submitted to Agent of SB/SE and asked that President indicate which of the requested items on each IDR has been provided to Agent. For each item that was not provided, President was asked to state why the materials had not been submitted.

In a letter dated May 9, 20XX, President responded that all of the items requested in IDRs #1, #2, #3 and #5 had been provided to Agent. Agent has forwarded copies of Document Receipt Form 2725 prepared by herself which confirm that the only documents submitted by President consist of 46 original faxed copies of gift funds request forms, closing agent instructions, purchase contract addendums, and settlement statements for a five month period in 20XX; original wire transfer logs dating from January 20XX through December 20XX; check vouchers from ORG; a copy of one cashiers check and copies of four funds transfer receipts. There is no indication that the information requested in IDRs #2 and #3 was submitted to Agent. President has stated that he has no further documentation.

In response to IDR #4, question 1, which asked that the organization indicate the percentage of time and resources devoted to down payment assistance, President stated that 100% of the organization's time and resources are devoted to providing down payment assistance to low and moderate income individuals.

In response to IDR #4, question 2, which asked if the organization engaged in any other activities beyond providing down payment and closing cost assistance, President responded that ORG engages in no other activities.

In response to IDR #4, question 3, which asked for a description of the sources of revenues received by ORG, President responded that revenues consist of a \$ flat fee (paid by the home seller)

In response to IDR #4, question 4, which asked for a description of the flow of funds relating to the organization's home down payment/closing costs assistance program, President responded that the seller enrolls his home, ORG provides the down payment to the seller, and the home seller pays a fee.

In response to IDR #4, question 8, which asked which home sellers are eligible to participate in the organization, President responded that all home sellers that are selling their private homes are eligible to participate.

On June 7, 20XX, IDR #6 was issued. It included a copy of Revenue Ruling 20XX-27. The IDR asked the organization to provide a detailed description of why it believes it is operated for charitable purposes. The IDR also asked the organization to distinguish between its operations and those described in Situation 2 of Rev. Rul. 20XX-27.

ORG responded that "about 25% of our revenue does come from home sellers, but the bulk of our support comes from contributions from the general public which is also used to fund our other activities, such as our utility, and mortgage assistance programs." In his response to IDR #4, President had stated that 100% of the organization's revenue is derived from home sellers and that ORG is engaged in no activities other than down payment and closing cost assistance. He has provided no documentation to support either statement.

LAW:

Section 501 of the Code provides for the exemption from federal income tax of corporations organized and operated exclusively for charitable or educational purposes, provided that no part of the net earnings inures to the benefit of any private shareholder or individual. See § 501(c) (3).

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that an organization operates exclusively for exempt purposes only if it engages primarily in activities that accomplish exempt purposes specified in § 501(c)(3). An organization must not engage in substantial activities that fail to further an exempt purpose. In *Better Business Bureau of Washington, D.C. v. US.*, 326 U.S. 279,283 (1945), the Supreme Court held that the "presence of a single . . . [nonexempt] purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly [exempt] purposes."

Section 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized or operated exclusively for exempt purposes unless it serves a public rather than a private interest. To meet this requirement it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests.

Section 1.501(c)(3)-1(d)(2) defines the term "charitable" as used in § 501(c)(3) as including the relief of the poor and distressed or of the underprivileged, and the promotion of social welfare by organizations designed to lessen neighborhood tensions, to eliminate prejudice and discrimination, or to combat community deterioration. The term "charitable" also includes the advancement of education.

Section 1.501(c)(3)-1(d)(3)(i) provides, in part, that the term "educational" as used in § 501(c)(3) relates to the instruction of the public on subjects useful to the individual and beneficial to the community.

Section 1.501(c)(3)-1(e) provides that an organization that operates a trade or business as a substantial part of its activities may meet the requirements of § 501(c)(3) if the trade or business furthers an exempt purpose, and if the organization's primary purpose does not consist of carrying on an unrelated trade or business.

Internal Revenue Code section 7602(a)(1) provides the authority to examine books and records. Section 6001 of the Code provides for the need for adequate records. Treasury Regulations section 1.6100-1(e) provides, in part, 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 so long as the contents thereof may become material in the administration of any internal revenue law". "

Easter House v. US., Cl. Ct. 476, 486 (1987), aff'd, 846 F. 2d78 (Fed. Cir)

The US Court of federal claims considered whether an organization that provided an adoption and related health services to pregnant woman who agreed to place their newborns for adoption through the organization qualified for exemption under § 501(c)(3). The court concluded that the organization did not qualify for exemption under § 501(c)(3) because its primary activity was placing children for adoption in a manner indistinguishable from that of a commercial adoption agency. The court rejected the organization's argument that the adoption services merely complemented the health-related services to unwed mothers and their children. Rather, the court found that the health-related services were merely incident to the organization's operations of an adoption service which, in and of itself, did not serve an exempt purpose. The organization did not provide health-related services to unwed mothers who wished to keep their children or who arranged for an adoption independent of the organization. The organizations sole source of support was the fees it charged adoptive parents, rather than contributions from the public. The court also found that the organization competed with for-profit adoption agencies, engaged in substantial advertising, and accumulated substantial profits. Accordingly, the court found that the "business purpose, and not the advancement of education and charitable activities purpose, of plaintiff's adoption service is its primary goal" and held that the organization was not operated exclusively for purposes described in § 501(c)(3). Easter house, 12Cl. CT. at 485-86.

American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989)

The court held that an organization that operated a school to train individuals for careers as political campaign professionals, but that could not establish that it operated on a nonpartisan basis, did not exclusively serve purposes described in § 501(c)(3) because it served private interests more than incidentally: The court found that the organization was created and funded by persons affiliated

with a particular political party and that most of the organizations graduates worked in campaigns for the party's candidates. Consequently, the court concluded that the organization conducted its educational activities with the objective of benefiting the party's candidates and entities. Although the candidates and entities benefited were not organizational "insiders", the court stated that the conferral of benefits on disinterested persons who are not members of a charitable class may cause an organization to serve private interests within the meaning of § 501(c)(3)-1(d)(1)(ii). The court concluded by stating that even if the political party's candidates and "entities did comprise a charitable class, [the organization] would bear the burden of proving that its activities benefited members of the class in a non-select manner. "American Campaign Academy", 92 T.C. at 1077.

Columbia Park & Recreation Association v. Commissioner, 88 T.C. 1 (1987), aff'd. Without published opinion, 838 F.2d 465 (4th Cir. 1988)

The court held that an association formed in a private real estate development to operate parks, swimming pools, boat docks and other recreational facilities did not qualify as § 501(c)(3) organization. Although the organization provided some benefit to the general public, the primary intended beneficiaries were the residents and property owners of the private development. Thus, the organization operated for a substantial non-exempt purpose rather than for exclusively charitable purposes.

Rev. Rul. 67-138, 1967-1 C.B. 129, held that helping low-income persons obtain adequate and affordable housing is "charitable" because it relieves the poor and distressed or underprivileged. In Rev. Rul. 67-138, the organization carried on several activities directed to assisting low-income families in obtaining improved housing, including (1) conducting a training course relative to various aspects of homebuilding and homeownership, (2) coordinating and supervising joint construction projects, (3) purchasing building sites for resale at cost, and (4) lending aid in obtaining home construction loans.

Rev. Rul. 70-585, 1970-2 C.B. 115, discussed four situations of organizations providing housing and analyzed whether each organization qualified as charitable within the meaning of § 501(c)(3). Situation 1 described an organization formed to construct new homes and renovate existing homes for sale to low-income families who could not obtain financing through conventional channels. The organization also provided financial aid to low-income families eligible for loans under a Federal housing program who did not have the necessary down payment. The organization made rehabilitated homes available to families who could not qualify for any type of mortgage. When possible, the organization recovered the cost of the homes through very small periodic payments, but its operating funds were obtained from federal loans and contributions from the general public. The revenue ruling held that by providing homes for low-income families who otherwise could not afford them, the

organization relieved the poor and distressed.

Rev. Rul. 72-147, 1972-1 C.B. 147, held that an organization that provided housing to low-income families did not qualify for exemption under § 501(c)(3) because it gave preference to employees of a business operated by the individual who also controlled the organization. Although providing housing for low-income families furthers charitable purposes, doing so in a manner that gives preference to employees of the founder's business primarily serves the private interest of the founder rather than a public interest.

Rev. Rul. 72-559, 1972-2 C.B. 247, held that an organization that subsidized recent law graduates during the first three years of their practice to enable them to establish legal practices in economically depressed communities that have a shortage of available legal services, and to provide free legal services to needy members of the community, qualified for exemption under § 501(c)(3). Although the recipients of the subsidies were not themselves members of a charitable class, the resulting benefit to them did not detract from charitable purposes. Rather, the young lawyers were merely the instruments by which the organization accomplished the charitable purpose of providing free legal services for those unable to pay for, or obtain, such services.

Rev. Rul. 74-587, 1974-2 C.B. 162, held that an organization providing low-cost or long-term loans to, or equity investments in, businesses operating in economically depressed areas qualified for exemption under § 501(c)(3). The organization provided financial assistance only to businesses that were unable to obtain funds from conventional sources, and gave preference to businesses that would provide training and employment opportunities for unemployed or under-employed area residents. Although some of the individual business owners receiving financial assistance from the organization were not themselves members of a charitable class, the benefit to them did not detract from the charitable character of the organization's program. As in Rev. Rul. 72-559, the recipients of aid were instruments for accomplishing the organization's charitable purposes.

Rev. Rul. 76-419, 1976-2 C.B. 146, held that an organization that converts blighted land in an economically depressed community to an industrial park and leases space on favorable terms to businesses that agree to hire a significant number of unemployed area residents and train them in needed skills qualifies for exemption under § 501(c)(3). The organization furthered charitable purposes by improving economic conditions for the poor and distressed and combating community deterioration. The organization offered inducements to businesses solely for the purpose of advancing charitable goals.

EXAMPLE:
Situation #2

Per Internal Revenue Bulletin 20XX-21, May 22, 20XX, Revenue Ruling 20XX-27, under Y's grant making procedures, Y's staff considering a particular applicant's application knows the identity of the party selling the home to the grant applicant and may also know the identities of other parties, such as real estate agents and developers, who may receive a financial benefit from the sale. Moreover, in substantially all of the cases in which Y provides down payment assistance to a home buyer, Y receives a payment from the home seller. Further, there is a direct correlation between the amount of the down payment assistance provided by Y in connection with each of these transactions and the amount of the home seller's payment to Y. Finally, Y does not conduct a broad based fundraising campaign to attract financial support. Rather, most of Y's support comes from home sellers and real estate-related businesses that may benefit from the sale of homes to buyers who receive Y's down payment assistance.

ANALYSIS:

Situation #2

Per Internal Revenue Bulletin 20XX-21, May 22, 20XX, Revenue Ruling 20XX-27, Y does not qualify as an organization described in § 501(c)(3). To finance its down payment assistance activities, Y relies on sellers and other real-estate related businesses that stand to benefit from the transactions Y facilitates. Furthermore, in deciding whether to provide assistance to a low-income applicant, Y's grant making staff knows the identity of the home seller and may also know the identities of other interested parties and is able to take into account whether the home seller or another interested party is willing to make a payment to Y. Y's receipt of a payment from the home seller corresponding to the amount of the down payment assistance in substantially all of the transactions, and Y's reliance on these payments for most of its funding indicate that the benefit to the home seller is a critical aspect of Y's operations. In this respect, Y is like the organization considered in *News-1*, which received all of its support from fees charged to adoptive parents, so that the business purpose of the adoption service became its primary goal and overshadowed any educational or charitable purpose. Like the organization considered in *News-2*, Y is structured and operated to assist private parties who are affiliated with its funders. Like the organizations considered in *News-2*, *News-1*, and *News-3*, Y also serves an exempt purpose, but because Y is not operated exclusively for exempt purposes, Y does not qualify for exemption from federal income tax as an organization described in § 501(c)(3).

GOVERNMENT'S POSITION:

Internal Revenue Bulletin 20XX-21, May 22, 20XX, Revenue Ruling 20XX-27, Situation #2, outlined above most closely identifies ORG's down payment assistance program. In its analysis, it clearly shows ORG. not qualifying as an organization described in § 501(c)(3). To finance its down payment assistance activities, ORG relies on seller funding to finance its down payment assistance

activities. The organization's reliance on these payments for its funding indicates that the benefit to the home seller is a critical aspect of the organization's operations. In this respect, ORG is like the organization considered in *News-1*, which received all of its support from fees charged to adoptive parents, so that the business purpose of the adoption service became its primary goal and overshadowed any educational or charitable purpose. Like the organization considered in *News-2*, ORG is structured and operated to assist private parties who are affiliated with its funders. Like the organizations considered in *News-2*, *News-1*, and *News-3*, ORG also serves an exempt purpose, but because ORG is not operated exclusively for exempt purposes, ORG does not qualify for exemption from federal income tax as an organization described in § 501(c)(3).

Failure to provide relevant information is a sufficient basis for both the Service and the courts to refuse to recognize an organization as exempt. Simply stated, the organization must establish the factual basis for its exemption. ORG has failed to establish that it is operated in accordance with Internal Revenue Code section 501(c)(3) and is compliant with Revenue Ruling 20XX-27.

The conclusion that ORG is not operated as a "charitable" organization within the meaning of Federal Tax Regulations § 1.501(c)(3)-1(c) rests primarily on an analysis of its sources of revenue and its business activities. Based on the rationale described in Revenue Ruling 20XX-27 LR.B. 20XX-21, May 4, 20XX, organizations that provide seller-funded down payment assistance to low-income homebuyers do not qualify as tax-exempt charities.

TAXPAYER'S POSITION:

In a letter dated April 30, 20XX, ORG has stated that as of December 31, 20XX, the organization no longer provides down payment assistance to homebuyers.

CONCLUSION:

ORG is not operated exclusively for charitable purposes, and, consequently, does not qualify for exemption from federal income tax as an organization described in LR.C. § 501(c)(3) of the Internal Revenue Code and § 1.501(c)(3)-1(c)(1); § 1.501(c)(3)-1(d)(1)(ii); § 1.501(c)(3)-1(d)(2); § 1.501(c)(3)-1(d)(3)(i); § 1.501(c)(3)-1(e) of the Income Tax Regulations.