



**DEPARTMENT OF THE TREASURY**

Internal Revenue Service  
TE/GE EO Examinations  
1100 Commerce Street, MS:4920:DAL  
Dallas, TX 75242

501.03-00

**TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION**

April 26, 2010

Release Number: **201032047**

Release Date: 8/13/2010

LEGEND

ORG = Organization name  
XX = Date      Address = address

**ORG  
ADDRESS**

Taxpayer Identification Number:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Internal Revenue Code:

IRC § 501(c) (3)

**CERTIFIED MAIL RETURN RECEIPT REQUIRED**

**LAST DATE FOR FILING A PETITION  
WITH THE TAX COURT: July 26, 20XX**

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 July 1, 20XX for the following reason(s):

You have failed to produce documents to establish that you are operated exclusively for exempt purposes within the meaning of Internal Revenue Code section 501(c)(3), and that no part of your net earnings inured to the benefit of private shareholders or individuals as required by IRC section 6033 and the regulations there under. Also, you have failed to keep adequate books and records as required by IRC section 6001.

Despite numerous requests to you to provide information to conduct an examination of your Form 990 for the year ended June 30, 20XX, no requested information has been provided to us. In addition, the organization has not verified if any activity or services have been provided. It appears the organization ceased to operate.

Section 1.6033-2(i)(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 purposes of inquiring into its exempt status. You have not provided the requested information.

Based on the above, we are hereby revoking your organization's exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code, effective **July 1, 20XX**.

Contributions to your organization are not deductible under code section 170 of the Internal Revenue Code.

You are required to file Form 1120, U.S. Corporation Income Tax Returns. These returns should be filed with the appropriate Service Center for the year ending **June 30, 20XX**, and 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 91<sup>st</sup> 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 and ask for Taxpayer Advocate assistance or by calling the Local Taxpayer advocate at or writing:

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.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

Nanette M. Downing  
Director EO Examinations



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
Internal Revenue Service

August 10, 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 B. Lough  
Director, EO Examinations

Enclosures:  
Publication 892  
Publication 3498  
Report of Examination  
Form 6018

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b>	<b>ORG</b>	<b>Year/Period Ended</b> 20XX06

**LEGEND**

ORG = Organization name      XX = Date      Address = address      City = city  
 State = state      BM-1 = 1<sup>st</sup> Board Member

**ISSUES**

Whether the ORG's exempt status under I.R.C. § 501(c)(3) should be revoked because ORG has not submitted additional information as may be required for purposes of inquiring into the organization's exempt status.

**FACTS**

**Overview**

ORG (ORG) is a not-for-profit corporation formed under the laws of the State of State effective on August 7, 19XX. BM-1 is ORG's registered agent. ORG's address is Address, City, State.

**Application for Recognition of Tax-Exempt Status**

The Service recognized ORG as a tax-exempt organization under I.R.C. § 501(c)(3) in July of 19XX

**Federal Returns**

filed Forms 990 for tax periods ending June 30, 1996 through June 30, 20XX. Forms 941, for employment taxes were filed through 20XX. As of August 10, 20XX, balances are unpaid for Forms 941 for tax periods ending December 20XX and 20XX.

ORG most recently filed Form 990 is for the tax period ending June 30, 20XX. This form stated the organization was a preschool servicing approximately 25 students. The program service revenue is listed as school tuition. Total revenue is \$\$\$. The form is signed by BM-1 as president on December 13, 20XX.

**Failure to Respond**

Telephone contacts were attempted at the president's home number and the organization's number. The Service's telephone contact attempts were unsuccessful.

The Internal Revenue Service issued correspondence requesting that ORG provide documentation of its activities for tax period ending June 30, 20XX. Correspondence was issued on April 7, 20XX, to the president's, BM-1's, address at Address, City, State. No response was received by the Service. Correspondence was issued on May 28, 20XX, certified mail, to the president's address and to the organization's address of record, Address, City, State. The

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correspondence addressed to the president was returned as undeliverable and no reply was received to the correspondence mailed to the address of record. The correspondence issued on May 28, 20XX explained the following:

- 1) If the organization fails to provide information verifying its continued qualification for exempt status, revocation of the organizations exempt status may be proposed.
- 2) Treasury Regulation §1.6033.-2(1) (2) provides, in part, that every organization which is exempt from tax, whether or not it is required to file an annual information return, shall submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into its exempt status and administering provisions of the Internal Revenue Code. Failure to maintain proper books and records and make them available to the examiner may result in revocation of recognition of an exempt organization's exempt status because the organization is not observing the conditions required for such status. Also see Internal Revenue Code §6033 and Revenue Ruling 59 95, 1959 C.B. 627.

ORG failed to respond to the Internal Revenue Service's correspondence or file Form 990 for the tax period ending June 30, 20XX. Postal tracers, Form 4759, were processed for both addresses on June 20, 20XX. All certified mail was returned as undeliverable or no response was received.

As ORG did not respond to Internal Revenue Service's request for information and the Service was unable to locate ORG, no explanation of its activities was provided by letter or in person.

#### **APPLICABLE LAW:**

##### Adequate Records

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)(2), 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, deduction,

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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. § 1.6033-1(h)(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 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.

#### Effective date of revocation

An organization may ordinarily rely on a favorable determination letter received from the Internal Revenue Service. Treas. Reg. §1.501(a)-1(a)(2); Rev. Proc. 20XX-4, §14.01 (cross-referencing §13.01 et seq.), 20XX-1 C.B. 123. An organization may not rely on a favorable determination letter, however, if the organization omitted or misstated a material fact in its application or in supporting documents. In addition, an organization may not rely on a favorable determination if there is a material change, inconsistent with exemption, in the organization's character, purposes, or methods of operation after the determination letter is issued. Treas. Reg. § 601.201(n)(3)(ii); Rev. Proc. 90-27, §13.02, 1990-1 C.B. 514.

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The Commissioner may revoke a favorable determination letter for good cause. Treas. Reg. § 1.501(a)-1(a)(2). Revocation of a determination letter may be retroactive if the organization omitted or misstated a material fact or operated in a manner materially different from that originally represented. Treas. Reg. § 601.201(n)(6)(i), § 14.01; Rev. Proc. 20XX-4, § 14.01 (cross-referencing § 13.01 et seq.).

### GOVERNMENTS POSITION

ORG does not qualify as an organization described in I.R.C. § 501(c)(3) because it failed to meet the reporting requirements under Section 6001 and 6033 to be recognized as exempt from federal income tax. Based on the foregoing, ORG has not shown that it is operated exclusively for exempt purposes, and, accordingly, is not entitled to exemption under § 501(c)(3). In regards to ORG failure to respond to the Service's correspondence or file Form 990 for the tax period ending 20XX06, the government proposes revoking ORG's exemption retroactively to July 1, 20XX because

### TAXPAYER'S POSITION

ORG's position with respect to the issues, facts, applicable law and government's position as discussed in this report is unknown. ORG will be allowed 30 days to review this report and respond with a rebuttal if considered necessary.

### CONCLUSION:

It is the IRS's position that the organization failed to meet the reporting requirements under IRC §§ 6001 and 6033 to be recognized as exempt from federal income tax under IRC § 501(c)(3). Accordingly, the organization's exempt status is revoked effective July 1, 20XX.

Form 1120 returns should be filed for the tax periods ending on or after July 1, 20XX.