



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

1100 Commerce Street
Dallas, TX 75242

501.03-00

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: June 21, 2010

Person to Contact:

Number: **201040024**
Release Date: 10/8/2010

LEGEND

ORG = Organization name
XX = Date Address = address

Badge Number:
Contact Telephone Number:
Contact Address:
Employer Identification Number:

ORG
ADDRESS

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Since your exempt status has been revoked, you are required to file Form 1120, U.S. Corporation Income Tax Return, for all years beginning on or after January 1, 20XX.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

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 1-877-777-4778, 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
Director, EO Examinations

Enclosures:
Publication 892



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service
TE/GE EO Examination
1100 Commerce Street
Dallas, Texas 75242

November 6, 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.

Letter 3618 (04-2002)
Catalog Number 34809F

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,

Nanette M. Downing
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 EIN		Year/Period Ended December 31, 20XX

LEGEND
 ORG = Organization name XX = Date City = city Manager = manager
 CO-1 = 1st COMPANY

ISSUE

Whether ORG – ORG (The organization) qualifies for exemption as an organization described within Internal Revenue Code 501(c)(3).

FACTS

ORG – ORG (The organization) is presently recognized under section 501(c)(3) as a tax-exempt organization and was granted tax exempt status as a nonprofit corporation in November 20XX. However, the organization has operated and considered itself to be a for-profit organization. ORG – ORG is an initiative of CO-1 (CO-1). The organization purpose is to provide senior citizens and their families with personal in home care services. The organization’s services include personal concierge services, personal care and personal business. The organization has timely filed form 1120 for all tax years since their incorporation. During the year under examination, the organization reported collecting \$ in gross sales. Per, statement 3 of form 1120 indicates that CO-1 holds of the voting stock in ORG – ORG.

On November 20, 20XX the taxpayer’s representative called the IRS and requested the 1023 application to be withdrawn from consideration. The taxpayer’s representative followed up the verbal request with a written request. On November 26, 20XX the Internal Revenue Service approved the application granting exemption to the organization. On December 4, 20XX, the taxpayer representative spoke with Manager (Determination Group Manger). The Taxpayer representative explained the situation to Manager, who was receptive to the taxpayer’s problem. As a result of the conversation with Manager, a referral initiated our examination of the organization’s activities to resolve the issue.

In written correspondence dated June 12, 20XX, the taxpayer indicated the organization has never operated its business in a not-for-profit manner. The response further explained that the organization did not receive any gift, grant or contributions, nor perform any charitable services. CO-1 (CO-1), an exempt organization working with the organization provided support to pay for application fee for federal tax exemption. When the organization decided to withdraw its application, CO-1 ceased providing any support to the organization.

The organization has never operated in an exclusively charitable manner, which is inconsistent with section 501(c)(3). As such, ORG- ORG fails to meet the operational requirements for continued exemption under IRC 501(c)(3).

LAW

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

Internal Revenue Code Section 501(c)(3) provides for tax exemption to organizations organized and operated exclusively for charitable purposes and no part of the net earning which inures to the benefit of any individual.

Regulation section 1.501(c)(3)-1(a)(1), *Organizational and operational tests*, 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.

Regulation section 1.501(c)(3)-1(c)(1) provides that 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 is not in furtherance of an exempt purpose.

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.

TAXPAYER'S POSITION

Taxpayer did not provide written position. However, an agreed signed form 6018 was secured from taxpayer.

GOVERNMENT'S POSITION

Based on the facts of the examination, you do not qualify for exemption since you are operated for the primary purpose of carrying on a trade or business and is not operated exclusively for one or more purposes under section 501(c)(3).

CONCLUSION

The organization does not qualify for exemption under section 501(c)(3) and its tax exempt status should be revoked effective January 1, 20XX. No contributions to your organization are deductible under section 170 of the Internal Revenue Code.