

Department of the Treasury
Internal Revenue Service

501.03-00

Release Number: **201045024**

Release Date: 11/12/10

LEGEND

ORG = Organization name XX = Date Address = address

ORG
ADDRESS

Person to Contact:
Identification Number:
Contact Telephone Number:
In Reply Refer to: TE/GE Review Staff
EIN:

Dear

This is a Final Adverse Determination Letter as to the ORG'S exempt status under section 501(c)(3) of the Internal Revenue Code.

Our adverse determination was made for the following reasons:

You have not been operating exclusively for exempt purposes within the meaning of Internal Revenue Code section 501(c)(3). ORG also is not a charitable organization within the meaning of Treasury Regulations section 1.501(c)(3)-1(d). You are not an organization which operates exclusively for one or more of the exempt purposes which would qualify it as an exempt organization. You have ceased operations for several years and therefore no longer meet our operational requirements.

Based upon these reasons, your IRC section 501(c)(3) tax exempt status is revoked effective May 1, 20XX. You have signed Form 6018, "Consent to Proposed Action".

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code.

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 91st 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 you can contact the Taxpayer Advocate from the site where the tax deficiency was determined by writing to: Internal Revenue Service, Taxpayer Advocates Office.

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.

We will notify the appropriate State Officials of this action, as required by section 6104(c) of the Internal Revenue Code.

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

Internal Revenue Service

Release Number:

Release Date: 11/12/10

Department of the Treasury

Date: April 20, 2010

ORG
ADDRESS

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Taxpayer Identification Number:
Form:
Tax Year(s) Ended:
Person to Contact/ID Number:
Contact Telephone Number:
Contact Fax Number:

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, please sign and return the enclosed Form 6018, Consent to Proposed Action – Section 7428. If you have already given us a signed Form 6018, you need not repeat this process. 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,

Nanette M. Downing
Acting Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination

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

LEGEND

ORG = Organization name XX = Date State = state TRU = TRU

Issue:

Should the tax exempt status of the ORG be revoked as of May 1, 20XX for failing to file the annual Form 990?

Facts:

The ORG was incorporated in the state of State on March 19, 19XX and was granted exemption as an organization described under IRC Section 501(c)(3) in December 19XX.

We received information from the Social Security Administration that your organization paid wages during the tax year ending December 31, 20XX. Your organization issued 3 Form W-2's but failed to file a Form 941 to report the wages paid, federal income tax withheld, both the employer's and employee's share of social security and Medicare taxes. In addition, it was also noted that the organization had not filed a Form 990 since their tax year ending April 30, 20XX. For the tax years ending April 30, 20XX, 20XX and 20XX the gross revenue reported by the organization was \$ \$ and \$ respectively.

We have tried numerous times to contact your organization as indicated in the enclosed attachment. All letters sent to the last known address of the organization were returned as undeliverable. On February 16, 20XX a letter concerning your filing requirement was then mailed to the home address of your Trustee, TRU. This letter was signed for on February 19, 20XX. To date we have not received a response from the organization.

Law:

Section 501(c)(3) of the Internal Revenue Code exempts from federal income tax organizations organized and operated exclusively for charitable, educational, and other exempt purposes, provided that no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

Treasury Regulation 1.501(c)(3)-1(a)(1) 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.

Internal Revenue Code Section 6033(a)(1) provides, except as provided in IRC Section 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 form or regulations prescribe, and keep such records, render under oath such statements, make

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

such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Treasury Regulation 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 by the district director 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 Section 6033.

Revenue Ruling 59-95, 1959-01 CB 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 Section 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.

Taxpayer's Position:

The taxpayer's position is not known.

Governments Position:

It is the government's position that the tax exempt status of the ORG under section 501(c)(3) of the Internal Revenue Code should be revoked for failing to file their annual Form 990 when required to do so.

Internal Revenue Code Section 6033(a)(1) states in part that, "Except as provided in paragraph (3), every organization exempt from taxation under section 501(a) shall file an annual return..."

The organization did not meet any of the exceptions stated in section 6033(a)(3) of the Internal Revenue Code. For the tax years ending April 30, 20XX, 20XX and 20XX the gross revenue reported by the organization was \$ \$ and \$ respectively. Based on this information, it has been determined that the organization exceeded the \$25,000 exclusion for not filing an annual Form 990.

Revenue Ruling 59-95 held that failure or inability to file the required information return or otherwise to comply with the provision of section 6033 of the Internal Revenue Code 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 an exempt status.

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Using this revenue ruling as precedent, it is the government's position that the tax exempt status of the ORG under Section 501(c)(3) of the Internal Revenue Code should be revoked.

Conclusion

The tax exempt status of ORG under Section 501(c)(3) of the Internal Revenue Code should be revoked because the organization has not established that it is observing conditions required for the continuation of exempt status such as filing annual Form 990 information returns and failing to provide information that was requested from them by the Internal Revenue Service.

The effective date of revocation is May 1, 20XX the first day of the tax year under examination.

A report addressing your employment tax liability will be issued under separate cover.