



DEPARTMENT OF THE TREASURY

Internal Revenue Service
TE/GE EO Examinations
1100 Commerce Street
Dallas, TX 75424

501.03-00

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

Date: October 25, 2010

Release Number: 201103057
Release Date: 1/21/11
LEGEND

ORG = Organization name XX = Date Address = address

ORG
ADDRESS

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

CERTIFIED MAIL – Return Receipt Requested

Dear

This is a Final Adverse Determination Letter as to your exempt status under section 501(c)(3) of the Internal Revenue Code. Your exemption from Federal income tax under section 501(c)(3) of the code is hereby revoked effective January 1, 20XX.

Our adverse determination was made for the following reasons:

Organizations described in I.R.C. § 501(c)(3) and exempt under section 501(a) must be both organized and operated exclusively for exempt purposes. Treasury Regulations § 1.501(c)(3)-1(c)(1) provides that to be operated exclusively for exempt purposes an organization must engage primarily in activities accomplishing exempt purposes. By exclusively operating a bingo game, you did not primarily engage in activities accomplishing exempt purposes. Operating a bingo game does not, by itself, further any charitable, educational or other purposes described in section 501(c) (3) and instead furthers purposes not described in section 501(c)(3), including the private benefits emanating from the operation of such bingo game in contravention of the proscriptions against such in Treasury Regulations § 1.501(c)(3)-1(d).

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

You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the year ending December 31, 20XX, and for 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 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 1-877-777-4778 and ask for Taxpayer Advocate assistance. Or you can contact the Taxpayer Advocate from the site where the tax deficiency was determined by calling, Tel: (916) 974-5007, or write :

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,

Douglas H. Shulman
Commissioner
By

Nanette M. Downing
Director, EO Examinations

Enclosures:

Publication 892
Form 6018, Consent to Proposed Adverse Action
Envelope



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service
4330 Watt Avenue
SA-6209 EO Group 7982
Sacramento, CA 95821

January 25, 2007

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,

Marsha A. Ramirez
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 ORG EIN	TIN	Year/Period Ended 20XX12

LEGEND

ORG - Organization name XX - Date Address - address President - president Vice-President - Vice-President CO-1 - 1st COMPANY

Issue:

Whether the tax-exempt status of an organization that conducts bingo games but does not make charitable distributions should be revoked?

Facts:

ORG (ORG) is recognized as a section 501(c)(3) tax-exempt organization. The organization is an unincorporated association. According to its organizing document, the purpose of the organization is to raise funds for the purpose of awarding scholarships to financially disadvantaged students wishing to attend college. The organization has a board of directors made up of 4 people. The President, President, and the Vice-President, Vice-President, are the two board members most involved with the organization and are in charge of running the organization.

The organization conducts weekly bingo events in an effort to raise funds to distribute in the form of scholarships to students wishing to attend college. The bingo events are open to the general public for a fee of \$. It should be noted that in previous years the fee was \$. It is estimated that anywhere from 100 to 200 people attend each bingo event. Other sources of revenue for the organization include the sale of pull-tabs. Pull-tabs are sold for \$ each and it is estimated that \$ of revenue is brought in from the sale of pull-tabs each week. No records were provided to confirm this estimate. It should be noted that the organization does not have a bingo license. The organization holds its bingo events at CO-1 located at Address. The organization currently pays \$ a month to rent the bingo hall. Other bingo organizations rent this hall as well.

No evidence was presented to show that a scholarship program existed. No scholarship application was provided by the organization, no cancelled checks to schools were provided, and no names of individuals who had received scholarships were provided. The organization reported gross receipts of \$ for the 20XX year and \$\$ for the 20XX year. The organization reported bingo expenses of \$\$ on its 20XX Form 990 and bingo expenses of \$\$ on its 20XX Form 990. Both of these returns were secured during the examination. Form 990 for the 20XX year was not filed and could not be secured during the examination. None of the expenses in 20XX could be accounted for. No documentation such as cancelled checks, invoices, or receipts was provided to account for the 20XX expenses. For 20XX, cancelled checks and invoices were provided to document \$\$ as valid bingo expenses; however, none of these expenses were for scholarship disbursements or other charitable purposes. For 20XX, bank statements and some cancelled checks were provided. Cancelled checks for bingo related expenses totaling \$\$ were provided, but none of these expenses were for scholarship disbursements or other charitable purposes. The documentation provided only accounted for expenses related to running a bingo

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Name of Taxpayer ORG EIN	TIN	Year/Period Ended 20XX12

operation such as supplies and rent expenses. For 20XX there were also checks written totaling \$\$ for which no cancelled checks or other documentation was provided. In Part III of the secured Form 990's for the 20XX and 20XX years the organization stated that there were no program related expenses. The organization's vice-president, Vice-President, stated that the reason that such little documentation existed for its expenses was because most of the expenses were pay outs of cash to winners of bingo games. This is also why the amount shown in the bank statements is so low when compared with the revenues and expenses reported on the 990 Form. Most of the money never goes through the bank account since it is paid out as prize money to winners of the bingo games.

Law:

Section 501(c)(3) of the Internal Revenue Code exempts from federal income tax organizations organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, educational purposes, to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals, provided that no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the regulations provides that in order to be exempt as an organization described in section 501(c)(3) of the Code, the organization must be one that is both organized and operated exclusively for one or more of the purposes specified in that section.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will not be regarded as operated exclusively for exempt purposes if more than an insubstantial part of its activities is not in furtherance of exempt purposes.

In Rev. Rul. 64-182, 1964-1 C.B. 186, the IRS ruled that an organization qualified for exemption under IRC section 501(c)(3) where it used proceeds from a business activity to conduct a charitable program, commensurate in scope with its financial resources, of making grants to other charitable organizations.

In P.L.L. Scholarship Fund vs. Commissioner, 82 T.C. 196 (1984), a section 501(c)(3) organization conducted bingo games at a commercial lounge. 2 of the board members were also owners of the commercial lounge and a 3rd board member was an accountant and director of the commercial lounge. The commercial lounge sold beverages to bingo players. The only expenses paid from the amounts collected for participation in the bingo games are those directly related to the operation of the bingo games, such as prizes, the purchase of supplies, accounting fees, etc. Sales of food and beverages are solicited and made to the bingo players by employees of the commercial lounge. Proceeds from such sales are retained by the commercial lounge separate and distinct from the proceeds of the bingo games. The Tax Court noted that the petitioner engaged in no exempt activities and that the bingo games were conducted in a commercial

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Name of Taxpayer ORG EIN	TIN	Year/Period Ended 20XX12

lounge owned by the organization's director. The court ruled that the scholarship fund was not operated exclusively for exempt purposes.

In *Help the Children, Inc. vs. Commissioner*, 28 T.C. 1128 (1957), a section 501(c)(3) organization conducted bingo games as its principle activity. Its stated purpose was to promote lawful forms of entertainment and amusement to acquire funds and financial assistance for the care and assistance of needy children and children's institutions. Its charitable function consisted of contributions to charitable institutions of amounts that were insubstantial when compared to gross receipts from the bingo games. For the two years under consideration, the percentage of gross bingo receipts that was distributed for charitable purposes was 0.2% and 0.5%. The court held that the organization did not qualify for exemption under IRC section 501(c)(3) because it did not operate any charitable institutions and its principal activity was the profitable operation of bingo games on a business or commercial basis.

Taxpayer's Position

Unknown, Taxpayer did not respond.

Government's Position

Based on the facts of the examination, the organization does not qualify for exemption since there is no exempt purpose. Although the organization's organizing document states that the primary purpose is to make scholarship disbursements, this is not the case. No charitable activity exists. Evidence of any charitable activity from 20XX through 20XX was asked for and none was provided by ORG. The organization's only activity is to conduct weekly bingo games. Since conducting bingo games does not serve an exempt purpose the activity is considered to be a non-exempt activity. An organization will not be regarded as exempt if more than an insubstantial part of its activities is not in furtherance of exempt purposes. See *Treas. Reg. 1.501(c)(3)-1(c)(1)*. In order to be exempt under IRC 501(c)(3), an organization must be organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, educational purposes, etc. An organization that conducts bingo games may be exempt under IRC 501(c)(3) if it uses the proceeds from bingo to conduct a charitable program, commensurate in scope with its financial resources, of making grants to other charitable organizations. See *Rev. Rul. 64-182, 1964-1 C.B. 186*. ORG reported gross receipts of \$ for the 20XX year and \$\$ for the 20XX year. No charitable distributions were made in either of these years. A return was requested for the 20XX year but the organization did not comply with this request. Bank statements and cancelled checks from 20XX were analyzed, but no charitable distributions or expenses were found. Thus it is the service's position that there is no charitable program in place commensurate in scope with the organization's financial resources as required to be exempt by *Rev. Rul. 64-182, 1964-1 C.B. 186*.

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The organization claims that most of its revenue is given back out in cash prizes to winners at the bingo games, and because of this, after operational expenses nothing is left for charitable distributions. Even if this is true, the organization will still not qualify for exemption since there is no charitable program in place and the organization's principal activity is the operation of bingo games. See *Help the Children, Inc. vs. Commissioner*, 28 T.C. 1128 (1957). Case *P.L.L. Scholarship Fund vs. Commissioner*, 82 T.C. 196 (1984) differs from *Y.E.S.S* in that it was shown that the bingo operation was primarily setup to bring income in the form of sales of beverages to the owners of the commercial lounge. The basis for revocation was still largely dependent on the fact that there was no charitable program or exempt activity was supported by the bingo operation.

Conclusion

Based on the foregoing reasons, the organization does not qualify for exemption under section 501(c)(3) and its tax exempt status should be revoked.