



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

TE/GE: EO Examinations

1100 Commerce Street, MC 4920 DAL

Dallas, TX 75242

501.03-00

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

March 5, 2012

Number: **201222048**
Release Date: 6/1/2012

LEGEND

ORG - Organization name

XX - Date Address - address

Taxpayer Identification Number:

Person to Contact:

Identification Number:

Contact Telephone Number:

ORG

ADDRESS

CERTIFIED MAIL

Dear :

This is a final adverse determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code (the Code). Our favorable determination letter to you dated June 19XX is hereby revoked and you are no longer exempt under section 501(a) of the Code effective January 1, 20XX.

The revocation of your exempt status was made for the following reason(s):

You are not operating exclusively for any charitable purpose, educational purpose, or any other exempt purpose. Our examination reveals that you are not engaged primarily in activities which accomplish charitable, educational or other exempt purposes as required by Treas. Reg. 1.501(c)(3)-1(c)(1). Your activities, including your financial transactions, more than insubstantially furthered non-exempt purposes. You failed both of the tests required by Treas. Reg. 1.501(c)(3)-1(a).

Contributions to your organization are no longer deductible under IRC §170 after January 1, 20XX.

You are required to file income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the tax year ending December 31, 20XX and for all tax years thereafter in accordance with the instructions of the return.

Processing of income tax returns and assessments 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 under the declaratory judgment provisions of section 7428 of the Code, a petition to the United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia must be filed before the 91st Day after the date this determination was mailed to you. Please contact the clerk of the appropriate court for rules regarding filing petitions for declaratory judgments by referring to the enclosed Publication 892. You may write to these courts at the following addresses:

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 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 contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Nanette M. Downing
Director, EO Examinations

Enclosure:
Publication 892

Letter 3607(04-2002)
Catalog Number: 34198J

Internal Revenue Service

Department of the Treasury

MS:4950:DAL
1100 Commerce Street
Dallas, TX 75242

Date: November 29, 2011

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,

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		Year/Period Ended December 31, 20XX

LEGEND

ORG - Organization name XX - Date Address - address City - city
State - state President - president RA-1 - 1st RA CO-1 - 1st
COMPANY

Issue:

Whether ORG qualifies for exemption as a public charity under IRC Section 501(c)(3).

Facts:

During the initial interview, President, current President of the organization, and the representative, RA-1 both stated that the organization's sole purpose is to hold title to the CO-1 building located at Address, City, State. The organization has no charitable purpose of any type. At the time of the initial interview it was determined that during the year under examination no charitable activities were performed by the organization and, in fact, the organization only held title to property and collected rent from the property.

During the examination the organization's restated articles of incorporation, dated July 27, 19XX, were inspected. The organization is a State Non-Profit Corporation. The articles of incorporation state that the corporate purpose is to exclusively "hold title to real and personal property for the CO-1."

The by-laws of the organization state in Article II that the exclusive purpose of the organization is to hold title to property, collect rent, and turn the entire amount of rent collected, less expenses, to the CO-1.

Law:

IRC Section 501(c)(3) states "Corporations, and any community chest, fund or foundation organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities or which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) and candidate for public office."

Treas. Reg 1.501(c)(3)-(a) clarifies the organizational and operational requirements of Section 501(c)(3) organizations and states in part "In order to be exempt as an organization described in

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

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 the organization fails to meet either the organizational test or the operational test, it is not exempt.

Treas. Reg 1.501(c)(3)-(b) states "An organization is organized exclusively for one or more exempt purposes only if its articles of organization as defined in subparagraph (2) of this paragraph:

- (a) Limit the purposes of such organization to one or more exempt purposes; and
- (b) Do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Taxpayer's Position:

The taxpayer's representative, RA-1, stated that the organization will agree with the revocation. In the past the organization has wondered if it was correctly classified as a 501(c)(3) organization but never pursued the matter.

Government's Position:

In order to be exempt under IRC Section 501(c)(3) an organization must be organized and operated exclusively for one or more exempt purposes provided by IRC Section 501(c)(3). To be "organized and operated" it must pass both the organizational test and the operational test. An organization is not exempt if it fails either test.

In this case it is clear that the organization fails both the organizational and operational tests. The articles of incorporation and by-laws hold that the organization has the sole purpose of holding title to property and during the year under examination the organization had no activities other than holding the property and collecting rent.

In addition, to be exempt under IRC Section 501(c)(3) an organization must pursue one or more of the exempt purposes provided in that code section. This organization is not pursuing any of the exempt purposes.

Conclusion:

ORG does not qualify for exemption under IRC Section 501(c)(3) and should be revoked effective January 1, 20XX because it is not organized and operated exclusively for any of the exempt purposes required by IRC Section 501(c)(3) and fails both of the tests required by Treas. Reg 1.501(c)(3)-(a). This excludes the organization from exemption.

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

Please file US Corporate income tax return Form 1120 for the tax periods ending December 31, 20XX, December 31, 20XX, and December 31, 20XX.

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

Please note that this is not a final report. The draft report is subject to review and modification by our Mandatory Review staff. You will receive a final report from Mandatory Review.