



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

TE/GE: EO Examinations

625 Fulton Street, Room 503

Brooklyn, NY 11201

501-03.00

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

July 6, 2012

Release Number: **201245026**

Release Date: 11/9/2012

LEGEND

ORG - Organization name

XX = Date Address = address

Taxpayer Identification Number:

Person to Contact:

Identification Number:

Contact Telephone Number:

CERTIFIED MAIL

ORG
ADDRESS

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 October 18, 20XX 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. Moreover, you failed to establish that you were not operated for the benefit of private interest of your trustees, as required for continued recognition of exemption pursuant to Treas. Reg. 1.501(c)(3)-1(d)(1)(ii). Your income inured to the benefit of private shareholders and individuals.

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 1041. These returns should be filed with the appropriate Service Center for the tax year ended December 31, 20XX and for all tax years thereafter in accordance with the instructions of the return.

Pursuant to section 509(b) of the Code, your private foundation status continues unless your status as such is terminated under section 507 of the Code. Therefore, in addition to filing Form 1041, you are required to continue filing Form 990-PF and you are still subject to excise taxes under Chapter 42 of the Code until such time as you terminate your private foundation status under section 507 of the Code.

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

Internal Revenue Service

TE/GE Exemption Organizations Examination
915 Second Avenue, M/S 540(TAI)
Seattle, WA 98174

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 propose to revoke our recognition of your exempt status as an organization described in section 501(c)(3) of the Internal Revenue Code (the Code). We enclose our report of examination explaining why we are proposing this action.

If you accept our proposal, please sign and return the enclosed Form 6018, *Consent to Proposed Action - Section 7428*, unless you have already provided us a signed Form 6018. We will issue a final revocation letter determining you are not an organization described in section 501(c)(3). After the issuance of the final revocation letter we will publish an announcement that you have been deleted from the cumulative list of organizations contributions to which are deductible under section 170 of the Code.

If you do not respond to this proposal, we will similarly issue a final revocation letter. Failing to respond to this proposal may adversely impact your legal standing to seek a declaratory judgment because you may be deemed to have failed to exhaust administrative remedies.

If you do not agree with our proposed revocation and wish to protest our proposed revocation to the Appeals Office of the Internal Revenue Service, then 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. This written request is called a protest. For your protest to be valid it needs to contain certain specific information which generally includes a statement of the facts, the applicable law, and arguments in support of your position. For the specific information needed for a valid protest, please refer to page 6 of the enclosed Publication 3498, *The Examination Process*, and page 1 of the enclosed Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*. If you do submit a valid protest, then 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 and Publication 892 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. Please note that Fast

Track Mediation Services referred to in Publication 3498, generally do not apply after issuance of this letter. You may also request that we refer this matter for Technical Advice as explained in Publication 892 and an annual revenue procedure. Please contact the individual identified on the first page of this letter if you are considering requesting Technical Advice. If we issue a determination letter to you based on a Technical Advice Memorandum issued by the EO Rulings and Agreements function, then no further administrative appeal will be available to you within the IRS on the matter.

If you receive a final revocation letter, you will be required to file Federal income tax returns for the tax period(s) shown above as well as for subsequent years.

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,

Cathy Tai
Revenue Agent, EO Examinations

Enclosures:

Publication 892
Publication 3498
Report of Examination

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 20XX12	

LEGEND

ORG - Organization name XX - Date Class - class RA-1 - RA-1 FOUNDER-1 & FOUNDER-2 - 1st & 2nd FOUNDER CO-1 through CO-29 - 1st through 29th COMPANIES

Issues:

Whether the section 501(c)(3) exempt status of ORG, a private non-operating foundation, be revoked effective January 1, 20XX.

Facts:

ORG (ORG) was recognized as a private non-operating foundation, exempt under IRC section 501(c)(3), on October 18, 20XX.

Per their Form 1023, Application for Recognition of Exemption, which was filed on September 17, 20XX, the Foundation activities would exclusively consist of making grants to other 501(c)(3) organizations classified as public charities for religious, charitable, educational, scientific and literary purposes.

The Foundation's Form 1023 also states that the Foundation would develop operating procedures to ensure that it adheres to the rules of IRC Section 4941, 4942, 4943, 4944, and 4945 as applicable to private non-operating foundations.

The Form 1023 also states that the Foundation will be funded primarily from donations by its founders, FOUNDER-1 and FOUNDER-2.

Funding

The Form 990-PF filed by the Foundation provided the contributions received by the Foundation as follows:

Contributions	20XX
Trustee Contributions	
CO-1	
Other 15 individuals and private foundations	
Total	

Expenditures

The following figures represent the Foundation's expenditure activity for year ending December 31, 20XX.

Expenses	Amount
Accounting fees ¹	
Other prof fees ²	

¹ Accounting fees were paid to CO-2 for doing the Foundation's bookkeeping. The owner of CO-2 is FOUNDER-1, the trustee of the Foundation.

² The Other Professional fee was paid to RA-1 who did some work in the residence of the trustees.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 20XX12

Expenses	Amount
Travel, conferences, and meetings	
Printing and publications	
Other expenses	
Business Expenses: Business Regist	
Business Expenses: Educational Tra ³	
Operations Bank Service Charges	
Operations Postage Mailing Service	
Operations: Supplies	
Operations: Telephone, Telecommunication	
Operations: Utilities	
Other Types of Expenses: Membership ⁴	
Contributions, gifts, grants paid	
CO-3	
CO-4	
CO-5	
CO-6	
Total Expenses	

During the course of examination, it was found that the CO-6 expense was the mortgage payments for the trustee's personal residence.

In addition to the CO-6 expense, a total of \$ expenditures were identified as the expenditures made by the Foundation and used by the trustee for his personal purposes. The \$ expenditures that were identified are as follows:

Date	Name	Amount
01/17/XX	CO-7	
01/17/XX	CO-8	
01/30/XX	CO-9	
02/14/XX	CO-10	
02/19/XX	CO-8	
02/21/XX	CO-8	
02/26/XX	CO-9	

³ Payments were made for the Foundation seminar held by CO-12, online course - CLASS, class for FOUNDER-1's son, etc.

⁴ The Membership fees were paid to CO-13, CO-14, and CO-15. Those businesses are operated as direct selling businesses.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 20XX12

Date	Name	Amount
03/17/XX	CO-11	
03/31/XX	CO-7	
03/27/XX	CO-16	
04/16/XX	CO-17	
04/18/XX	CO-7	
04/21/XX	CO-18	
05/25/XX	CO-19	
05/30/XX	CO-20	
05/29/XX	CO-21	
05/30/XX	CO-22	
05/30/XX	CO-23	
05/30/XX	CO-24	
05/30/XX	CO-25	
05/31/XX	CO-26	
06/03/XX	CO-27	
06/03/XX	CO-28	
07/31/XX	CO-29	
08/22/XX	CO-9	
09/11/XX	CO-8	

Law:

IRC Section 501(c)(3) provides tax exemption for corporation and foundations that are organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

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

Treasury Regulation Section 1.501(c)(3)-1(c)(1) states 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.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 20XX12	

Treasury Regulation Section 1.501(c)(3)-1(c)(2) states that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Treasury Regulation Section 1.501(c)(3)-1(d)(a)(ii) states that an organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (i) of this subparagraph 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 designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Government's Position:

The organization has failed to meet the operational test described in Treasury Regulation Section 1.501(c)(3)-1(c)(1).

The CO-6 of \$ and a total of \$ expenditures were used for the trustee personal purposes.

The total of Foundation's funds paid on behalf of the trustees was \$ which were % of the total expenditures for the year 20XX.

A substantial percentage of the Foundation's total disbursements for the year 20XX were clearly personal in nature. These personal disbursements included payment of expenses and cash disbursements for the benefit of the trustees.

As stated in Treasury Regulation Section 1.501(c)(3)-1(c)(1), "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)." Since a substantial of the Foundation's disbursements were for personal purposes, the Foundation is not engaging primarily in activities that accomplish exempt purposes under IRC Section 501(c)(3).

The Foundation is also being operated for private rather than public interests since a substantial of its total expenditures were personal in nature. As stated in Treasury Regulation Section 1.501(c)(3)-1(d)(1)(ii), an organization is not operated for exempt purposes it is being operated for private interests.

Based on the information presented, it has been determined that the Foundation's exemption under IRC Section 501(c)(3) should be revoked.

Taxpayer's Position:

The Foundation agreed to the revocation proposed by IRS. The effective date of the revocation is January 1, 20XX.

The trustee, FOUNDER-2, signed the Form 6018 *Consent to Proposed Action – Section 7428* on February 2, 20XX.

Conclusion:

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 20XX12	

The Foundation did not meet the operational test under IRC Section 501(c)(3) in the year under review. Therefore, it was concluded that this Foundation was not organized or ever intended to be operated exclusively for exempt purposes described in IRC Section 5019c)(3).

As a result, the Foundation's exempt status is revoked effective January 1, 20XX.