



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

1100 Commerce Street  
Dallas, TX 75242

501.03-00

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

Date: October 12, 2012

Release Number: 201309015

Release Date: 3/1/2013

LEGEND

ORG - Organization name

XX - Date Address - address

**Person to Contact:**

**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 July 1, 20XX for the following reason(s):

You are not 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.

Because you did not protest the proposed modification of your non-private foundation status and have indicated your agreement by signing the Form 6018 on June 12, 20XX, it is further determined that you have not exhausted your available remedies for purposes of declaratory judgment under section 7428 of the Code.

Contributions to your organization are no longer deductible.

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 June 30, 20XX and for all the tax years thereafter in accordance with instructions of the return.

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: United States Tax Court, 400 Second Street, NW, Washington, DC 20217.

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

**Internal Revenue Service**

**Department of the Treasury**  
2525 Capitol Street #217  
Fresno, CA 93721-2227

Date: August 25, 2012

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 <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
Name of Taxpayer ORG	Year/Period Ended 06/30/XX, 06/30/XX, & 06/30/XX	

LEGEND

ORG - Organization name            XX - Date            City - city            State - state  
 FDN-1 & FDN-2 - 1<sup>st</sup> & 2<sup>nd</sup> FDN            CO-1 = 1<sup>st</sup> COMPANY            RA-1 - 1<sup>st</sup> RA

**Issues**

**Issue 1** – Does ORG continue to qualify for exemption under Internal Revenue Code section 501(c)(3)?

**Issue 2** – Does inurement exist in the form of interest free and unpaid loans?

**Facts**

The ORG (ORG) was founded in June 19XX by FDN-1 and FDN-2, husband and wife. The IRS issued a determination letter, dated November 11, 19XX. The letter recognized ORG as a tax exempt organization under Internal Revenue Code (Code) section 501(c)(3). The letter also recognized ORG as an organization described in Code section 170(b)(1)(A)(vi).

ORG's exempt purpose as stated in its articles of incorporation is as follows.

*ORG is a non-profit, non stock corporation, organized exclusively and solely for a combination of educational and charitable purposes; its basic and primary purpose being to provide complete facilities for the study and provision of the optimum benefit to human life, both mental and physical; including thereunder the study and treatment of illness, their cause, prevention and cure; the study of and provision for the needs of the human body, both physical and mental including thereunder nutritional, recreational, spiritual, educational, philosophical, and other needs; the providing of, building, operation of, hospitals, schools, farms, recreational and other facilities necessary to the above purposes, and the cooperative joining with or working with and in conjunction with other corporations, associations, groups, individuals having or controlling the above facilities or any of them.*

FDN-1 stated that ORG's primary exempt purpose was to provide traditional and alternative medical services at low or no cost to residents of City, State. FDN-1 & FDN-2 utilized traditional medical practices and alternative homeopathic remedies. They used the same techniques as traditional doctors and, with patients' cooperation,

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recommended alternative medical solutions. It is unclear from the testimony provided whether ORG ever operated its own medical clinic. Tax records for ORG from the period 19XX through 19XX have not been made available.

In 19XX, FDN-1 & FDN-2 created CO-1 (CO-1), a for-profit medical corporation. FDN-1 & FDN-2, along with other doctors, provided medical services through CO-1 and were paid wages by same. This for-profit clinic provided patient treatment for the years 19XX through 20XX. During this same period of time, ORG was dedicated solely to the collection and compilation of medical data produced by the patients of CO-1.

Under the banner of ORG, FDN-1 & FDN-2 compiled patients' response data to both the traditional and homeopathic treatment. ORG's ultimate (but never realized) goal is to have the data published in a book. From its inception in 19XX to the present, no agents, publishers or interested parties have been identified as supporting the publication of this material.

No evidence has been provided that ORG was ever a publicly supported organization. Since the formation of CO-1 in 19XX, ORG's primary source of funds has either been the direct donations of FDN-1 & FDN-2, investment income, or the sale of investments or other assets held by the organization. It appears that family members have been the only employees of the organization since its formation.

In the final years of CO-1, FDN-1 & FDN-2 devoted half days to ORG. FDN-1 stated that in 20XX she and FDN-2 were going to sell their portion of CO-1 to other doctors, but at the last minute the purchasing doctors changed their minds and CO-1 was closed instead (sometime in 20XX). Property owned by ORG was sold in January 20XX at a profit of almost \$.

FDN-2 died in 20XX. Prior to the sale of ORG's real estate, FDN-1 & FDN-2 and their son, RA-1 (RA-1), received modest compensation from ORG. After the windfall from the real estate sale, their compensation increased significantly. FDN-2's compensation went from \$ in 20XX to \$ in 20XX. RA-1's compensation was \$ in 20XX, up to \$ in 20XX, and \$ in 20XX.

Prior to his death, FDN-2 was the person primarily in charge of compiling and organizing the medical data intended for publication. After his death, FDN-1 and RA-1 were tasked with translating and organizing the data into a practical format to publish a book. The data is stored in document boxes and fills an 8 by 10 foot storage room. The data consists of the unorganized, hand written notes of FDN-2. FDN-1 estimated that approximately % of the collected material has been reviewed. She stated that only

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she and RA-1 can decipher the handwritten notes. RA-1 is not a medical doctor, but does hold a Ph.D in chemistry. He does not hold himself out to the public as an author or specialist in the field of naturopathic medicine, and thus far has not published any of his late father's material

Ten document boxes were observed by the Agent while touring the premises. There were also approximately 120 reel-to-reel audio tapes, purportedly holding two hours of recorded lectures which FDN-2 used as a reference in his work. Because of her husband's death, and her own medical issues, FDN-1 does not know when the transcription work will be finished. Purportedly, she and RA-1 dedicate approximately four hours a day to reviewing the material.

Although FDN-2 may have lectured and published miscellaneous articles during his lifetime, no serious works of published medical information were provided as evidence of the importance or validity of the collected work. Due to the age of the collected data and lack of independent review, the marketability of the material has yet to be established.

FDN-1 and RA-1 are listed as President and Secretary/Treasurer, respectively, on ORG's 20XX through 20XX Forms 990. FDN-1 has served as ORG's President since 20XX and has served on the Board since ORG's inception. RA-1 has been actively involved with ORG since 20XX and served as Secretary and Treasurer for four years. FDN-1 performs all of ORG's bookkeeping. She writes and signs checks and prepares the checkbook reconciliation. She provides a handwritten ledger to the CPA which is used to prepare the Forms 990.

ORG's 20XX through 20XX Forms 990, Schedule A, state that ORG qualifies for public charity status because it is a medical research organization operated in conjunction with a hospital described in Section 170 (b)(1)(A)(iii). The hospital identified is CO-1. This information is contradicted by the fact that CO-1 was a small clinic, not a hospital, and ceased to provide medical treatment sometime in 20XX.

#### Loans to RA-1

ORG's records show that it loaned RA-1 a total of \$ in ten separate loans from July 1, 20XX through June 30, 20XX. RA-1 stated that loan documents do not exist, and the loans were treated as short term loans with no interest. As of June 30, 20XX he had repaid \$ of the loans, with the last payment made on October 15, 20XX. The table below provides loan and payment details.

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Loans to RA-1				
Date	Ck #	Amount	Payment	Balance
07/19/XX				
08/06/XX				
08/21/XX				
09/26/XX	Payment			
10/15/XX	Payment			
12/01/XX	Payment			
04/18/XX				
04/25/XX				
05/13/XX	Payment			
08/02/XX				
09/02/XX				
10/01/XX				
10/26/XX	Payment			
03/01/XX				
05/03/XX				
06/25/XX	Payment			
10/15/XX	Payment			
	Totals			

**Law:**

Section 501(c)(3) of the Internal Revenue Code (IRC) 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.

Section 1.501(c)(3)-1(a)(1) of the Treasury Regulations (Treas. Reg.) 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.

Treas. Reg. §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.



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Treas. Reg. §1.501(c)(3)-1(d)(ii) of the regulations (Treas. Reg.) provides that 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, 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.

An organization must establish that it serves a public rather than a private interest and "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." Income Tax Regulation section 1.501(c)(3)-1(d)(1)(ii). *Christian Stewardship Assistance, Inc. v. Commissioner*, 70 T.C. 1037 (1978); *American Campaign Academy v. Commissioner*, 92 T.C. 1053 (1989). Private benefits include an "advantage; profit; fruit; privilege; gain; [or] interest." *Retired Teachers Legal Fund v. Commissioner*, 78 T.C. 280, 286 (1982).

### Taxpayer's Position

The taxpayer's representative provided a letter dated August 8, 20XX, stating that ORG is engaged in the study and research of traditional and alternative medicine, and that no intentional personal inurement exists.

### Government's Position and Conclusion

ORG's tax exempt status should be revoked because it is not operated for an exempt purpose and inurement exists.

**Issue 1** – ORG does not qualify for exemption because it is not operated exclusively for an exempt purpose.

ORG did not establish that its present activity--transcription of almost 40 years of accumulated medical data--qualifies as an exempt purpose as defined in Regulations 1.501(c)(3)-1(d). ORG fails the operational test for an exempt organization for the years under examination.

**Issue 2** – ORG's earnings inured to the benefit of RA-1 in the form of \$ of interest-free loans, \$ in unpaid loans, and \$ of unpaid interest on the same loans.