



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
Internal Revenue Service
TE/GE Exempt Organization Examinations

UIL: 501.08-01

September 5, 2008

Number: **201332014**

Release Date: 8/9/2013

LEGEND:

ORG= Name of Organization

ADDRESS= ADDRESS OF ORG

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 an adjustment of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process*, explains 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.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action*. We will then send you a final letter modifying or revoking exempt status. If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final. In that event, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

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,

Vicki L. Hansen
Acting Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination
Envelope

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer	Tax Identification Number		Year/Period ended
ORG, Inc.	NUM	Form 990	April 30, 20xx April 30, 20xx

Legend:

ORG= Name of ORGANIZATION
Property= Name of Property
Year = xx
NUM = Identifying Number
Parent = Name of Parent

Issues

1. Whether the organization qualifies for exemption from federal income tax as an organization described in section 501(c)(8) of the Code?

Facts

ORG, a 501(c)(8) tax exempt organization was resulted of a prior IRS audit in 19xx. Prior to 19xx audit, ORG was tax exempted under 501(c)(7) Private Social Club.

Both ORG and Parent are located at same address at Address of Parent. Per interview with ORG officers and manager, ORG is the legal owner of the property of Address of Parent. ORG is controlled by board of Parent.

ORG has two halls available for rental. The maximum capacity of upper hall is limited to 500 people and lower hall at 300. Both halls are available for rent to the general public and Parent members at same price. In addition, the clubroom, bar, kitchens, and staffs are available for rent to the general public and Parent members. In connection with the hall rentals, ORG may also provide catering services to the renters. Per interview with the manager, majority of rental income and catering service revenue were from general public. The organization also advertised reception hall rentals at local bridal service newspaper.

During the examination process, the officers were not able to provide membership information or member listings. No membership fees were charged and reported on the Form 990 return. Per interview with the officers and the manager, it is determined ORG does not have members on its own but Parent does

ORG also operates a bar which is opened to Parent's members and general public. Per interview with the officers and the manager, the bar is mainly utilized by Parents members.

During examination process, the POA believe that prior audit may have created a safe-haven for this audit. POA agreed to provide final finding by July 31, 20xx. POA did not provide any information by July 31, 20xx. On August 8, 20xx agent called CPA and requested POA to provide safe-haven findings in writing or provide Form 1120 for fiscal year 20xx and 20xx by August 18, 20xx. As of September 2nd, 20xx, POA has not provide any information requested for or contact agent for extension.

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Law

Section 501(c)(8) of the Code describes certain fraternal beneficiary societies, orders, or associations which are exempt from taxation under section 501(a) of the Code. The exemption applies to fraternal organizations which operate under the lodge system, or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and which provide for the payment of life, sick, accident or other benefits to members of the organizations or their dependents.

Section 39.101(3)-1 of Regulations 118, made applicable under the 1954 Code by virtue of Treasury Decision 6091, C.B. 1954-2, 47, provides that 'operating under the lodge system' means carrying on activities under a form of organization that comprises local branches, chartered by a parent organization and largely self-governing, called lodges, chapters, or the like. On the basis of the facts in the instant case, it is held that the association is not operating under the lodge system or for the exclusive benefit of the members of an organization so operating. Accordingly, such association is not entitled to exemption from Federal income tax as an organization described in section 501(c)(8) of the Internal Revenue Code of 1954.

Section 1.501(c)(8)-1 of the Income Tax Regulations states that a fraternal beneficiary society is exempt from tax only if operated under the "lodge system" or for the exclusive benefit of the members so operating. "Operating under the lodge system" means carrying on its activities under a form of organization that comprises local branches, chartered by a parent organization and largely self-governing, called lodges, chapters, or the like. In order to be exempt it is also necessary that the society have an established system for the payment to its members or their dependents of life, sick, accident, or other benefits.

Rev. Rul. 84-48, 1984-1 CB 133, holds Section 501(c)(8) of the Code provides for the exemption from federal income tax of fraternal beneficiary societies, orders, or associations that operate under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system and that provide for the payment of life, sick, accident, or other benefits to the members of such societies or their dependents.

The term "other benefits" as used in section 501(c)(8) of the Code, is limited by the type of benefit specified in that section. It is applicable only to those benefits which are of a like kind and nature to those enumerated.

Historically, sick benefits have been understood to include benefits designed to compensate for loss of income during a period of illness, and accident benefits have been understood to encompass benefits payable due to a loss of earning power resulting from an injury. For a benefit to be of a like kind and nature to sick or accident benefits and, therefore, to be included within the term "other benefits" under section 501(c)(8) of the Code, the benefit must be similar in nature to protection designed to compensate for expenses resulting from bodily injury or loss of earning power.

National Union v. Marlow 374 F.775, 778 (1896) indicates what constitutes a fraternal beneficiary society. The case held, in part, . . . a fraternal-beneficial society . . . would be one whose members have adopted the same, or a very similar calling, avocation, or profession, or who are working in union to accomplish some

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worthy object, and who for that reason have banded themselves together as an association or society to aid and assist one another, and to promote the common cause. The term fraternal can properly be applied to such an associations, for the reason that the pursuit of a common object, calling, or profession usually has a tendency to create a brotherly feeling among those who are thus engaged Many of these associations make a practice of assisting their sick and disabled members, and of extending substantial aid to the families of deceased members. Their work is at the same time of a beneficial and fraternal character, because they aim to improve the condition of a class of persons who are engaged in a common pursuit, and to unite them by a stronger bond of sympathy and interest

Philadelphia & Reading Relief Association v. Commissioner , 4. B.T.A. 713, at 725 (1926), provides that the organization was denied exemption because it lacked the necessary fraternalistic element. The court noted the association's membership consisted of individuals whose vocations were as numerous and diverse as the classifications of jobs of a railroad company; membership was open to all employees of the company; the only motive for the association's existence was a mercenary one (to provide insurance benefits); and the organization had neither lodges, rituals, ceremonials, nor regalia commonly associated with fraternal associations.

Taxpayer Position

The organization was audited in 19xx by Internal Revenue Service Exempt Organization division. The organization was converted form 501(c)(7) to 501(c)(8) as result of audit. Since then, the organization has been operated as it was in 19xx. None of activities were changed or organization structures were changed since 19xx audit. The POA believe that prior audit may have created a safe haven for this audit. Possible safe haven. POA agreed to provide final finding by 07/31/20xx

Government Position

In order to qualify for exemption under section Code Sec. 501(a) and Code Sec. 501(c)(8) if:

1. it operates under the lodge system for the exclusive benefit of the members of a fraternity itself operating under the lodge system, *and*
2. it provides for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents.

Operating under the lodge system requires at a minimum, two active entities, a parent and a subordinate. Activities must be carried out under a form of organization that comprises local branches called lodges, chapters, and the like. The local branches must be chartered by the parent organization and largely self-governed. See Section 1.501(c)(8)-1 of the Income Tax Regulations.

You are similar to the two organizations described in Rev. Rul. 63-190 and Rev. Rul. 55-495 that were denied exemption under section 501(c)(8) of the Code, because, like these organizations, You have not demonstrated that you operate under the lodge system. During field examination on July 8th, 9th, 10th of

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20xx, you did not prove that the activities are carried on under a form of organization that comprises local branches that are chartered by a parent organization and that are largely self-governing.

Furthermore, you have not proven that it carry on fraternal activities that are required under section 501(c)(8) of the Code. You failure to provide membership information during the examination process. Per interview with the facility manager and officers of your organization, it is determined your organization does not have members.

An additional requirement of section 501(c)(8) of the Code is that an organization provide for the payment of life, sick, accident, or other benefits to members of such society, order, or association or their dependents. During the examination process, your organization has not demonstrated that your organization provided for the payment of life, sick, accident, or other benefits to your members or their dependents or the members and dependents of other 501(c)(8) organization. When asked whether you provide for the payment of life, sick, or accident insurance, you responded that you did not provide for the payment of life, sick, or accident insurance.

Conclusion

Based on the facts and the law presented above, we have determined that you do not meet the requirements for tax exemption under section 501(c)(8) of the Code as a fraternal beneficiary society operating under the lodge system that provides life, sick, accident or other benefits to members. You do not have a fraternal purpose, do not operate under the lodge system, and you do not provide life, sick, accident or other benefits to members.

Accordingly, you do not qualify for exemption as an organization described in section 501(c)(8) of the Code. Your exemption under section 501(c)(8) of the Internal Revenue Code is revoked effective May 1st, 20xx, the first day of the year that we determined that you are not operated exclusively for exempt purposes. You are required to file Forms 1120 and pay Federal income tax for all years beginning after May 1st, 20xx.