

Internal Revenue Service
Department of the Treasury
Tax Exempt and Government Entities Division
Exempt Organizations: Examinations
1100 Commerce Street
Dallas, Texas 75242

501.03-00

Release Number: **201415005**

Release Date: 4/11/2014

Date: February 13, 2013

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

ORG
ADDRESS

Ref: ORG

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
Form 4621
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 20XX

LEGEND

ORG - Organization name XX - Date EIN - EIN State - state

Issue:

Whether ORG is organized and operated exclusively for exempt purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code.

Should the organization exempt status be revoked since they no longer meet the organizational test of IRC 501(c)(3).

Facts:

ORG was recognized as a tax exempt organization under 501(c)(3) of the Internal Revenue Code in August , 19XX. The primary purpose of the organization was to teach minors safe boating and competitive sailing. Also, to promote yacht racing, to conduct regattas, social events and other marine oriented activities.

On July 15, 20XX, ORG filed notice with Division of Corporations, State of State requesting to have its name released because the organization was dissolved. When the organization filed notice of dissolution with the State of State, it no longer retained its exemption under section of the Internal Revenue Code.

The organization failed to notify the IRS of its dissolution filed with the State of State. Also, the assets of the organization were not transferred to an organization described under 501(c)(3) or to the Federal, State or Local Government as required under the dissolution clause.

On December 12, 20XX the organization filed articles of amendments to the Articles of Incorporation to add the Employer Identification Number, previously assigned to the dissolved organization with the same name of ORG.

The new organization cannot operate under the employer identification number of a dissolved entity. The new organization should have obtained a new EIN. Also, a Form 1023, Application for Exemption should have been filed with the Internal Revenue Service.

Law:

Internal Revenue Code Section 501(c)(3) exempts from Federal income tax "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 all or 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 of 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 distribution of statements), and political campaign on behalf of (or in opposition to) any candidate for public office."

Treas. Reg. Section 1.501(c)(3)-1(a)(1) states: "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 Code section."

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities that 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.

Treas. Reg. Section 1.501(c)(3)-1(c)(2) provides, "An organization is not operated exclusively for one or more exempt purposes only if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Treas. Reg. Section 1.501(a)-1(c) defines the words "private shareholder" or individual(s) in Section 501 as persons having a personal and private interest in the activities of the organization."

IRC § 6001 provides that every person liable for any tax imposed by the IRC, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

IRC § 6033(a)(1) provides, except as provided in IRC § 6033(a)(2), every organization exempt from tax under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Treas. Reg. § 1.6001-1(a) in conjunction with Treas. Reg. § 1.6001-1(c) provides that every organization exempt from tax under IRC § 501(a) and subject to the tax imposed by IRC § 511 on its unrelated business income must keep such permanent books or accounts or records, including inventories, as are sufficient to establish the amount of gross income, deduction, credits, or other matters required to be shown by such person in any return of such tax. Such organization shall also keep such books and records as are required to substantiate the information required by IRC § 6033.

Treas. Reg. § 1.6001-1(e) states that the books or records required by this section shall be kept at all times available for inspection by authorized internal

revenue officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.

Treas. Reg. § 1.6033-1(h)(2) provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and IRC § 6033.

In accordance with the above cited provisions of the Code and regulations under IRC §§ 6001 and 6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax.

Regulation section 1.501(c)(3)-1(d)(1)(ii) provides 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, 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 the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Organizations that fail to meet the organizational test and or the operational test will result in a revocation of 501(c)(3) exempt status.

Governments Position:

Based on the facts of this examination the ORG does not qualify as being tax-exempt as an organization described in Section 501(c)(3) of the Internal Revenue Code. The original ORG is already dissolved as a 501(c)(3) with the State of State. The new organization is not recognized by the IRS as exempt under IRC 501(c)(3). The organization changed its organization structure and is deemed a new entity.

The organization is no longer operated exclusively for 501(c)(3) purposes as defined by the Internal Revenue Code and the Regulations. The organization has ceased its operations on September 26, 20XX. Based on a conversation with the organization's executive director he is unaware of any substantial exempt activities being conducted. The organization has some unused assets (boats in disarray). Due to the organization's idleness with its, the organization is not operating exclusively for one or more exempt purposes specified in 501(c)(3) of the Internal Revenue Code. The organization is not furthering its exempt purpose by being inactive and not planning to perform any exempt activities in the future and therefore does not qualify for exemption under 501(c)(3) of the internal Revenue Code. The organization's officials understand that they fail to qualify for exemption.

Taxpayers Position:

The organization's executive director understand that the organization fails to qualify for

exemption under Internal Revenue Code section 501(c)(3) and agrees to the proposed revocation.

Conclusion:

The organization does not meet the organizational test and accordingly fails to qualify for exemption under section 501(c)(3) of the Internal Revenue Code. The organization's exemption status is being revoked effective January 01, 20XX. Any contributions to the organization are no longer deductible as charitable contributions.