



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
1100 Commerce Street, MC 4920 DAL
Dallas, TX 75242

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: August 31, 2016

Release Number: **201649014**
Release Date: 12/2/2016
UIL Code: 501.03-00

Form:

Tax Year Ended:
December 31, 20XX
Person to Contact:

Identification Number:

Contact Telephone Number:
Telephone Number:
Fax:
EIN:

CERTIFIED MAIL – Return Receipt Requested

Dear _____ :

This is a final 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 January 1, 20XX for the following reason(s):

You did not provide us with the information requested about your financial records and activities necessary to complete our examination. Therefore, you have not demonstrated that you are operated exclusively for exempt purposes within the meaning of Internal Revenue Code section 501(c)(3).

As such, you failed to meet the requirements of Internal Revenue Code section 501(c)(3) and Treasury Regulation Section 1.501(c)(3)-1(d), in that you failed to establish that you were operated exclusively for an exempt purpose.

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code effective January 1, 20XX.

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 December 31, 20XX, and for all subsequent years.

Processing of income tax returns and assessment 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 in court, you must initiate a suit for declaratory judgment in the United States Tax Court, the United States Claim Court or the District Court of the United States for the District of Columbia before the 91st day after the date this determination was mailed to you. Contact the clerk of the appropriate court for the rules for initiating suits for declaratory judgment. Please contact the clerk of the respective court for rules and the appropriate forms regarding filing petitions for declaratory judgment by referring to the enclosed Publication 892. Please note that the United States Tax Court is the only one of these courts where a declaratory judgment action can be pursued without the services of a lawyer. You may write to the courts at the following addresses:

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

US Court of Federal Claims
717 Madison Place, NW
Washington, DC 20005

U. S. District Court for the District of Columbia
333 Constitution Ave., N.W.
Washington, DC 20001

You may call the IRS telephone number listed in your local directory. An IRS employee there may be able to help you, but the contact person at the address shown on this letter is most familiar with your case. You may also call the Internal Revenue Service Taxpayer Advocate.

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. We can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for our assistance, which is always free, we will do everything possible to help you. Visit taxpayeradvocate.irs.gov or call 1-877-777-4778.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

Enclosures:
Publication 892

Margaret Von Lienen
Director, EO Examinations

Internal Revenue Service
Tax Exempt and Government Entities Division
Exempt Organizations: Examinations

Department of the Treasury

Date:

February 3, 2016

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

December 31, 20XX

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Manager's name/ID number:

Manager's contact number:

Response due date:

March 4, 30XX

Certified Mail – Return Receipt Requested

Dear :

Why you are receiving this letter

We propose to revoke your status as an organization described in section 501(c)(3) of the Internal Revenue Code (Code). Enclosed is our report of examination explaining the proposed action.

What you need to do if you agree

If you agree with our proposal, please sign the enclosed Form 6018, *Consent to Proposed Action – Section 7428*, and return it to the contact person at the address listed above (unless you have already provided us a signed Form 6018). We'll issue a final revocation letter determining that you aren't an organization described in section 501(c)(3).

After we issue the final revocation letter, we'll announce that your organization is no longer eligible for contributions deductible under section 170 of the Code.

If we don't hear from you

If you don't respond to this proposal within 30 calendar days from the date of this letter, we'll issue a final revocation letter. Failing to respond to this proposal will adversely impact your legal standing to seek a declaratory judgment because you failed to exhaust your administrative remedies.

Effect of revocation status

If you receive a final revocation letter, you'll be required to file federal income tax returns for the tax year shown above as well as for subsequent tax years.

What you need to do if you disagree with the proposed revocation

If you disagree with our proposed revocation, you may request a meeting or telephone conference with the supervisor of the IRS contact identified in the heading of this letter. You also may file a protest with the IRS Appeals office by submitting a written request to the contact person at the address listed above within 30 calendar days from the date of this letter. The Appeals office is independent of the Exempt Organizations division and resolves most disputes informally.

For your protest to be valid, it must contain certain specific information including a statement of the facts, the applicable law, and arguments in support of your position. For specific information needed for a valid protest, please refer to page one of the enclosed Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*, and page six of the enclosed Publication 3498, *The Examination Process*. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process. Please note that Fast Track Mediation referred to in Publication 3498 generally doesn't apply after we issue this letter.

You also may request that we refer this matter for technical advice as explained in Publication 892. 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 Exempt Organizations Rulings and Agreements office, no further IRS administrative appeal will be available to you.

Contacting the Taxpayer Advocate Office is a taxpayer right

You have the right to contact the office of the Taxpayer Advocate. Their assistance isn't a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate can't reverse a legally correct tax determination or extend the time you have (fixed by law) to file a petition in a United States court. They can, however, see that a tax matter that hasn't 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:

Internal Revenue Service
Office of the Taxpayer Advocate

For additional information

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,

Paul A. Marmolejo
Acting Director, EO Examinations

Enclosures:
Report of Examination
Form 6018
Publication 892
Publication 3498

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended December 31, 20XX December 31, 20XX

ISSUE

1. Whether _____ continues to qualify for exemption under Section 501(c)(3) of the Internal Revenue Code?

FACTS

The organization was granted tax-exempt status in November 18, 20XX under Internal Revenue Code Section 501(a) as an organization described in Section 501(c)(3). According to its Articles of Incorporation dated April 7, 20XX, the purpose of the organization is as follows:

The exempt purpose of the organization as stated in the original application for exemption (Form 1023) is to:

The organization filed Form 990-EZ for the year December 31, 20XX on 05/15/20XX. The originally filed Form 990-EZ for December 31, 20XX shows the following:

Income

Contributions	\$ XX,XXX
Investment Income	\$ X
Total Income	\$ XX,XXX

Expenses

Grants	\$ XX,XXX
Professional Fees	\$ XXX
Other	\$ X,XXX
Total Expenses	\$ XX,XXX

Net Loss \$(XX,XXX)

We began an examination on June 11, 20XX. We contacted the president, _____, at various phone numbers found in the case file and on the internet. _____ stated that he needed to discuss the audit with the Vice President and Treasurer of the organization. We mailed the Letter 3611 to the organization with the examination date and time. In addition to the Letter 3611 we issued a request for information (Information Document Request, or IDR) on June 23, 20XX. The request was for financial and organizational information for the year under examination. The information was due back to us by July 28, 20XX.

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On July 1, 20XX, the Vice President of the organization () responded to the L3611 and rescheduled the initial appointment for August 5, 20XX. Because of the rescheduling of the examination, we issued Letter 3613 along with a revised IDR with a due date of August 5, 20XX. After the meeting on August 5, 20XX, we issued IDR #2 requesting additional documentation to address potential private benefit, inurement, and public support issues. IDR #2 was due on September 14, 20XX. The organization provided a response to IDR #2 on September 23, 20XX. However, the response was missing information requested for donors, grants, and payments made to

We issued IDR #3 on September 29, 20XX with a due date of October 20, 20XX. The IDR #3 was issued in an attempt to re-request the documents needed to address the potential private benefit, inurement, and public support issues identified during the field examination. We did not receive a response to the IDR #3 and as a result scheduled a subsequent field visit for December 8, 20XX. We updated IDR #3 and re-mailed IDR #3 with a due date of December 8, 20XX.

We met with the Vice President of the organization and the designated power of attorney on December 8, 20XX and found that the organization failed to provide any of the documentation requested in IDR #3. We issued IDR #4 with a response due date of January 8, 20XX in a final effort to obtain the documentation needed to properly develop the potential inurement, private benefit, and public support issues noted during the examination. We received notification from the representative of the organization that it did not intend to provide any of the requested donor or grant information as it would be a violation of the Health Insurance Portability and Accountability Act (HIPAA).

To date, we have not received the specific revenue and expense source documents requested to determine the level of private benefit conferred through the organizations operations. Additionally, we have not received the requested documentation to determine whether inurement transactions have occurred or whether the organization passed the public support test for the year under examination. All of which were requested in the information documents requests #2, #3, and #4.

LAW

Section 501(c)(3) of the Internal Revenue Code provides an exemption from federal income tax for: 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 for the prevention of cruelty to children or animals. The exemption is available where: 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, and which does not participate in, or intervene in, any political campaign on behalf of any candidate for public office.

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Section 6001 of the Internal Revenue Code 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.

Section 6033(a)(1) of the Internal Revenue Code provides that except as provided in IRC § 6033(a)(2), every organization exempt from tax under § 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. The Secretary may also prescribe by forms or regulations the requirement of every organization to 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.

Treasury Regulation Section 1.6001-1(c) states that every organization exempt from tax under section 501(a) shall keep such permanent books of account or records, including inventories, as are sufficient to show specifically the items of gross income, receipts and disbursements. Such organizations shall also keep such books and records as are required to substantiate the information required by section 6033.

Treasury Regulation Section 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 Service officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any Internal Revenue law.

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.

Revenue Ruling 59-95, 1959-1 C.B. 627, concerns an exempt organization asked to produce financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The Internal Revenue Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of IRC § 6033 and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

GOVERNMENT'S POSITION

1. *Failure to Meet the Operational Test*

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended December 31, 20XX December 31, 20XX

The EO has failed to show us that they meet the operational test for a § 501(c)(3) organization for the year under examination. In order to meet the operational test, they must show that they engage primarily in activities which accomplish one or more of such exempt purposes specified in section § 501(c)(3). We will not regard an organization as having met this test if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

As evidence of their failure to operate for exempt purposes, we reviewed the Form 990 filings and found little or no support for exempt operations. The originally filed Form 990-EZ for December 31, 20XX provides that the organization is not publicly supported. It shows that the organization spent \$XX,XXX on their exempt function program services. However, the EO has failed to provide any documentation showing that the amounts paid in grants were for charitable purposes and not for private benefit. Accordingly, we are proposing revocation because the organization does not operate for exempt purposes.

Failure to Provide Records

The EO has failed to provide records as is required in Code § 6033(a)(1) and Regulation § 1.6033-1(h)(2). They failed to provide any organizational or financial information that we requested during the examination. We attempted to obtain these records numerous times by mail and phone.

The organization has failed to provide records to verify that they are operating according to the exempt purpose for which they were granted exemption. Our position is that the organization, then, is not operating for exempt purposes, as they have provided no evidence to the contrary.

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.

The Organization has failed repeatedly to respond to the Service's request for information in contrast to section 1.6033-1(h)(2) of the regulations which require an organization to provide such information as requested to allow the Service to make a determination of that organization's exempt status.

It is the Service's position that the organization failed to meet the reporting requirements under IRC §§ 6001 and 6033 to be recognized as exempt from federal income tax under IRC § 501(c)(3). Accordingly, we propose that the organization's exempt status be revoked effective January 1, 20XX.

TAXPAYER'S POSITION

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended December 31, 20XX December 31, 20XX

The taxpayer's has stated that it is not required to provide the documentation requested with respect to the specific donor and grant transactions of the organization. The taxpayer has stated that it is protected from providing this information under the Health Insurance Portability and Accountability Act.

The taxpayer has also stated that it agrees to revocation of exempt status as it is not able to verify that its activities further its stated exempt purposes under Section 501(c)(3) of the Internal Revenue Code.

REBUTTAL TO THE TAXPAYER'S POSITION

It is the position of the government that the organization is not subject to HIPPA laws as it is not a covered entity (health care clearinghouses, employer sponsored health plans, health insurers, and medical service providers that engage in certain transactions). The organization is a grant making organization, which makes grants to health care providers but does not operate as one.

CONCLUSION

Failure to comply with the Code and Regulations, the organization has jeopardized its exempt status. They failed to provide required documentation, thereby failing to be complaint with the Code, and failing to show any evidence of their exempt activities. We have no reason to believe that the EO is operating for exempt purposes.

As a result of the examination, we have determined that the EO is not operating for exempt purposes as a §501(c)(3) organization. They have not provided any information to the contrary. Accordingly, since the organization failed to operate primarily for exempt purposes, we are proposing revocation of their tax-exempt status, effective January 1, 20XX.

Since the organization will no longer have tax-exempt status beginning January 1, 20XX, they are required to file Form 1120, *U.S. Corporation Income Tax Return*, as of that date.

It is the Services position that the Organization does not qualify for exemption from federal income tax under IRC §501(c)(). The proposed date of the revocation is January 1, 20XX.