



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
TEGE EO Examinations Mail Stop 4920 DAL
1100 Commerce St.
Dallas, Texas 75242

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Release Number: 201732034
Release Date: 8/11/2017
UIL Code: 501.03-00

Date: March 3, 2017

Taxpayer Identification Number:

Person to Contact:

Employee Identification Number:

Employee Telephone Number:

CERTIFIED MAIL – RETURN RECEIPT

Dear _____ :

This is a final adverse determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code. Our favorable determination letter to you dated May 6, 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):

Organizations described in IRC 501(c)(3) and exempt under section 501(a) must be both organized and operated exclusively for exempt purposes. You have failed to produce documents to establish that you are operated exclusively for exempt purposes and that no part of your net earnings inures to the benefit of private shareholders or individuals. You failed to respond to repeated reasonable requests to allow the Internal Revenue Service to examine your records regarding your receipts, expenditures, or activities as required by sections 6001 and 6033(a)(1) of the Code and Rev. Rul. 59-95, 1959-1 C.B. 627.

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 1120. This return was filed with the appropriate Service Center for the tax year ending December 31, 20XX. These returns should be filed for the tax year ending December 31, 20XX and for all tax years thereafter in accordance with the instructions of the return.

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 the United States Tax Court at the following address:

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

You also have the right to contact the Office of the Taxpayer Advocate. The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS 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 TAS assistance, which is always free, TAS will do everything possible to help you. Visit taxpayeradvocate.irs.gov or call 1-877-777-4778. If you prefer, you may contact your local Taxpayer Advocate at:

**Internal Revenue Service
Office of the Taxpayer Advocate**

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

Sincerely,

**Margaret Von Lienen
Director, EO Examinations**

**Enclosures:
Publication 892**



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities Division
324 25th St Rm 6025 Mail Stop 1112
Ogden, UT 84401

Date:
March 11, 2016
Taxpayer Identification Number:

Form:
990
Tax year(s) ended:
December 31, 20XX
Person to contact/ ID number:

Contact numbers:
Phone Number: Toll Free
Long Distance

Fax Number:
Manager's name/ ID number:

Manager's contact number:

Response due date:
April 11, 20XX

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(s) 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 may also 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, Exempt Organizations Examinations

Enclosures:
Report of Examination
Form 6018
Publication 892
Publication 3498

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended December 31, 20xx

Date of Notice: March 11, 2016

Issues:

Whether the organization continues to qualify for exemption from Federal income tax under Section 501(c)(3) of the Internal Revenue Code.

Facts:

The organization filed Form 1023 for exemption on August 23, 20XX, and was granted exemption as a 501(c)(3) on May 06, 20XX, with an effective date of exemption of June 10, 20XX.

An organization exempt under 501(c)(3) needs to be organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes and to foster national and amateur sports competition.

The organization was selected for audit to ensure that the examined organization's activities and operations align with its approved exempt status.

The organization failed to respond to the Internal Revenue Service attempts to obtain information to perform an audit of Form 990 for the above mentioned tax period.

- Correspondence for the audit was as follows:
 - Letter 3606 (Rev. 6-2012) with attachments, was mailed to the organization on August 28, 20XX, with a response date of September 28, 20XX.
 - A letter was sent to the organization on September 9, 20XX, letting the organization know the Tax Compliance Officer (TCO) mailing address and phone number had changed.
 - EOCA Letter 0000, EO Exam Follow Up for No Response (2012-10) with attachments, was mailed certified to the organization on October 07, 20XX, with a response date of October 29, 20XX. Article Number . Per the United States Postal Service (USPS) tracking, this was delivered on October 13, 20XX at pm.
 - EOCA Letter 0000, EO Exam Follow Up for No Response (2012-10) with attachments, was mailed certified to the President (), per Form 1023 application, on December 09, 20XX, with a respond date of December 30, 20XX. Article Number . Per USPS tracking this was unclaimed and returned to the Internal Revenue Service (IRS) on January 13, 20XX.

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Name of Taxpayer		Year/Period Ended December 31, 20xx

- EOCA Letter 0000, EO Exam Follow Up for No Response (2012-10) with attachments, was mailed certified to the Treasurer/Secretary (), per Form 1023 application, on December 09, 20XX, with a respond date of December 30, 20XX. Article Number . Per USPS tracking this was unclaimed and returned to the IRS on January 13, 20XX.
- Telephone contact for the audit was as follows:
 - **August 24, 20XX**, Tax Compliance Officer (TCO) was not able to locate a phone number for an officer of the organization to notify the organization they were under audit. The phone number listed on the Form 1023 application was for the Power of Attorney for the 1023 application.
 - **November 05, 20XX**, TCO received a phone call from - President , President said he had received the certified letter dated October 7, 20XX in the mail. President said he just looking at it yesterday and realized it had a due date of October 29, 20XX. He just sent the letter over to the accountant yesterday.

TCO reviewed the Individual Document Request (IDR) with the President, as well as Publication 1. TCO asked if the organization is terminating and the President said "NO" they want to be a 501(c)(3) organization.

TCO also let the organization know they should be filing a Form 990 each year. The organization said for the 20XX year the gross receipts were over XX,XXX.XX. I let him know a Form 990 should have been filed by May 15, 20XX. As part of the audit the President will need to submit a Form 990 and a letter of reasonable cause for late filing, if applicable.

The TCO granted an extension to November 23, 20XX.

 - **December 01, 20XX**, TCO had not received a response from the organization. TCO called - President , and received a voice mail system (VMS). TCO left a message for the President to return the phone call.
 - **December 09, 20XX**, TCO received a return phone call from - President . President said he was still waiting to get information back from the accountant. TCO let the President know certified letters had been mailed to all the officers. TCO told the President the certified letter has a response date of December 30, 20XX. TCO let the President know, if a response is not received by December 30, 20XX, then

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Name of Taxpayer		Year/Period Ended December 31, 20xx

TCO would be starting the paper work for a no response and proposing revocation. The President said TCO would have the information by December 30, 20XX.

Law:

Internal Revenue Code (IRC) §1.61-1 of the regulations provides that Gross income means all income from whatever source derived, unless excluded by law. Gross income includes income realized in any form, whether in money, property, or services. Income may be realized, therefore, in the form of services, meals, accommodations, stock, or other property, as well as in cash.

IRC §501(c)(3) of the Code provides that an organization organized and operated exclusively for charitable or educational purposes is exempt from Federal income tax, provided no part of its net earnings inures to the benefit of any private shareholder or individual.

IRC §511 of the Internal Revenue Code imposes a tax at corporate rates under section 11 on the unrelated business taxable income of certain tax-exempt organizations.

IRC §6001 of the Code provides that every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title.

IRC §1.6001-1(c) of the Code provides that such permanent books and records as are required by paragraph (a) of this section with respect to the tax imposed by section 511 on unrelated business income of certain exempt organizations, 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. See section 6033 and §§ 1.6033-1 through 1.6033-3.

IRC §1.6001-1(e) of the Code provides that the books or records required by this section shall be kept at all time 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.

IRC §6033(a)(1) of the Code provides, except as provided in section 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

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statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Federal Tax Regulations (FTR) §1.6033-1(h)(2) of the regulations 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 section 6033.

Section 1.501(c)(3)-1(a) In order to be exempt under §501(c)(3) the organization must be both organized and operated exclusively for one or more of the purposes specified in the section. (religious, charitable, scientific, testing for public safety, literary or educational).

FTR §1.501(c)(3)-1(a)(1) of the regulations 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.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will not be regarded as "operated exclusively" for one or more exempt purposes described in section 501(c)(3) of the Code if more than an insubstantial part of its activities is not in furtherance of a 501(c)(3) purpose. Accordingly, the organization does not qualify for exemption under section 501(c)(3) of the Code.

Rev. Rul. 59-95, 1959-1 C.B. 627, concerns an exempt organization that was requested to produce a 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 Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of section 6033 of the Code 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.

Organizations Position

The organization has failed to respond to all attempts to contact them.

Governments Position

Based on the above facts, the organization did not respond to verify that they are organized and operated exclusively for one or more of the purposes specified in IRC Section 501(c)(3). If an organization fails to meet either the organizational test or the operational test, it is not exempt.

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In accordance with the above-cited provisions of the Code and regulations under sections 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.

Section 1.6033-1(h)(2) of the regulations specifically state that exempt organizations shall submit additional information for the purpose on enabling the Internal Revenue Service to inquire further into its exempt status.

Using the rationale that was developed in Revenue Ruling 59-95, the Organization's failure to provide requested information should result in the termination of exempt status.

Conclusion:

Based on the foregoing reasons, the organization does not qualify for exemption under section 501(c)(3) and its tax exempt status should be revoked.

It is the IRS's position that the organization failed to meet the reporting requirements under sections 6001 and 6033 to be recognized as exempt from federal income tax under 501(c)(3) of the Internal Revenue Code. Accordingly, the organization's exempt status is revoked effective January 1, 20XX.

Form 1120 returns should be filed for the tax periods after January 1, 20XX.