



DEPARTMENT OF THE TREASURY

Internal Revenue Service
TE/GE EO Examinations
1100 Commerce Street MC 4920 DAL
Dallas, TX 75242

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: OCT 15 2018

Number: 201909014
Release Date: 3/1/2019

Person to Contact:
Identification Number:
Telephone Number:
In Reply Refer to:

UIL: 501.03-00

LAST DATE FOR FILING A PETITION WITH
THE TAX COURT:

CERTIFIED MAIL - Return Receipt Requested

Dear _____ :

This is a final adverse determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code (IRC). Our favorable determination letter to you dated April 20, 20XX, is hereby revoked and you are no longer exempt under section 501(a), as an organization described in section 501(c)(3) of the IRC, effective January 1, 20XX.

Our adverse determination was made for the following reasons:

You have not established that you are organized exclusively for an exempt purpose or that you have been engaged primarily in activities that accomplish one or more exempt purposes within the meaning of IRC section 501(c)(3).

Contributions to your organization are no longer deductible under section 170 of the Code.

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 years thereafter.

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 Court of Federal Claims 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. 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

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.

We will notify the appropriate State Officials of this action, as required by section 6104(c) of the Internal Revenue Code.

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

Sincerely yours,

A handwritten signature in black ink that reads "Maria Hooke". The signature is written in a cursive style with a large initial "M" and a long, sweeping underline.

Maria Hooke
Director, Exempt Organizations Examinations

Enclosures:
Publication 892



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities Division
Exempt Organizations Examination

Date:
08/29/2018
Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:

Employee ID number:
Telephone number:
Fax:

Manager's contact information:

Employee ID number:
Telephone number:
Response due date:

CERTIFIED MAIL – Return Receipt Requested

Dear _____ :

Why you're receiving this letter

We enclosed a copy of our audit report, Form 886-A, Explanation of Items, explaining that we propose to revoke your tax-exempt status as an organization described in Internal Revenue Code (IRC) Section 501(c)(3).

If you agree

If you haven't already, please sign the enclosed Form 6018, Consent to Proposed Action, and return it to the contact person shown at the top of this letter. We'll issue a final adverse letter determining that you aren't an organization described in IRC Section 501(c)(3) for the periods above.

After we issue the final adverse determination letter, we'll announce that your organization is no longer eligible to receive tax deductible contributions under IRC Section 170.

If you disagree

1. Request a meeting or telephone conference with the manager shown at the top of this letter.
2. Send any information you want us to consider.
3. File a protest with the IRS Appeals Office. If you request a meeting with the manager or send additional information as stated in 1 and 2, above, you'll still be able to file a protest with IRS Appeals Office after the meeting or after we consider the information.

The IRS Appeals Office is independent of the Exempt Organizations division and resolves most disputes informally. If you file a protest, the auditing agent may ask you to sign a consent to extend the period of limitations for assessing tax. This is to allow the IRS Appeals Office enough time to consider your case. For your protest to be valid, it must contain certain specific information, including a statement of the facts, applicable law, and arguments in support of your position. For specific information needed for a valid protest, refer to Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status.

Fast Track Mediation (FTM) referred to in Publication 3498, The Examination Process, generally doesn't apply now that we've issued this letter.

4. Request technical advice from the Office of Associate Chief Counsel (Tax Exempt Government Entities) if you feel the issue hasn't been addressed in published precedent or has been treated inconsistently by the IRS.

If you're considering requesting technical advice, contact the person shown at the top of this letter. If you disagree with the technical advice decision, you will be able to appeal to the IRS Appeals Office, as explained above. A decision made in a technical advice memorandum, however, generally is final and binding on Appeals.

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 adverse determination letter.

Contacting the Taxpayer Advocate Office is a taxpayer right

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 www.taxpayeradvocate.irs.gov or call 877-777-4778.

Additional information

You can get any of the forms and publications mentioned in this letter by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676).

If you have questions, you can contact the person shown at the top of this letter.

Sincerely,



for Maria Hooke
Director, Exempt Organizations Examinations

Enclosures:

Form 6018
Form 4621-A Report of Examination
Form 886-A
Publication 892
Publication 3498-A

Form 886A	Department of the Treasury Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer	EIN	Year/Period Ended 20XX

Date of Notice: August 29, 20XX

Issues:

Whether the exempt status of _____ (the Organization) under IRC § 501(c)(3) should be revoked, effective January 1, 20XX because it is not organized exclusively for exempt purposes within the meaning of section 501 (c)(3) and Treas. Reg. § 1.501(c)(3)-1(b)?

Facts:

_____ applied for tax-exempt status by filing the Form 1023, *Application for recognition of Exemption Under Section 501 (c)(3) of the Internal Revenue Code*, on October 14, 20XX, and was granted tax-exempt status as a 501(c)(3) on April 20, 20XX, with an effective date of May 5, 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 checked the boxes on Form 1023, Part III, ensuring that when the application was filed that the organization's organizing document contains the required provisions to meet the organizational test.

Section 501(c)(3) requires that an organizing document must limit the organization's purposes to one or more exempt purposes within section 501(c)(3) and also that their organizing document contains the dissolution provision required under section 501(c)(3).

An organizing document may not need a dissolution because the organization relied on the operation of state law in the state in which it was formed. Organization's formed in the State of _____ cannot rely on state law for dissolution clause purposes, so one needs to be included in the organization's organizing document.

The original organizing documents that were obtained does not limit the purpose of the organization to one or more exempt purposes or contain a proper dissolution clause.

Letter 1312 was sent to the organization on February 2, 20XX, during the processing of the Form 1023, requesting the Articles of Incorporation to be amended to include a purpose clause to limit the purpose to those specifically described in Section 501(c)(3) and a dissolution clause.

The organization responded to Letter 1312 with a copy of their bylaws. The bylaws do contain an appropriate purpose and dissolution clause that is required for an organizing document to contain for a 501(c)(3) organization. No documentation that it was

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submitted to the State of _____ to be part of their Articles of Incorporation was included.

Letter 3606 (Rev. 6-2012) with attachments, was mailed to the organization on February 20, 20XX with a response date of March 20, 20XX requesting their Articles of Incorporation, description of activities, minutes, and financials.

Letter 5798 with attachments, was mailed to the organization on March 9, 20XX granting an additional 10 days from the original due to respond. The letter also included information that was needed due the organization indicating that they were dissolving.

Organization responded on April 4, 20XX with a signed statement that that they had no assets all funds were used for the organization's expenses, along with Articles of Dissolution. The articles indicate that the effective date of dissolution is December 05, 20XX.

No documentation was provided showing that the Articles of Dissolution were filed with the State of _____

No documentation was provided showing that the by-laws were submitted, accepted, or part of the Articles of Incorporation with the State of _____

Letter 3844-B (11-2015), with attachments, was mailed to _____ on July 25, 20XX, with a response date of August 08, 20XX. This letter included a request for a complete copy of articles of dissolution; along with copies of the Form 1023, Letter 947, Letter 1312, Letter 4423, and the organization's response to Letter 1312 that was received/sent during the processing of the application. This letter was sent back by the post office as being undeliverable

Letter 3844-B (1-2015), with attachments, was mailed to _____, on August 10, 20XX, with a response date of August 24, 20XX. This letter included a request for a complete copy of articles of dissolution; along with copies of the Form 1023, Letter 947, Letter 1312, Articles of Incorporation from state website, Letter 4423, and the organization's response to Letter 1312 that was received/sent during the processing of the application.

The agent made several attempts to contact the organization to request verification that it conformed its organizing documents with the State of _____

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Law:

Internal Revenue Code (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.

Treasury Regulations (Regulation) 1.501(c)(3)-1 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).

Regulation §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.

Regulation §1.501(c)(3)-1(b)(1)(i) An organization is organized exclusively for one or more exempt purposes only if its articles of organization (a) Limit the purposes of such organization to one or more exempt purposes; and (b) Do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Regulation 1.501(c)(3)-1(b)(4) An organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, for example, if, upon dissolution, such assets would, by reason of a provision in the organization's articles or by operation of law, be distributed for one or more exempt purposes, or to the Federal Government, or to a State or local government, for a public purpose, or would be distributed by a court to another organization to be used in such manner as in the judgment of the court will best accomplish the general purposes for which the dissolved organization was organized. However, an organization does not meet the organizational test if its articles or the law of the State in which it was created provide that its assets would, upon dissolution, be distributed to its members or shareholders.

Rev. Ruf. 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

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established that it is observing the conditions required for the continuation of exempt status.

Organization's Position

Taxpayer's position is unknown at this time.

Government's Position

Based on the above facts, the Organization has not established that it had organizing documents limiting the purpose of the organization to one or more exempt purposes, or a proper dissolution clause that meets the organizational test under IRC section 501(c)(3), at the time of applying for tax exemption.

If an organization fails to meet either the organizational test or the operational test, it is not exempt.

The Organization fails the organizational test because it did not establish that it had an organizing document that complied with section 501(c)(3) at the time of applying for tax exemption. Because it never had an organizing document that meets the requirements of section 501(c)(3), and because it misrepresented that fact in its Form 1023 and subsequent correspondence, the revocation is effective as of the date of exemption, January 1, 20XX.

Conclusion:

Based on the foregoing reasons, it is the IRS position that the organization failed to establish that it meets the organizational test as required IRC §§ 501(c)(3) for it to be exempt from federal income tax under IRC § 501(c)(3). Accordingly, the organization's exempt status is revoked effective January 1, 20XX.

Form 1120, *U.S. Corporation Income Tax Return*, should be filed for the tax periods after December 31, 20XX.