

**Internal Revenue Service
Appeals Office**

Department of the Treasury

Employer Identification Number:

Date: DEC 20 2018

Person to Contact:

**Number: 201911018
Release Date: 3/15/2019**

**Employee ID Number:
Tel:
Fax:**

UIL: 501.03-00

Certified Mail

Dear

This is a final adverse determination that you do not qualify for exemption from federal income tax under Internal Revenue Code (the "Code") section 501(a) as an organization described in Section 501(c)(3) of the Code.

We have hereby revoked the favorable determination letter to you dated and you are no longer exempt under Section 501(a) of the Code effective .

We made the adverse determination for the following reason(s):

You did not demonstrate that you were operated exclusively for exempt purposes as required by Internal Revenue Code section 501(c)(3) and Treasury Regulation section 1.501(c)(3)-1(c)(1).

Contributions to your organization are not deductible under section 170 of the Code.

You're required to file Federal income tax returns on Forms 1120, U.S. Corporation Income Tax Return. Mail your form to the appropriate Internal Revenue Service Center per the form's instructions. You can get forms and instructions by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676).

We'll make this letter and the proposed adverse determination letter available for public inspection under Code section 6110 after deleting certain identifying information. We have provided to you, in a separate mailing, Notice 437, *Notice of Intention to Disclose*. Please review the Notice 437 and the documents attached that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437.

If you decide to contest this determination, you may file an action for declaratory judgment under the provisions of section 7428 of the Code in either:

- United States Tax Court,
- The United States Court of Federal Claims,
- The United States District Court for the District of Columbia.

You must file a petition or complaint in one of these three courts within 90 days from the date we mailed this determination letter to you. Contact the clerk of the appropriate court for rules and the appropriate forms for filing petitions for declaratory judgment. You can 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

Note: We will not delay processing income tax returns and assessing any taxes due even if you file petition for declaratory judgment under section 7428 of the Code.

Please refer to the enclosed Publication 892, How to Appeals an IRS Determination on Tax -Exempt Status, for more information about the Appeals process.

You also have the right to contact the Taxpayer Advocate Service (TAS). 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. Advocate assistance, please contact the Taxpayer Advocate for the IRS office that issued this letter. You If you qualify for TAS assistance, which is always free. TAX will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 877-777-4778.

TAS assistance is not a substitute for established IRS procedures, such as the formal appeals process. TAS 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.

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

Sincerely,

Appeals Team Manager

Enclosure: Publication 892



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

Date: OCT 24 2017

Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:

Employee ID number:
Telephone number

Address:

Manager's or (if different):

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.

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,

Enclosures:

Form 886-A

Form 6018

Publication 892

Publication 3498

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| Form 886A | Department of the Treasury - Internal Revenue Service Explanation of Items | Schedule No. or Exhibit |
| Name of Taxpayer | | Year/Period Ended June 30, 20XX |

ISSUE:

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

FACTS:

_____ was incorporated under the laws of the State of _____ as a non-profit corporation on June 26, 20XX for the following purposes as stated in the Articles of Incorporation:

"Said corporation is organized exclusively for charitable, religious, educational, and scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code."

"The Corporation shall form to provide safe, clean, nurturing and appropriate temporary housing to individuals, such as young adults who have aged out of foster care with no current employment, shelter nor options as well as homeless veterans and war heroes, who are in desperate need in _____ State. The ultimate goal of the corporation will be permanent placement in suitable homes coupled with employment and migration into independent living within mainstream society. "

Our letter dated August 3, 20XX granted _____ exempt status under section 501 (c)(3) of the Internal Revenue Code as an organization described under section 509(a)(1) and 170(b)(1)(A)(vi).

A review of the organization's 990 returns for tax year ended June 30, 20XX and June 30, 20XX revealed that there were no revenues and expenses reported except for depreciation expense shown on the returns. It was also determined during the examination that organization did not file 990 returns for tax years ended June 30, 20XX and June 30, 20XX.

In an Information Document Request (IDR) dated March 16, 20XX, the organization was asked whether it was operating and to provide a detailed description of its activities, minutes of meetings, bank statements and cancelled checks to substantiate that it is operating within the scope of section 501 (c)(3) of the Internal Revenue Code.

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The organization's Executive Director provided a written response stated as follows:
 "1. The organization still operates. There are no revenues or expenses on the 20XX return because we were unable to raise any funds and therefore unable to spend any funds. We do, however, plan to raise funds to install an animal sanctuary on a parcel of land we are able to utilize, several acres in a suburb. While we did not manage to do this during the year ended 6/30/20XX we are most assuredly doing it now.

2. The board members are and . At this time no one signs checks as there is no active bank account.

3. There have been no minutes taken at this time.

4. There is no printed material for our organization. We do, however, plan to start a website. We own the domain www.org and intend to use it.

5. The general ledger for this period contains no transactions.

6. The trial balances, minimal as they are, are on Form 990-EZ.

7. There are no adjusting entries.

8. There was no bank account during the fiscal year ended 6/30/20XX and therefore no documents to provide. We do, however, intend to open a bank account as soon as fundraising efforts begin."

In our Information Document Requested dated September 5, 20XX, the Service granted the organization another opportunity to provide a detailed description of its activities and supporting documents to substantiate the activities for tax years ended June 30, 20XX through June 30, 20XX. On September 19, 20XX, the Executive Director provided the following written response prior to the scheduled appointment:

"You have asked about the entity's operations. It has always operated despite a period of time when it was mildly dormant. It is now thoroughly active as I have secured acreage where we plan to situate an animal sanctuary for purposes of rescue missions. Our main focus will be to harbor all dogs in "overflow" status at local shelters including, but not limited to, located in nearby

. The parcel is seven acres and one full acre of flat, usable land is being sectioned off for our purpose. We have also already secured a donation \$0 to begin fundraising efforts for fencing, access to water, food storage and other related costs.

As of this date we have not yet filed the return (Form 990-EZ) for the year ended June 30, 20XX because a motor vehicle donated during that time is pending sale. We will not know the final number until the sale is complete and, as such, have refrained from filing such that the return may be fully accurate when submitted.

The return for the period ended June 30, 20XX is still pending as well. It will also report several small donations. We anticipate our organization to be fully active with the facility complete and thoroughly functioning prior to the end of the current fiscal

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year, June 30, 20XX."

During the examination, the organization did not provide books or records to substantiate that it was operating within the scope of section 501 (c)(3) of the Code. The Executive Director did present at the audit anonymous pictures of a parcel of land shown on his cell-phone which he purported was in use or to be used by the organization's activities. The picture was simply a field of grass and dirt. There were no indication of any activity or structures shown in the pictures. There were no identifying signs, marks that would identify the land as belonging to this organization or in use by this organization. The Executive Director offered no deeds, titles or other legal documents to indicate ownership or location of this property at this meeting. The only thing brought to the scheduled appointment were these few pictures on a cell-phone.

LAW:

IRC § 501(c)(3) exempts from federal income tax organizations which are 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 no 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 distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

Tax Reg. § 1.501(c)(3)-1(d)(i) states that an organization may be exempt as an organization described in 501(c)(3) if it is organized and operated exclusively for one or more of the following purposes: religious, charitable, scientific, testing for public safety, literary, educational, or prevention of cruelty to children or animals.

Tax Reg. § 1.501(c)(3)-1(a)(1) of the regulations provides that in order to be exempt as an organization described in section 501(c)(3) of the Code, the organization must be one that is both organized and operated exclusively for one or more of the purposes specified in that section.

Tax Reg. § 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 which accomplish one or more of such exempt purposes specified in section 501(c)(3).

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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 § 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.

Treas. Reg. § 1.6001-1(c) states that in addition to 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 -3.

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 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.

TAXPAYER'S POSITION:

The taxpayer's position is a matter of unsubstantiated claims. The Executive Director has stated, "It has always operated despite a period of time when it was mildly dormant. It is now thoroughly active as I have secured acreage where we plan to situate an animal sanctuary for purposes of rescue missions." The organization has not substantiated any of his claims that the organization is operational.

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GOVERNMENT'S POSITION:

The organization has failed to show us that they meet the operational test of section 501(c)(3) for the year under examination or in subsequent year. 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 cannot 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 returns filed for tax year ended June 30, 20XX and June 30, 20XX and found no revenues and expenses to support their exempt activities. In fact, the returns only showed depreciation expense. The subsequent year 990 returns were not filed and there were no records provided to substantiate that they were operating during the subsequent years.

The organization has failed to provide records as is required in Code 6033(a)(1) and Regulation 1.6033-1(h)(2) to substantiate they met the operational test by operating for exempt purposes. They failed to provide any financial information that we requested during the examination. Without the organization's records, we cannot verify that they are operating for exempt purposes. Our position is that the organization is not operating for exempt purposes.

CONCLUSION:

It is the position of the Internal Revenue Service that the organization failed to demonstrate it continues to operate exclusively for IRC 501(c)(3) purposes. By not supplying pertinent information required by IRC sections 6001 and 6033 we were unable to determine whether _____, Inc was operating for exempt purposes. Accordingly, we are proposing that the organization's exempt status be revoked effective July 1, 20XX.