



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

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

Number: **202110036**
Release Date: 3/12/2021

UIL CODE: 501.03-00

Date: 02/07/2020

Taxpayer ID Number:

Form:

Tax Period(s) Ending:

Person to Contact:

Identification Number:

Telephone Number:

CERTIFIED MAIL – Return Receipt Requested
LAST DAY FOR FILING A PETITION WITH THE TAX COURT:

Dear :

This is a final determination that you do not qualify for exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a) as an organization described in IRC Section 501(c)(3), effective January 1, 20XX. Your determination letter dated February 11, 20XX is revoked.

Our adverse determination as to your exempt status was made for the following reasons:

Organizations described in IRC Section 501(c)(3) and exempt under Section 501(a) must be both organized and operated exclusively for exempt purposes. You have not demonstrated that you are operated exclusively for charitable, educational, or other exempt purposes within the meaning of 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. You have not established that you have operated exclusively for an exempt purpose.

As such, you failed to meet the requirements of IRC Section 501(c)(3) and Treasury Regulations Section 1.501(c)(3)-1(a), in that you have not established that you were organized and operated exclusively for exempt purposes and that no part of your earnings inured to the benefit of private shareholders or individuals.

Contributions to your organization are no longer deductible under IRC Section 170.

Organizations that are not exempt under IRC Section 501 generally are required to file federal income tax returns and pay tax, where applicable. For further instructions, forms, and information please visit www.irs.gov.

If you decide to contest this determination, you may file an action for declaratory judgment under the provisions of IRC Section 7428 in one of the following three venues: 1) United States Tax Court, 2) the United States Court of Federal Claims, or 3) the United States District Court for the District of Columbia. A petition or complaint in one of these three courts must be filed within 90 days from the date this determination was mailed to you. Please contact the clerk of the appropriate court for rules and the appropriate forms for filing petitions for declaratory judgment by referring to the enclosed Publication 892. You may write to the courts at the following addresses:

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

U. S. Court of Federal Claims
717 Madison Place, NW
Washington, DC 20439

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

Processing of income tax returns and assessments of any taxes due will not be delayed if you file a petition for declaratory judgment under IRC Section 7428.

We'll notify the appropriate state officials (as permitted by law) of our determination that you aren't an organization described in IRC Section 501(c)(3).

You may be eligible for help from 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. 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 1-877-777-4778.

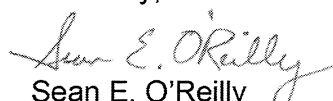
Taxpayer Advocate assistance can't be used as substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determination, nor extend the time fixed by law that you have to file a petition in Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

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

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

Enclosures:
Publication 892

Sincerely,



Sean E. O'Reilly
Director, Exempt Organizations Examinations



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

Date:

02/07/2020

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 886-A

Form 6018

Form 4621-A Report of Examination

Publication 892 How to Appeal

Publication 3498-A The Examination Process

Copy of Original Form 1023EZ and IRS Determinations File

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

Issues:

1. Whether _____ which qualified for exemption from federal income tax under Section 501(c)(3) of the Internal Revenue Code, should be revoked effective January 1, 20XX due to its failure to carry out exempt activities and pursue its' educational purpose within the meaning of section 509(a)(2) and Treas. Reg. § 1.501(c)(3)-1(b)?
2. Whether the organization continues to qualify for exemption under Section 501(c)(3) of the Internal Revenue Code.

Facts:

_____ applied for tax-exempt status by filing the Form 1023-EZ, *Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, on February 5, 20XX, and was granted tax-exempt status as a 501(c)(3) on February 11, 20XX, with an effective date of October 23, 20XX. The organization was selected for audit to ensure that the activities and operations align with their approved exempt status.

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, or to foster national and amateur sports competition.

The organization partially responded to requests for information on three different occasions with inadequate and incomplete information. As a result of the incomplete responses, the organization failed to establish that its activities and operations accomplish one or more exempt purposes as specified in IRC § 501(c)(3).

Per the Form 1023-EZ Application for Recognition of Exemption, Part III line 2, the purpose of _____ request for tax exemption is to carry on educational activities. After thorough examination of your organization, it is determined that no educational opportunities are furnished. Furthermore, a definitive charitable class is not purported, rather a public access business model is delivered.

The phone number for the president of _____, _____, is _____.
 . The phone number for the Power of Attorney, _____, is _____.

- Correspondence and telephone contact for the audit was as follows:
 - Letter 3606 and an attached Information Document Request (IDR), was

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

mailed to the organization on February 19, 20XX, with a response due date of March 31, 20XX. This letter was not returned by the post office as being undeliverable. The president, _____, called on April 4, 20XX to request an additional 0 days to provide a response; this was verbally granted.

- _____ contacted the IRS on April 9, 20XX via telephone and faxed a Form 2848 Power of Attorney Authorization and also the organization's first response to the Information Document Request (IDR).
- Telephone discussion was held with _____ on May 14, 20XX regarding missing information that had not been provided by the organization on April 9, 20XX, such as a Profit & Loss Statement, a list of active board members, and explanation for the compensation expenditures, a description of any educational or charitable activities, etc. _____ requested a call-back in two weeks.
- Outgoing phone call was made to _____ on June 4, 20XX to discuss unresolved issues regarding leased employees, rental/membership income, loan from officer, and lack of charitable class or educational/charitable activities. _____ requested a written request from the IRS outlining the specific unresolved issues.
- Letter 3844-B with an attached second IDR regarding the unresolved issues pursuant to the June 4, 20XX telephone conversation was mailed to _____ and a copy to the Power of Attorney, _____, on July 03, 20XX with a response date of July 22, 20XX. Per the United States Postal Service, this was not returned as undeliverable.
- Called _____ on July 22, 20XX when no response was received to the Letter 3844-B by the due date. _____ stated a response would be provided by July 29, 20XX.
- Received written response to the Letter 3844-B. Response contained adequate financial documents. However, the organization still did not provide information explaining how their activities serve an educational, charitable purpose.
- Letter 5077-A *Pre-Summons IDR Delinquency Notice*, with copies of all prior was mailed to _____ and to the Power of Attorney, _____, on September 14, 20XX with a response date of September 24, 20XX. Per the United States Postal Service (USPS) tracking system, this was received by both the Power of Attorney and the organization on September 16, 20XX.

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

- contacted the IRS via telephone on September 27, 20XX. requested additional time to gather data regarding any possible educational activities and purpose. stated information could be provided to IRS via fax by October 4, 20XX. However, no further response from the organization was received.

Law:

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(c)(1) of the regulations provides that an organization will be regarded as operated exclusively for exempt purposes if it engages *primarily* in activities that accomplish exempt purpose as specified in in section 501(c)(3) of the Code. An organization will not be so regarded if more than and *insubstantial* part of its activities is not in furtherance of an exempt purpose.

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.

In ***Better Business Bureau of Washington, D.C. v. United States, 326 U.S. 279 (1945)***, the Supreme Court determined that the presence of a single non-exempt purpose, if substantial in nature, will destroy exemption under Section 501(c)(3) regardless of the number or importance of any other exempt purposes.

In ***Haswell v. United States, 500 F.2d 1133, (Ct. Cl. 1974), cert denied, 419 US 1107 (1975)***, the court held that 16.6% to 20.5% over a two-year period was a strong indication of substantiality but that the method of measurement was only one acceptable method of measurement.

In ***Malat V. Riddle, 383 U.S. 569 (1966)***, the court held that the term “primary” means more than 50%.

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Organization's Position

Taxpayer's position is unknown at this time.

Government's Position

Based on the above facts, the organization was unable or unwilling to substantiate that its conducted activities furthered an exempt (educational and charitable) purpose. The organization fails the operational test because it failed to establish that its activities and operations accomplish one or more exempt purposes as specified in IRC § 501(c)(3). 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.

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

Using the rationale that was developed in Revenue Ruling 59-95, the Organization's failure to provide requested information results 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 establish that it meets the reporting requirements under IRC §§ 6001 and 6033 to be recognized as exempt from federal income tax under IRC § 501(c)(3). Furthermore, the organization has not established that it is observing the conditions required for the continuation of its exempt status or that it is organized and operated exclusively for an exempt purpose. 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.