



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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Number: **202110045**
Release Date: 3/12/2021

UIL: 501.03-00

Date: October 14, 2020

Taxpayer ID Number:

Form:

Tax Period(s) ended:

Person to Contact:

Identification Number:

Telephone Number:

Fax 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 December 8, 20XX is revoked.

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

Organizations exempt from federal income tax under IRC Section 501(c)(3) are required to operate exclusively for charitable, education, or other exempt purposes. Organizations are not operated exclusively for one or more exempt purposes if the net earnings of the organization inure in whole or in part to the benefit of private shareholders or individuals of the organization. See Treasury Regulations Section 1.501(c)(3)-1(c)(2).

You have been organized as a fraternal organization, and you operated to provide services and benefits to your members. We have also determined that your net earnings inured to the benefit of private individuals. As such, you have not operated exclusively for the exempt purposes and have operated for the benefit of private interests of individuals in contravention of the requirements of Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii).

As such, you failed to meet the requirements of IRC Section 501(c)(3) and Treas. Reg. 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 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

Date:
11/20/2019
Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:

Name:
ID number:
Telephone:
Fax:
Address:

CERTIFIED MAIL – Return Receipt Requested

Manager's contact information:

Name:
ID number:
Telephone:
Response due date:

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,

Maria Hooke

Maria Hooke

Director, Exempt Organizations Examinations

Enclosures:
Form 886-A
Form 6018

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

ISSUE:

Whether

(the organization) continues to qualify for exemption as an organization described in the Internal Revenue Code (IRC) Section 501(c)(3).

FACTS:

The organization was incorporated under the laws of the State of as a non-profit corporation on April 13, 19XX for "benevolent, charitable, eleemosynary, fraternal and educational purposes, specifically for the purpose of advancing the strong principles of morality framed by the Holy Bible; all in accordance with limits on such activities imposed on corporations by § 355.025, Revised Statutes of and § 501(c)(3)".

On October 17, 20XX the organization was recognized to be exempt from federal income tax as an organization described in IRC Section 501(c)(3) as a public charity under §509(a)(2).

On its application for exemption, Form 1023EZ, the organization identified itself as a fraternal society.

According to its Constitution and Bylaws, the organization is a fraternal chapter, operating under the lodge system. It is subject to the authority of the and . The organization oversees subordinate chapters within the state of . However, it is not a part of a group exemption.

In its response to the information request, IRS Letter 1312 dated November 21, 20XX, the organization stated that its primary activity is the annual fundraiser for scholarships. It claimed to spend zero months per year planning for this event. Its other activities include community outreach, member recruitment, quarterly board meetings and participating in an annual state-wide meeting.

According to the , the annual is the biggest event where most of the organization's activities take place. Outside of the annual meeting, and the informal quarterly meetings, the organization participates with local charities to collect toys and school supplies for children during the holidays.

An examination of books and records for the year under audit did not reveal activities related to the organization's participation with local charities. However, the examination did show numerous activities devoted to the operation of a

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

fraternal beneficiary society. These activities include conducting quarterly and annual guild meetings, recruiting members, providing financial aids to the beneficiaries of deceased members, conducting training rituals and trials, voting, electing officers, collecting membership dues, remitting affiliation fees, remembering deceased members, forming new local chapters, chartering new local chapters, holding special elections, conferring degrees, and selling of various publications to members. Some of these activities such as collecting member dues, recruiting members and selling of publications occur throughout the year. Aside from the chapter related activities, the organization has one recorded scholarship fundraising activity, the “ ” campaign. The campaign sells raffle tickets to members to fund college scholarships. Tickets are distributed to subchapters before the annual meeting and the revenue from the tickets are collected and scholarships are awarded during the annual meeting.

Activities conducted during the 0 Annual include:

- electing officers,
- registering members,
- conferring degrees,
- discussing and voting on various chapter related issues,
- celebrating outstanding chapters,
- selling of publication to members,
- reading of various reports by officers such as the , the , the , the , the ,
- reading of reports from various committees such as the Audit, the Public Relation, the Necrology, the Planning, the Ways and Means (scholarships fundraiser), the Education, the Sub Chapter By-laws, the Credential, the Black History, the Returns of Chapters,
- attending banquet,
- raffling of tickets for scholarships.

The 0 annual meeting minutes show that the organization adopted the motion to lift the resident restriction for a scholarship applicant who is not a resident in the state of “so long as she/he is a legal child or grandchild of a”

During the interview, the treasurer acknowledged that the organization does provide financial aid to the beneficiaries of deceased members. Donation typically ranges from \$0 to \$0 when money is available in the Relief Fund.

Members contribute money to the Relief Fund, and according to the Constitution and Bylaws, “for extending relief to worthy distressed , their Widows and Orphans.”

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Name of Taxpayer		Year/Period Ended 20XX

Besides the Relief Fund, the organization operates a General Fund. This fund is used for all other receipts and all other disbursements including for college scholarships, travel reimbursements for officers, hotel expenses for the annual meeting and operating expenses.

The organization has one checking account and four CDs. Each fund has two CD accounts and both funds operate out of the same checking account. The checking account is used for all receipts and expenditures.

Money raised by the “ ” campaign was recorded in the General Fund along with all other types of receipt and everything was deposited into the same checking account.

In the year under audit, the organization received \$0 from various sources including from member dues of \$0, annual meeting registrations of \$0, selling of publications of \$0, and the “ ” campaign of \$0. It disbursed \$0 to cover operational expenses including \$0 for hotels and \$0 reimbursement to officers for the annual meeting. It distributed \$0 to help a relative of a deceased member. On February 3rd, 20XX the organization wrote check #0 to for \$0 to replace voided check #0 written in the previous year. Even though its books and records for the annual meeting mention that \$0 scholarship “to be paid” to , however, no actual payment was made during the calendar year.

The organization filed Forms 990N for the years ended December 20XX.

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.

Treas. 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.

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Treas. 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.

Treas. 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). It is not so operated if more than an insubstantial part of its activities does not further those purposes.

Treas. § Reg. 1.501(c)(3)-1(c)(2) clarifies that an organization is not operated exclusively for exempt purposes if its net earnings inure to the benefit of a private shareholder or individual. "Private shareholder or individual" refer to persons having a personal and private interest in the activities of the organization who can influence the expenditure of its funds or the use of its assets, rather than on the general public.

Under Rev. Rul. 77-366, 1977-2 C.B. 192, a nonprofit organization that arranges and conducts winter cruises during which activities to further religious and educational purposes are provided in addition to extensive social and recreational activities is not operated exclusively for exempt purposes and does not qualify for exemption.

Revenue Ruling 58-617, 1958-2 CB 260, (Jan. 01, 1958) Rulings and determinations letters granting exemption from federal income tax to an organization described in section 501(a) of the Internal Revenue Code of 1954, to which contributions are deductible by donors in computing their taxable income in the manner and to the extent provided by section 170 of the Code, are effective only so long as there are no material changes in the character of the organization, the purposes for which it was organized, or its methods of operation. Failure to comply with this requirement may result in serious consequences to the organization for the reason that the ruling or determination letter holding the organization exempt may be revoked retroactively to the date of the changes affecting its exempt status, depending upon the circumstances involved, and subject to the limitations on retroactivity of revocation found in section 503 of the Code.

In *Better Business Bureau of Washington, DC., Inc. v. U.S.*, 326 U.S. 279 (1945), the Supreme Court ruled that an organization is not operated exclusively for charitable purposes if it has a single noncharitable purpose that is substantial in nature.

In *Syrang Aero Club v. Commissioner*, 73 T.C. 717 (1980)., an organization serves as a recruitment incentive for and provides aerial assistance to the Syracuse Air National Guard. It owns an airplane which it rents at low cost to its members. Its membership is

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restricted to members of the Syracuse Air National Guard and civilian employees, active and retired members of reserve military units, and personnel of the Federal Aviation Agency. The organization provides no classes or instructional materials, and employs no faculty. The court held that the private benefit to the members is substantial and not incidental to the public benefit of assisting the Syracuse Air National Guard.

In *Wendy L. Parker Rehab. Found., Inc. v. Commissioner*, T.C. Memo. 1986-348, thirty percent of the petitioner's income is expected to be expended for the benefit of Wendy L. Parker, the daughter of an officer and organizer of the corporation. An adverse determination was made because "a child of the founder and chief operating officer of the Foundation is a substantial beneficiary of the services contemplated by the organization. This constitutes inurement which is prohibited under Code Section 501(c)(3) and the Regulations thereunder." To qualify under 501(c)(3), no part of its net earnings can inure to the benefit of any private individual.

In *Universal Life Church, Inc., v. The United States*, No. 583-84T. Nov. 10, 1987, the church sought judicial review of administrative decision by the IRS which revoked its tax-exempt status. The court upheld the decision by the IRS because the church undertook substantial nonexempt activity through the provision of tax advice to others, thereby not operated exclusively for one or more of IRC § 501(c)(3) purposes.

TAXPAYER'S POSITION:

Agent discussed revocation with the organization's officers on September 26, 20XX and the organization agreed to the proposed revocation that the organization is not operated exclusively for one or more of IRC § 501(c)(3) purposes.

GOVERNMENT'S POSITION AND CONCLUSION:

Based on the facts of the examination, the organization does not meet all the requirements under IRC § 501(c)(3) to qualify for exemption.

The organization's main assertion for being exempt under IRC § 501(c)(3) is that it spends a substantial amount of resources and commitment for the annual fundraiser for scholarships. Its books and records show that the fundraiser is only one among numerous activities devoted to the running of a fraternal society. Some of these nonexempt activities such as the membership recruitment and the production, marketing and selling of publications are substantial in terms of the amount of revenue generated, time and resources required. The organization is similar to the one described Rev. Rul. 77-366 and the case *Universal Life Church, Inc., v. The United States*. In both cases, an organization with extensive and substantial nonexempt activities is not operated exclusively for exempt purposes. Activities of the 0 Annual show that the organization dedicated

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substantial resources and commitment preparing for the event. Books and records indicate that it would take a significant amount of time and resources to prepare many of the reports by the officers and various committees including the report on scholarships activity.

However, except for the “ ” fundraiser, none of the other activities at the event are related to IRC § 501(c)(3) purposes. Even then, the “ ” campaign is not a qualified IRC § 501(c)(3) activity because the organization expressly requires that the student must be “a legal child or grandchild of a ”. This requirement only serves to benefit private individuals and not the public as seen in the case Syrang Aero Club v. Commissioner.

Even if the “ ” were a bona fide IRC § 501(c)(3) activity, by providing financial payments to the beneficiaries of deceased members and reimbursing officers out of the same the checking account used for both exempt and nonexempt purposes, effectively, the organization’s net earnings inure to the benefit of the members and officers. As such, it fails to meet the requirement under IRC § 501(c)(3) where no part of its net earnings can benefit any private individual as seen in the case Wendy L. Parker Rehab. Found., Inc. v. Commissioner.

As a result, the organization has no recorded and verifiable IRC § 501(c)(3) activities.

Regarding the organization’s unverifiable claim that it conducts other charitable activities such as collecting toys and school supplies for children, even if this were true, it is arguable that these activities would consume substantially more time and resources than those required by its nonexempt activities to qualify the organization as being operated exclusively for IRC § 501(c)(3) purposes. In other words, these charitable activities are merely incidental to its purposes of being a fraternal society.

Overall, the organization conducts numerous nonexempt activities throughout the year. Some of these activities generate a significant portion of its total revenue, require a substantial amount of resources and extensive time commitment.

These nonexempt activities demonstrate that the organization operated for a substantial purpose not described in IRC § 501(c)(3). Just as in the case Better Business Bureau of Washington, DC., Inc. v. U.S., having just one substantial nonexempt purpose is enough to preclude the organization from exemption.

Consequently,

is not operated exclusively for one or more purposes described in IRC § 501(c)(3). Therefore, its tax exemption should be revoked effective October 17, 20XX per Rev. Rul. 58-617.

If you agree to this conclusion, please sign the attached Forms.

If you disagree please submit a statement of your position.