



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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Number: 202117015
Release Date: 4/30/2021

UIL: 501.03-00

Date:
September 23, 2020
Taxpayer ID Number:
Form:
Tax Period(s) Ending:
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 August 12, 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.

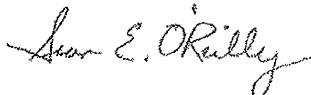
Taxpayer Advocate assistance can't be used as substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determination, nor extend the time fixed by law that you have to file a petition in Court. The Taxpayer 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.

Sincerely,

Enclosures:
Publication 892



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:
07/24/2019

Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:

Employee ID number:
Telephone number:
Fax:
Address:

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

Publication 892

Publication 3498-A

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

Date of Notice: July 12, 20XX

Issues:

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

Facts:

Background

The Organization 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 July 30, 20XX, and was granted tax-exempt status as a 501(c)(3) on August 12, 20XX, with an effective date of July 30, 20XX.

The Organization was incorporated in the State of _____, and the purpose clause in the Articles of Incorporation states, "This Corporation is a nonprofit PUBLIC BENEFIT CORPORATION and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for: public and charitable purposes. The specific purpose of this corporation is to: Educational flying training for children, teenagers and adults to remain out of _____, educate and promote education skill to low income community."

The organization did not respond with documentation to the Internal Revenue Service attempts to obtain information to perform an audit of Form 990 for the tax year December 31, 20XX.

- Correspondence for the audit was as follows:
 - Letter 3606 with attachments, was mailed to the organization on March 8, 20XX, with a response date of April 8, 20XX. This letter was not return by the post office as being undeliverable.
- Telephone contact for the audit was as follows:
 - On March 25, 20XX the President of the Organization, called to advise he received Letter 3606, Form 4564, *Information Document Request* (IDR), and Publication 1.

During this conversation the President stated

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

The President stated, the entity was organized for educational purpose, but mainly because unless he was a 501(c)3. President stated he applied for the exempt status, so he could bring passengers onto his plane.

The Organization never received any funding from anyone other than the President and he paid all of the expenses. He said he has no assets other than . President paid

- On May 3, 20XX Tax Compliance Officer (TCO) called President to advise that no documentation has been received.

The President stated he really does not have any documents to send in and just wants to close the operation of the organization. President stated again that he only applied for the tax-exempt status, so the . TCO asked the President if he would like me to revoke his exemption status and he said "yes, just send me the paperwork to get it done."

Law:

Internal Revenue Code (IRC)

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

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Treasury Regulations (Treas. Reg.)

Treas. Reg. Sec. 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).

Treas. Reg. Sec. 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.

Treas. Reg. Sec. 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.

Treas. Reg. Sec. 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.

Treas. Reg. Sec.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.

Revenue Rulings (Rev. Rul.)

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

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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.

Organization's Position

The Taxpayer has indicated by phone that he will agree with revocation of the Organization's exempt status.

Government's Position

It is the Government's position; the _____, does not meet the Operational Test, and does not continue to qualify for exemption from Federal income tax under IRC Sec. 501(c)(3).

Under Treas. Reg. Sec. 1.501(c)(3)-1(c) the organization must meet the required Operational Test to operate as a IRC Sec. 501(c)(3). The test states, an organization must be operated exclusively for one or more of the purposes specified in the section. (religious, charitable, scientific, testing for public safety, literary or educational)

Further, Treas. Reg. Sec. 1.6033-1(h)(2) specifically state that exempt organizations shall submit additional information for the purpose of enabling the Internal Revenue Service to inquire further into its exempt status.

On March 8, 20XX the TCO mailed Letter 3606 with Information Document Request number one to the Organization requesting documents to verify the Organization's activities (e.g. board meeting minutes, detailed description of the Organization's activities, copies of publications, brochures, and other printed material). On March 25, 20XX the President called and confirmed he received this mailing.

On May 3, 20XX, the Organization had provided no documents, and the President stated the Organization really does not keep any books or records.

Therefore, the Organization did not verify they meet the Operational Test under IRC Sec. 501(c)(3), and they should not retain their exempt status.

Conclusion

It has been determined the Organization did not meet the Operational Test under IRC Sec. 501(c)(3), and they should not retain its exempt status. Accordingly, the Organization's

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exempt status should be revoked as of January 1, 20XX. Form 1120, *U.S. Corporation Income Tax Return*, should be filed for the tax periods starting January 1, 20XX.