



Department of the Treasury  
Internal Revenue Service  
Independent Office of Appeals

Date: **JAN 19 2023**

Person to contact:  
Name:  
Employee ID Number:  
Phone:  
Hours:  
Employer ID number:

Uniform Issue List (UIL):  
0501.00-00

Release Number: 202315011  
Release Date: 4/14/2023

**Certified Mail**

Dear \_\_\_\_\_ :

This is a final adverse 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) .

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

We made the adverse determination for the following reasons:

You have failed to produce documents or otherwise demonstrate that you are operated exclusively for exempt purposes. You have also failed to show that expenditures by your President were for exempt purposes. Accordingly, you have failed to demonstrate that you are not operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests. You have also failed to show that your net earnings do not inure in whole or in part to the benefit of private shareholders or individuals.

Contributions to your organization are not deductible under IRC Section 170.

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 [IRS.gov/forms](https://www.irs.gov/forms) 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 IRC Section 6110 after deleting certain identifying information. We 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 can file an action for declaratory judgment under the provisions of IRC Section 7428 in either:

- The United States Tax Court,
- The United States Court of Federal Claims, or
- 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. You can download a fillable petition or complaint form and get information about filing at each respective court's website listed below or by contacting the Office of the Clerk of the Court at one of the addresses below. Be sure to include a copy of this letter and any attachments and the applicable filing fee with the petition or complaint.

You can eFile your completed U.S. Tax Court petition by following the instructions and user guides available on the Tax Court website at [ustaxcourt.gov/dawson.html](https://ustaxcourt.gov/dawson.html). You will need to register for a DAWSON account to do so. You may also file your petition at the address below:

**United States Tax Court**  
400 Second Street, NW  
Washington, DC 20217  
[ustaxcourt.gov](https://ustaxcourt.gov)

The websites of the U.S. Court of Federal Claims and the U.S. District Court for the District of Columbia contain instructions about how to file your completed complaint electronically. You may also file your complaint at one of the addresses below:

**U.S. Court of Federal Claims**  
717 Madison Place, NW  
Washington, DC 20439  
[uscfc.uscourts.gov](https://uscfc.uscourts.gov)

**U.S. District Court for the District of Columbia**  
333 Constitution Avenue, NW  
Washington, DC 20001  
[dcd.uscourts.gov](https://dcd.uscourts.gov)

Note: We will not delay processing income tax returns and assessing any taxes due even if you file a petition for declaratory judgment under IRC Section 7428.

#### **Taxpayer rights and sources for assistance**

The Internal Revenue Code (IRC) gives taxpayers specific rights. The Taxpayer Bill of Rights groups these into 10 fundamental rights. See IRC Section 7803(a)(3). IRS employees are responsible for being familiar with and following these rights. For additional information about your taxpayer rights, please see the enclosed Publication 1, *Your Rights as a Taxpayer*, or visit [IRS.gov/taxpayer-bill-of-rights](https://IRS.gov/taxpayer-bill-of-rights).

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that helps taxpayers and protects taxpayers' rights. TAS can offer you help if your tax problem is causing a financial difficulty, you've tried but been unable to resolve your issue with the IRS, or you believe an IRS system, process, or procedure isn't working as it should. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. To learn more, visit [taxpayeradvocate.irs.gov](https://taxpayeradvocate.irs.gov) or call 877-777-4778.

Tax professionals who are independent from the IRS may be able to help you.

Low Income Taxpayer Clinics (LITCs) can represent low-income persons before the IRS or in court. LITCs can also help persons who speak English as a second language. Any services provided by an LTC must be for free or a small fee. To find an LTC near you:

- Go to [taxpayeradvocate.irs.gov/litcmap](https://taxpayeradvocate.irs.gov/litcmap);
- Download IRS Publication 4134, *Low Income Taxpayer Clinic List*, available at [IRS.gov/forms](https://IRS.gov/forms); or
- Call the IRS toll-free at 800-829-3676 and ask for a copy of Publication 4134.

State bar associations, state or local societies of accountants or enrolled agents, or other nonprofit tax professional organizations may also be able to provide referrals.

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 questions, contact the person at the top of this letter.

Sincerely,

Doug O'Donnell  
Acting Commissioner  
By

Valeria B Farr  
Appeals Team Manager

Enclosures:  
Publication 1  
IRS Appeals Survey

cc:



**Department of the Treasury  
Internal Revenue Service  
Tax Exempt and Government Entities**

**Date:**  
April 26, 2022  
**Taxpayer ID number:**

**Form:**

**Tax periods ended:**

**Person to contact:**  
**Name:**  
**ID number:**  
**Telephone:**  
**Fax:**  
**Address:**

**Manager's contact information:**  
**Name:**  
**ID number:**  
**Telephone:**  
**Response due date:**  
May 26, 2022

**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](http://www.taxpayeradvocate.irs.gov) or call 877-777-4778.

**For 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](http://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,

*Lynn A. Brinkley* <sup>KB</sup>

Lynn A. Brinkley  
Acting Director, Exempt Organizations  
Examinations

Enclosures:  
Form 886-A  
Form 6018  
Publication 892  
Publication 3498

Form <b>886-A</b>	Department of the Treasury – Internal Revenue Service <b>Explanations of Items</b>	Schedule number or exhibit
	Tax Identification Number (last 4 digits)	Year/Period ended

**ISSUES:**

1. Whether \_\_\_\_\_, continues to qualify for exemption as an organization described in the Internal Revenue Code (IRC) Section 501(c)(3) as a Public Charity.
2. Whether \_\_\_\_\_ engaged in transactions for personal benefit rather than exclusively for charitable purposes.

**FACTS:**

**Organizational History:**

\_\_\_\_\_ applied for tax-exempt status by filing Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code, on \_\_\_\_\_. The Service determined on \_\_\_\_\_ the organization will be classified as exempt under 170(b)(1)(A)(vi) of the Internal Revenue Code as an organization described in section 501(c)(3).

The organization has been filing Form \_\_\_\_\_ since \_\_\_\_\_.

**Operation History**

During the review of the original Form 1023 dated \_\_\_\_\_, and per the bylaws, "\_\_\_\_\_ is a metropolitan and central city faith organization designed to reinstall moral values and normative principles in culture and community through education and vocational equipping efforts. The \_\_\_\_\_ initiatives are carried out through inner city outreach nurture and educational training modules involving youth and young adults-and through re-integrative training and recovery support projects which involve recovering substance abusers and displaced veterans. The primary focus of the organization and its ministry is aimed at reviving values in culture and the re-integration of the misplaced in society and community."

"Through these services, the organization is committed to outreach their initiatives to involve the youth and young adults in the inner city in educational training, re-integrative training and recovery support projects."

The organization would conduct fundraising events and secure fundraising through foundation grants, government grant solicitations and other methods.

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**Current Operations**

On \_\_\_\_\_, conducted a phone interview with, President \_\_\_\_\_, who states that "he works with the organization around \_\_\_\_\_ hours a week, supervises all the activities/event of the organization and controls all the financial documents of the organization."

The Organization has \_\_\_\_\_ officers, including himself, \_\_\_\_\_, Treasurer (who is also the Organization's power of attorney) and \_\_\_\_\_, Secretary. There are no other officers in the Organization and there is no Board of Directors. \_\_\_\_\_ controls all the Organizations operations, fundraising activities, and financial information.

\_\_\_\_\_ states, "the solicitation for fundraising has not been performed and therefore no documents were associated with fundraising activities".

\_\_\_\_\_ also states "the organization holds \_\_\_\_\_ events per month, but there is no publication or documents on events held by the organization that further the exempt purpose. The events are held at \_\_\_\_\_ places, my residence, my church, and at my former place of employment,

According to \_\_\_\_\_, during the tax year of \_\_\_\_\_, he was employed at the \_\_\_\_\_ as a \_\_\_\_\_. The people that attended meetings held by the Organization at the \_\_\_\_\_, some were patients and others were not. The Organization held meetings during the normal operating hours of the \_\_\_\_\_.

During meetings, individuals that attended were served food and drinks supplied by the Organization. The Organization provided documents related to food expenses. (Refer to Attachment A, for tax year ending \_\_\_\_\_)

The Organization provided documents related to travel \_\_\_\_\_ses. (Refer to Attachment B, for tax year ending \_\_\_\_\_)

The Organization provided financial records with \_\_\_\_\_ and the Organization's name on the account. \_\_\_\_\_ states "I have had direct deposits from my \_\_\_\_\_ salary placed in the account to fund the 501(c)(3) for its operations during the year \_\_\_\_\_. My personal salary was used to fund the exemption purpose."

\_\_\_\_\_ also stated that the board approved of his personal income, to be used for funding the Organization. He also states, "Since around \_\_\_\_\_, to the best of my knowledge, deposits from my \_\_\_\_\_ have been deposited into the organizations account. However, after being advised by a reviewer in the year \_\_\_\_\_, the practice of deposit from the \_\_\_\_\_ into the account no longer occurs and was discontinued in \_\_\_\_\_ and \_\_\_\_\_."







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During the \_\_\_\_\_, interview the Revenue Agent asked the Treasurer (also the POA) about the preparation of the \_\_\_\_\_ tax return. \_\_\_\_\_ states "he reviews the Organization's bank statements and expense records sent to him by \_\_\_\_\_, but since the Organization's gross receipts are less than \$ \_\_\_\_\_, no return is required to be filed". When asked if the documents are examined and questioned for any inaccurate information, by \_\_\_\_\_ he replied "No, I do not question the documents sent by \_\_\_\_\_".

**LAW:**

**IRC section 170(b)(1)(A)** In the case of an individual, the deduction provided in subsection (a) shall be limited as provided in the succeeding subparagraphs.

Any charitable contribution to—

- (i) a church or a convention or association of churches,
- (ii) an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on,
- (iii) an organization the principal purpose or functions of which are the providing of medical or hospital care or medical education or medical research, if the organization is a hospital, or if the organization is a medical research organization directly engaged in the continuous active conduct of medical research in conjunction with a hospital, and during the calendar year in which the contribution is made such organization is committed to spend such contributions for such research before January 1 of the fifth calendar year which begins after the date such contribution is made,
- (iv) an organization which normally receives a substantial part of its support (exclusive of income received in the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501(a)) from the United States or any State or political subdivision thereof or from direct or indirect contributions from the general public, and which is organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of a college or university which is an organization referred to in clause (ii) of this subparagraph and which is an agency or instrumentality of a State or political subdivision thereof, or which is owned or operated by a State or political subdivision thereof or by an agency or instrumentality of one or more States or political subdivisions,
- (v) a governmental unit referred to in subsection (c)(1)

Form <b>886-A</b>	Department of the Treasury – Internal Revenue Service <b>Explanations of Items</b>	Schedule number or exhibit
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**IRC section 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.

### **Income Tax Regulations (“Treas. Reg.”)**

**Treas. Reg. Section 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.

**Treas. Reg. Section 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. Section 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)

**Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii)** is an organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (i) of this subparagraph unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

**Revenue Ruling 72-369 states**, in part, that in order for an organization to pass the operational test, the organization's resources must be devoted to purposes that qualify as exclusively charitable.

**Revenue Ruling 68-489**, an organization will not jeopardize its exemption under IRC 501(c)(3) if it distributes funds to nonexempt organizations provided it retains discretion over the use of funds for IRC 501(c)(3) purposes

Form <b>886-A</b>	Department of the Treasury – Internal Revenue Service <b>Explanations of Items</b>	Schedule number or exhibit
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**Revenue Ruling 81-94**, A “church” that was formed by a professional nurse (who is also the “church’s” minister, director, and principal officer) and that is used primarily as a vehicle for handling the nurse’s personal financial transactions is not exempt from tax under section 501(c)(3) of the Code.

**Christian Manner International Inc. V. Commissioner, 71. T.C. 661**, exemption denied because principal activity not verified as in furtherance of exempt purpose. Principle activity not an education purpose activity.

**Mysteryboy Inc. v. Comm’r, 2010 Tax Ct.**, exemption was denied because the corporation was not exempt from tax under section 501(a) because it was not an organization described in section 501(c)(3).

**P.L.L. Scholarship Fund v. Commissioner**, court finds that the petitioner has not carried its burden of showing that it was operated exclusively for an exempt purpose under the required standards.

**Basic Bible Church v. Commissioner**, court determined that petitioner is not exempt from Federal income tax under section 501(c)(3), 1 and that petitioner is not a church described in section 170(b)(1)(A)(i)[\*847].

**Southern-Church of Universal Brotherhood Assembled v. Commissioner**, concluded that the organization is not described as in section 501(c)(3) of the Code. The organizations net earnings inure to the benefit of your minister since funds are provided to meet his personal expenses. Further, the organization appears to be serving a private rather than a public interest, since the funding of your organization almost entirely by contributions from one person, your minister, and the subsequent paying of expenses for his residence and his food expenses have the effect of reducing his Federal income tax liability.

**TAXPAYER’S POSITION:**

**Issue 1:**

The Organization stated they qualify for exemption under 501(c)(3).

**Issue 2:**

The Organization has not provided a response to engaging in transactions for personal benefit rather than exclusively for charitable purposes.

Form <b>886-A</b>	Department of the Treasury – Internal Revenue Service <b>Explanations of Items</b>	Schedule number or exhibit
	Tax Identification Number (last 4 digits)	Year/Period ended

**Government Position:**

**Issue 1:**

The Organization does not qualify for exemption under IRC section 501(c)(3) as 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.

The Organization has stated that they do not have documentation that furthers the exempt purpose of the Organization and did not provide any documentation that furthers exemption.

The Organization received income in the form of compensation from the Officer's Employer. The Officer had W2 compensation direct deposited into the Organization's bank account from tax years \_\_\_\_\_, through \_\_\_\_\_.

The Service section 501(c)(3) tax exempt status of \_\_\_\_\_ should be revoked because it is not being operated exclusively for tax exempt purposes pursuant to the requirements set forth in section 1.501(c)(3)-1(c)(1) of the regulations.

The Organization's lack of activities for more than three years also stands in contrast to section 1.501(c)(3)-1(c)(1) of the regulations in that the lack of operations is evidence that there is no furtherance of any exempt purpose.

In contrast to section 1.501(c)(3)-1(d)(ii) of the regulations which calls for an organization to be organized and operated for a public rather than a private benefit, the Organization has not operated or engaged in any charitable activities in the last \_\_\_\_\_ years based on lack of activities performed by the organization with relation to exempt purposes.

The Organization does not pass the operational test as specified in section 1.501(c)(3)-1(c) of the regulations because the lack of activities means they were not operated exclusively for one or more exempt purposes. To be considered as operating exclusively for exempt purposes, the Organization would have had to engage primarily in activities which accomplish one or more of such exempt purposes as specified in section 501(c)(3) of the Code.

The Organization's activity relates to "Revenue Ruling 81-94"; where the principal officer formed an organization, and it was used primarily as a vehicle for handling the Officer's personal financial transactions.

As the Organization has not operated exclusively for charitable purposes for an extended period, the tax-exempt status of the Organization should be revoked.

Form <b>886-A</b>	Department of the Treasury – Internal Revenue Service <b>Explanations of Items</b>	Schedule number or exhibit
	Tax Identification Number (last 4 digits)	Year/Period ended

**Issue 2:**

The President co-mingled his personal income with the income of the Organization, by having his W2 compensation direct deposited into the Organizations bank account every month from tax years to .

Section 501(c)(3) prohibits private benefit and inurement. Co-mingling of the funds between an exempt organization and the president's personal finances may result in the funds of the organization inuring to the benefit of a private individual. Although, according to "Revenue Ruling 68-489", an organization will not jeopardize its exemption under IRC 501(c)(3) if it distributes funds to nonexempt organizations provided it retains discretion over the use of funds for IRC 501(c)(3) purposes.

However, during the , interview, the President stated that the Organization has no documents to further an exemption purpose and the reason for depositing non-exempt income in the Organization's account, was to fund the Organization.

In the Organizations bank accounts, the combine income was \$ , with % been provide from personal compensation from his W2 employer, % coming from interest and other income that cannot be detected. The documents provided by the Organization to show the income received, did not display that they retain discretion over the use of the funds.

The Organization provided spread sheets of expenses relating to food and travel, along with credit card payment receipts that were listed on the bank statements. It is unknown if the expenses incurred for food and travel were paid with the Organization's credit card. There was no given explanation for food and travel by the Organization, to show how these expenses further the Organizations exemption's purpose.

All the Organization's gross income and expenses were not used exclusively for charitable purposes of the organization as described in Treas. Reg. Section 1.501(c)(3)-1(c)(1). All of the income and expenses incurred by the Organization was used for the benefit of private interests.

Form <b>886-A</b>	Department of the Treasury – Internal Revenue Service <b>Explanations of Items</b>	Schedule number or exhibit
	Tax Identification Number (last 4 digits)	Year/Period ended

**Conclusion:**

**Issue 1**

is not operating exclusively as a Charitable Foundation as described in IRC Section 501(c)(3). The Organization's activities are not consistent with been 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.

The Organization's net earnings are a private benefit as the income and expenses serve no exempt purpose of the organization. The net earnings of the Organization serve as personal income and expenses of the Officer,

The Organization should be revocation and organization should file a Form 1120 for tax year and all subsequent years.

**Issue 2**

is not operating exclusively as Charitable Foundation as described in IRC Section 501(c)(3); since all its income and expenses were used for personal purposes.

The issue of excess benefit transaction pursuant to IRC section 4958 for payments to a disqualified person will be addressed in a separate report.

As a result, the organization has inurement that serves private interest, we have proposed revocation for tax year and all subsequent years.