



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

Date:

April 26, 2024

Taxpayer ID number (last 4 digits):

Form:

Tax periods ended:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Last day to file petition with United States
Tax Court:

July 25, 2024

Release Number: 202429020
Release Date: 7/19/2024
UIL Code: 501.03-00

CERTIFIED MAIL - Return Receipt Requested

Dear _____ :

Why we are sending you this letter

This is a final determination that you don't 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
Your determination letter dated _____ is revoked.

Our adverse determination as to your exempt status was made for the following reasons: Your records establish that you are not organized and/or operated exclusively for exempt purposes within the meaning of IRC Section 501(c)(3) and Treasury Regulations Section 1.501(c)(3)-1(a). This is because you operated for the private inurement of your officers, which is strictly prohibited. Additionally, you ceased operations. In general, ceasing operations also causes you to fail the operational test required under IRC Section 501(c)(3). Thus, because you are not operating exclusively for exempt purpose and because you are operating, in general, you do not meet the requirements of IRC Section 501(c)(3) and Treasury Regulations Section 1.501(c)(3)-1.

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 **IRS.gov**.

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

What you must do if you disagree with this determination

If you want to contest our final determination, you have 90 days from the date this determination letter was mailed to you to file a petition or complaint in one of the three federal courts listed below.

How to file your action for declaratory judgment

If you decide to contest this determination, you can file an action for declaratory judgment under the provisions of Section 7428 of the Code 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. 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

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:

US Court of Federal Claims
717 Madison Place, NW
Washington, DC 20439
uscfc.uscourts.gov

US District Court for the District of Columbia
333 Constitution Avenue, NW
Washington, DC 20001
dcd.uscourts.gov

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.

The IRS office whose phone number appears at the top of the notice can best address and access your tax information and help get you answers. However, you may be eligible for free help from the Taxpayer Advocate Service (TAS) if you can't resolve your tax problem with the IRS or if you believe an IRS procedure just isn't working as it should. TAS is an independent organization within the IRS that helps taxpayers and protects taxpayer rights. Visit TaxpayerAdvocate.IRS.gov/contact-us or call 877-777-4778 (TTY/TDD 800-829-4059) to find the location and phone number of your local advocate. Learn more about TAS and your rights under the Taxpayer Bill of Rights at TaxpayerAdvocate.IRS.gov. Do not send your Tax Court petition to TAS. Use the Tax Court address provided earlier in the letter. Contacting TAS does not extend the time to file a petition.

Where you can find more information

Enclosed are Publication 1, Your Rights as a Taxpayer, and Publication 594, The IRS Collection Process, for more comprehensive information.


Find tax forms or publications by visiting IRS.gov/forms or calling 800-TAX-FORM (800-829-3676). If you have questions, you can call the person shown at the top of this letter.

If you prefer to write, use the address shown at the top of this letter. Include your telephone number, the best time to call, and a copy of this letter.

You may fax your documents to the fax number shown above, using either a fax machine or online fax service. Protect yourself when sending digital data by understanding the fax service's privacy and security policies.

Keep the original letter for your records.

Sincerely,



Lynn A. Brinkley

Director, Exempt Organizations Examinations

Enclosures:

Publication 1

Publication 594

Publication 892



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

Date:
11/15/2023
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:
December 15, 2023

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.

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 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,

Richard W. Elder, for

Lynn A. Brinkley
Director, Exempt Organizations
Examinations

Enclosures:
Form 886-A
Form 6018
Form 4621-A
Pub. 892
Pub. 3498

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (last 4 digits)	Year/Period ended.

Issues

1) Whether 501(c)(3) status should be revoked on the grounds that its net earnings inured to the benefit of its directors.

Facts

(Organization) filed its Form 1023-N on . The Organization stated purpose is . The organization noted during the interview that they collect funds using solicitations and then make distributions to . The Organization was incorporated in the on . The Organization was granted 501(C)(3) status with 509(a)(2) foundation status. The 1023-EZ lists as the Director, as Director, , Director-President, , Director, and as Director-Secretary. The organization filed a letter of disillusionment with the on .

The initial Information Document Request (IDR) requested financial statements as well as bank account information. In response, the Organization provided a general ledger and bank statements for . A review of the Account bank account was conducted. It was noted as the Organization's only bank account, which showed deposits of . The examination discovered a 1099-K for \$ was received from under the Organization's Employer Identification Number (EIN) that was not deposited in the Organization's bank account. I asked and why this was not deposited in the organization's bank account. and stated that the donations was not for the organization. and stated that that the account was their own use. The deposits on the Organization bank statement were donations received from the . The is an organization which provides tools to accept and process donations for small nonprofit organizations. No other donations were reported on the Organizations Account. The Organization stated that no other bank accounts connected to the Organization.

The IDR requested proof of payment to any the Organization supported. In response, the Organization stated that payments to were confidential. Further the organization stated that payments went to the supported accounts. The Organization, however, did not provide any supporting documentation to show prove that any payments were made to any .

The Service conducted its interview on , with , and . It should be noted that and are . was appointed as a Director in . During the interview, the stated that all donations received for the Organization were deposited to a transaction company called

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“ ” would then transfer the funds to the Organization’s bank account. The Exempt Organization Revenue Agent (“agent”) questioned and about the 1099-K showing income of \$. The agent informed the and that there was no evidence of the deposits going to the Organization’s bank account. and stated that \$ of donations was money given by friends and followers for personal expenses for . and stated that the fundraising requests listed the name of the Organization but were noted on the request for ’s personal use.

Agent spoke with and after the interview. I asked them if they blocked access to the organization’s financial accounts from the other officers. and stated that they changed the passwords on the organization’s bank account, the organization’s account, and the organization’s account, blocking the other officers access to the accounts. and stated they disagreed with the other officers in regards of the funds collected through . stated that those funds were strictly for ’s personal use. and provided the list of donors and amounts that were received by the account which they noted was for ’s personal use in the amount of .

Agent sent a third IDR was issued to the Organization. The agent request asked for proof that assets were distributed to other 501(c)(3) organizations upon dissolution. No support was provided by the organization.

Agent sent a fourth IDR to the Organization. The IDR requested the Organization to provide the statement for to show donations received. The request also asked for bank statements to confirm the deposits from . In response, the Organization sent an excel illustrating its activity of donations. The Organization provided months of and ’s personal bank statements showing some of the deposits being made in their personal account. and stated that these fund-raising activities was for ’s personal use.

A summons was issued to . provided documentation () that shows distributions were sent to and ’s personal bank account. The statement showed the account number where the funds were transferred. The funds were transferred to the same Bank of America Account number that and provided as their personal checking account. The report shows \$ was deposited to and ’s personal account in . The account that received the donations used the EIN of the Organization.

Law

§501(c)(3) of the Internal Revenue Code provides for exemption from Income Tax for corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to

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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.

§4958(a)(1) of the Internal Revenue Code imposes on each excess benefit transaction a tax equal to 25% of the excess benefit.

§4958(b) provides that, where an initial tax is imposed, but the excess benefit involved in such transaction is not corrected within the taxable period, a tax equal to 200% of the excess benefit involved is imposed and must be paid by any disqualified person with respect to such transaction.

§4958(c) defines the term “excess benefit transaction” as any transaction in which an economic benefit is provided by an applicable tax-exempt organization directly or indirectly to or for the use of any disqualified person if the value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing such benefit. For purposes of the preceding sentence, an economic benefit shall not be treated as consideration for performance of services unless such organization clearly indicated its intent to so treat such benefit.

§4958(e) defines “applicable tax-exempt organization” as an organization described in either §501(c)(3) or §501(c)(4) of the Internal Revenue Code or an organization which was so described at any time during the five-year period ending on the date of the excess benefit transaction.

§4958(f)(1) defines a “disqualified person” as (A) any person who was, at any time during the five-year period ending on the date of such transaction, in a position to exercise substantial influence over the affairs of the organization, (B) a member of the family of a disqualified person, and (C) a 35% controlled entity.

§4958(f)(6) defines “correction”, with respect to any excess benefit transaction, as the undoing of the excess benefit to the extent possible and taking any additional measures necessary to place the organization in a financial position not worse than that in which it would be if the disqualified person were dealing under the highest fiduciary standards.

§6501(l)(1) provides that, for purposes of any tax imposed by section 4912, by chapter 42 (other than section 4940) or by section 4975, the return referred to in this section shall be the return filed by the private foundation, plan, trust, or other organization for the year in which the act (or failure to act) giving rise to liability for such tax occurred.

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Treasury Regulations §53.4958-1(c)(2)(i) provides, in part, that if a disqualified person makes a payment of less than the full correction amount under the rules of §53.4958-7, the 200% is imposed on the unpaid portion of the correction amount (as described in §53.4958-7(c)).

§53.4958-1(c)(2)(ii) defines the “taxable period”, with respect to any excess benefit transaction, as the period beginning with the date on which the transaction occurs and ending on the earlier of —

- (A) The date of mailing a notice of deficiency under §6212 with respect to the §4958(a)(1) tax; or
- (B) The date on which the tax imposed by §4958(a)(1) is assessed.

§53.4958-1(c)(2)(iii) provides, in part, that the abatement rules of §4961 specifically provide for a 90-day correction period after the date of mailing a notice of deficiency under §6212 with respect to the §4958(b) 200% tax. If the excess benefit is corrected during that correction period, the 200% tax imposed shall not be assessed, and if assessed the assessment shall be abated, and if collected shall be credited or refunded as an overpayment.

§53.4958-1(e)(1) of the Treasury Regulations provides that, except as otherwise provided, an excess benefit transaction occurs on the date on which the disqualified person receives the economic benefit for federal income tax purposes.

§53.4958-4(c)(1) provides that an economic benefit is not treated as consideration for the performance of services unless the organization providing the benefit clearly indicates the intent to treat the benefit as compensation when the benefit is paid. An applicable tax-exempt organization is treated as clearly indicating its intent to provide an economic benefit as compensation for services only if the organization provided written substantiation that is contemporaneous with the transfer of the economic benefit at issue. If an organization fails to provide this contemporaneous substantiation, any services provided by the disqualified person will not be treated as provided in consideration for the economic benefit for purposes of determining the reasonableness of the transaction. In no event shall an economic benefit that a disqualified person obtains by theft or fraud be treated as consideration for the performance of services.

§53.4958-4(c)(3)(i)(A) provides that an organization’s reporting constitutes contemporaneous substantiation to treat a benefit as compensation if the organization reports the benefit as compensation on an original Federal tax information return with respect to the payment (e.g., Form W-2 or 1099); or the recipient disqualified person reports the benefit as income on the person’s original Federal tax return (e.g., Form 1040); or there is an approved written employment contract executed on or before the date of the transfer indicating the benefit is compensation; or there is documentation by the organization’s authorized body approving the transfer as compensation for services on or before the date of the transfer; or there was written evidence in existence before the due date of the applicable Federal tax return indicating a reasonable belief by the organization that the benefit was a nontaxable benefit as described in Regulations §53.4958-4(c)(2).

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§1.501(c)(3)-1(a)(1) provides 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.

§1.501(c)(3)-1(c)(2) provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

§1.501(c)(3)-1(f)(2)(i) states that, regardless of whether a particular transaction is subject to excise taxes under section 4958, the substantive requirements for tax exemption under section 501(c)(3) still apply to an applicable tax-exempt organization described in section 501(c)(3) whose disqualified persons or organization managers are subject to excise taxes under section 4958. Accordingly, an organization will no longer meet the requirements for tax-exempt status under section 501(c)(3) if the organization fails to satisfy the requirements of paragraph (b), (c) or (d) of this section.

§1.501(c)(3)-1(f)(2)(ii) provides that, in determining whether to continue to recognize the tax-exempt status of an applicable tax-exempt organization (as defined in section 4958(e) and §53.4958-2) described in section 501(c)(3) that engages in one or more excess benefit transactions that violate the prohibition on inurement under section 501(c)(3), the Commissioner will consider all relevant facts and circumstances, including, but not limited to, the following —

(A) The size and scope of the organization's regular and ongoing activities that further exempt purposes before and after the excess benefit transaction or transactions occurred.

(B) The size and scope of the excess benefit transaction or transactions (collectively, if more than one) in relation to the size and scope of the organization's regular and ongoing activities that further exempt purposes.

(C) Whether the organization has been involved in multiple excess benefit transactions with one or more persons.

(D) Whether the organization has implemented safeguards that are reasonably calculated to prevent excess benefit transactions; and

(E) Whether the excess benefit transaction has been corrected (within the meaning of section 4958(f)(6) and §53.4958-7), or the organization has made good faith efforts to seek correction from the disqualified person(s) who benefited from the excess benefit transaction.

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Taxpayer's Position

and state that the request for 's expenses were for 's personal use and not the Organizations.

Government's Position

- 1) The issue to resolve is, whether the Organization's 501(c)(3) status should be revoked on the grounds that its net earnings inured to the benefit of its Directors.

The government holds the position that the Organization s earnings have inured, in substantial part, to the benefit of and . This violates §1.501(c)(3)-1(c)(2) of the Treasury Regulations and warrants revocation of EO's 501(c)(3) status. This position is since and were in a position of complete financial control during the years under examination. An excess benefit transaction is a transaction in which an economic benefit is provided by an applicable tax-exempt organization, directly or indirectly, to or for the use of any disqualified person – here, the Officers of the Organization. Additionally, the value of the economic benefit provided by the Organization exceeds the value of the consideration (including the performance of services) that the Organization received from the disqualified person in exchange for the benefit as noted in Internal Revenue Code 4958(c)(1). and were officers of the Organization and was a disqualified persons under the Internal Revenue Code.

and were in a position of complete financial control during the year under examination. Because of this control, was able to use the Exempt Organization's EIN to collect donations to be deposited into and 's personal bank account. and have stated, unequivocally, that these funds collected under the EO's EIN was for 's personal use. These funds were not reimbursed to the EO. Therefore, all funds collected under the EO's EIN, constitute inurement to and 's . Furthermore, and could not produce supporting documentation that the Organization's ending assets were distributed to another charitable organization.

Therefore, the Organization is operated for the benefit of private interests in violation of the restriction on private benefit in paragraph under Internal Revenue Code, § 7805 1.501(c)(3)-1 (d)(1)(ii). Based on these facts and circumstances, the Organization is not operated exclusively for exempt purposes and, therefore, is not described in section 501(c)(3).

Interaction with Section 4958 of the Code

The Organization, having been recognized in as an organization described in §501(c)(3) of the Internal Revenue Code, and remaining so recognized through the date of this report, is an "applicable tax-exempt organization", as contemplated by §4958(e) of the Code.

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is the Initial Director of the Corporation of the Organization. writes and signs checks drawn on the Organization’s bank account. is an officer of and exercises substantial influence over the affairs of the Organization, and therefore satisfies the definition of a “disqualified person” as contemplated by §4958(f)(1) of the Code.

stated unequivocally that and are volunteers, and that they were not to be compensated by the Organization in any way. and were not issued either Forms W2 or 1099 by the Organization. Thus, there was no intent by the Organization to treat any economic benefit to and as compensation. Therefore, per §53.4958-4(c)(1) of the Treasury Regulations, any economic benefit that they received from the Organization is an automatic excess benefit transaction. All the transactions shown in represent economic benefits that were transferred from the Organization’s account into and ’s personal bank account are thus all excess benefit transactions.

The Following is a discussion of the five factors contemplated in §1.501(c)(3)-1(f)(2)(ii) of the Treasury Regulations for revoking 501(c)(3) status on the grounds of inurement when the inurement also constitutes excess benefit transactions (“EBTs”):

Factor #1: Size and scope of exempt activities before and after EBTs

Revocation is being proposed primarily on the grounds of inurement. The Organization used its website to solicitate funds for a charitable purpose. These funds were never deposited in the organization’s bank account. These funds were deposited directly to and ’s personal bank account.

Factor #2: Size and scope of EBTs in relation to size and scope of exempt activities

When applying for exempt organization status, the organization noted that its purpose is

. The Organization noted during the interview that it collects funds using solicitations and make distributions to . When asked to show support of the payments to any , the Organization said that payments were confidential. The organization stated that payments went to accounts. The organization could not provide any support that any payments were made to a .

The Organization provided one bank account as the Organization’s bank account. The account showed deposits of transferred in using the . Upon dissolution, the checking account had a balance of \$ that was not distributed to another charitable organization. Checks total could not tie any charitable cause. Of the donations received from the , only \$ could be determined to be used for a charitable purpose. The audit discovered a 1099-K for \$ was received from under the organization’s EIN that was not deposited in the Organization’s bank

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account. The funds in the Organization's bank account were used in large part for trips and hotel stays for conventions. The summons showed transactions in the amount of \$ deposited directly to and 's personal account. The Organization stated that the account that was attached to the Organization was never used as a fundraising tool for the Organization. Using the Organization's page, the Organization requested donations for 's personal expenses. Treasury regulation 1.501(c)(3)-1(f)(2) states that disqualified persons or Organization managers are subject to excise taxes under section 4958. Accordingly, an Organization will no longer meet the requirements for tax-exempt status under section 501(c)(3). is a Director of the Organization and is a disqualified person. The Organization provided the list of donors and amounts that were received by the account. Therefore, consideration of this factor weighs in favor of revocation.

The Excess Benefit Transactions (EBT's) are to be considered relative to the size and scope of EO's fundraising activities. For the purposes of this report, this comparison will be made using revenues. The comparison is as follows:

Year	EBTs	Exempt Revenue	EBTs as % of Exempt Revenue
\$	\$	\$	%

Factor #3: Multiple EBTs

As shown in , there were over transactions in the amount of \$ during that constitute both inurement and EBTs. Upon dissolution, the checking account had a balance of \$ that was not distributed to another charitable organization. EBTs were thus not isolated or infrequent. Consideration of this third factor then also weighs in favor of revocation.

Factor #4: Whether safeguards have been implemented.

When and were asked about the transaction to their personal bank account by the other officers of the organization, and changed the passwords to the Organization's Account, account and bank account.

No safeguards have been implemented. and employed no procedures to enforce any safeguards. Consideration of this fourth factor therefore also weighs in favor of revocation.

Factor #5: Whether the EBTs have been corrected.

and do not believe the money collected under the Organization's account and Account in the amount of \$ belong to the Organization. Upon

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dissolution, the checking account had a balance of \$ _____ that was not distributed to another charitable organization.

For the purposes of considering this fifth factor, _____, and _____'s control of the Organization's finances, using the organization's _____ account to collect donations through _____, and deposit these funds directly to _____ and _____'s personal checking has shown inurement. For this reason, consideration of this fifth factor weighs in favor of revocation.

Conclusion

The Organization no longer qualifies for exemption under IRC § 501(c)(3). The Organization's net earnings have inured, in substantial part, to the benefit of its founder and Director. This violates §1.501(c)(3)-1(c)(2) of the Treasury Regulations and warrants revocation of the Organization's 501(c)(3) status effective _____ / _____. Form 1120, U.S. Corporation Income Tax Return, should be filed for _____ and each year thereafter the EO remains subject to federal income tax. Therefore, it is proposed that The Organization's exempt status under IRC § 501(c)(3) of the Code be revoked as of _____, _____.