



Department of the Treasury
Internal Revenue Service
Independent Office of Appeals

Date: MAY 02 2024

Person to contact:
Name:
Employee ID number:
Telephone:
Hours:
Employer ID number:

Release Number: 202430009
Release Date: 7/26/2024

Uniform issue list (UIL):
501.03-00

Certified Mail

Dear _____ :

This is a final adverse 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).

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

We made the adverse determination for the following reasons:

You have not demonstrated that you are operated exclusively for charitable, scientific, or other exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or that no part of your net earnings inures to the benefit of any private shareholder or individual. You have failed to demonstrate that you are not operated for the substantial, non-incidental benefit of private interests, including those of _____ and his companies. You are also operated for a substantial commercial purpose, in addition to other substantial non-exempt purposes. More than an insubstantial part of your activities are in furtherance of non-exempt purposes.

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, Letter 437, Notice of Intention to Disclose. Please review the Letter 437 and the documents attached that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Letter 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. 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:

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

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

Note: We won't 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.

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 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;
- Download IRS Publication 4134, *Low Income Taxpayer Clinic List*, available at 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,

Danny Werfel
Commissioner

By

Valeria B. Farr

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:
December 22, 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:

January 23, 2023

CERTIFIED MAIL – Return Receipt Requested

Dear _____ :

Why you're receiving this letter

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.

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,

Ursula Elbert, AGM for
Lynn Brinkley
Director, Exempt Organizations
Examinations

Enclosures:

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

ISSUE

Whether _____ is operating for the benefit of a private interest within the meaning of Treas. Reg. Section 1.501(c)(3)-1(d)(ii)?

Whether more than an insubstantial part of _____'s activities not in furtherance of an exempt purpose with the meaning of Treas. Reg. Section 1.501(c)(3)-1(c)?

FACTS

Application for Recognition of Tax-Exempt Status

_____ (hereinafter referred to as "the organization") was incorporated in the state of _____ as a nonprofit corporation on _____.

The organization was granted tax-exempt status under IRC section 501(c)(3) within the meaning of section 509(a)(1) and 170(b)(1)(A)(vi) with an effective date of _____.

Exempt Purpose

The organization's articles of incorporation states, its purpose as specified in the articles of incorporation, is charitable, educational and/or scientific.

The organization's application for exemption, Form 1023, describes the following activities they planned to accomplish in furtherance of their exempt purposes.

a) The organization will focus on _____ that affect many individuals worldwide. Our goal is to _____, and to _____.

b) The first project will focus on people who have _____, and to _____ as to whether or not they have a _____ that has recently been classified as " _____" (" _____").

c) The organization will provide information to _____ in _____ possible _____ for _____.

d) The organization will _____.

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Information Document Request #5 asked the organization to provide descriptions of the consulting services the organization provides. The organization's responded, payments from [redacted] were for services provided by the organization consisted of providing health content information for nutritional and medicinal supplements listed on website and for providing nutritional information to customers contacting [redacted] for specific inquires related to products for sale. No contracts or agreements was provided in support of the services described by [redacted] or to support the terms of the arrangement between the organization and [redacted].

From [redacted] to [redacted] revenues from [redacted] services to [redacted] averaged [redacted] % of total revenues. See Exhibit 2 for calculation.

Related Entities:

During the interview [redacted] was asked if the organization had any related entities. [redacted] responded, he owns [redacted]. The [redacted], a [redacted] and [redacted] an online selling platform for selling [redacted] to the public. All [redacted] entities share the same office location. Usage of office space and expenses are allocated to each entity.

The [redacted] is a for-profit business incorporated in the [redacted] of [redacted] on [redacted]. The [redacted] annual state filing has [redacted] listed as CEO. [redacted] owns and is the business main practitioner of [redacted], performs [redacted], and recommends treatments. See Exhibit 3 for copy of filings.

On the [redacted], there is a link to the organization's Website and [redacted] is a division of the organization. [redacted] is the business name under which the organization engages in providing [redacted]. On the website, under Services/ [redacted] and Services/ [redacted], are descriptions of the services provide by [redacted]. The descriptions and links are grouped together to advertise various services offered to persons seeking services at the [redacted]. See Exhibit 4 for website image.

During the phone call on [redacted], [redacted] was asked to explain what the expense items described as "Kits and Supplies". [redacted] said, they were devices used by both himself and [redacted] to [redacted] and to help in [redacted] and [redacted]. [redacted] said, he trained [redacted] on how to use the device and provided guidance on its use on [redacted].

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_____ is a for-profit business incorporated in the _____ of _____ on _____.
The _____ annual state filing was amended, on _____, to remove _____ from
being listed as CEO/CFO. The _____ annual state filing filed on _____, has
_____ listed as CEO. See Exhibit 5 for copy of filings.

LAW

Internal Revenue Code section 501(c)(3) provides for the exemption from Federal income tax of corporations organized and operated exclusively for religious, charitable, literary, scientific, and educational purposes; no part of the net earnings of which inures to any private shareholder or individual.

Treasury Regulation Section 1.501(c)(3)-1(a)(1) provides to be exempt as an organization described 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. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Treasury Regulation Section 1.501(c)(3)-1(c)(1) states, 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). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Treasury Regulation Section 1.501(c)(3)-1(d)(i) states, an organization may be exempt as an organization described in section 501(c)(3) if it is organized and operated exclusively for one or more of the following purposes:

- (a) Religious,
- (b) Charitable,
- (c) Scientific,
- (d) Testing for public safety,
- (e) Literary,
- (f) Educational, or
- (g) Prevention of cruelty to children or animals.

Treasury Regulation Section 1.501(c)(3)-1(d)(1)(ii) which holds, 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.

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In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279 (1945).

An organization's activities that were aimed, in part, at promoting the prosperity and standing of the business community were determined to serve a substantial private purpose and, regardless of the number or importance of any of its other truly exempt purposes, will still fail to qualify for exemption under Section 501(c)(3).

In American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), the court held an organization that operated a school to train individuals for careers as political campaign professionals, but that could not establish that it operated on a nonpartisan basis, did not exclusively serve purposes described in § 501(c)(3) because it also served private interests more than incidentally. The court found that the organization was created and funded by persons affiliated with entities of a particular political party and that most of the organization's graduates worked in campaigns for the party's candidates. Consequently, the court concluded that the organization conducted its educational activities with the objective of benefiting the party's candidates and entities. Although the candidates and entities benefited were not organization "insiders," the court stated that the conferral of benefits on disinterested persons who are not members of a charitable class may cause an organization to serve a private interest within the meaning of § 1.501(c)(3)-1(d)(1)(ii). The court concluded by stating that even if the political party's candidates and entities did "comprise a charitable class, [the organization] would bear the burden of proving that its activities benefited members of the class in a non-select manner."

In International Postgraduate Medical Foundation v. Commissioner, TCM 1989-36 (1989), the Tax Court considered the qualification for exemption under Section 501(c)(3) of the Code of a nonprofit corporation that conducted continuing medical education tours. The Tax Court found that a substantial purpose of the petitioner was benefiting the for-profit travel agency. It concluded that: "When a for-profit organization benefits substantially from the manner in which the activities of a related organization are carried on, the latter organization is not operated exclusively within the meaning of Section 501(c)(3), even if it furthers other exempt purposes." A substantial purpose of the applicant's operations was to increase the income of the for-profit travel agency.

Rev. Rul. 72-147, 1972-1 C.B. 147, held an organization that provided housing to low-income families did not qualify for exemption under section 501(c)(3) because it gave preference to employees of business operated by the individual who also controlled the organization. The ruling reasoned that, although providing housing for low-income families furthers charitable purposes, doing so in a manner that gives preference to employees of the founder's business primarily serves the private interest of the founder rather than a public interest.

Revenue Ruling 69-526, 1969-2 CB 115, describes an organization formed by a group of physicians specializing in heart disease to research the cause and to publish treatments of heart defects which qualified for exemption under section 501(c)(3) of the Code. The creators conducted their medical practices apart from the organization's research program. Although their private patients were accepted for study on the same criteria as other patients, the majority of the

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organization's patients had no prior contact with the creators. The organization's facilities are maintained separately from the facilities of its physician-creators and are used exclusively for the organization's research. The organization received exemption because it served a public rather than a private interest as required by Income Tax Regulations section 1.501(c)(3)-1(d)(5).

TAXPAYER'S POSITION

The Taxpayer's position is unknown at this time.

GOVERNMENT'S POSITION

Based on our examination of your activities during , and , we have determined you are not operating exclusively for an exempt purpose as required to be described in Internal Revenue Code Section 501(c)(3) and Treasury Regulation Section 1.501(c)(3)-1(a)(1).

The following determinations are based on our findings,

- 1) The organization operated for the benefit of a private interest within the meaning of Treas. Reg. Section 1.501(c)(3)-1(d)(ii).
- 2) More than an insubstantial part of the organization's activities were not in furtherance of an exempt purpose within the meaning of Treas. Reg. Section 1.501(c)(3)-1(c)(1).

Operating for the benefit of a private interest:

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations states, 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.

During the interview conducted on , , Director/CEO, said the organization's purpose is to () and has

During the examination of the tax year ends , it was identified the organization's primary activities are with services and services to

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Primarily engaging in these activities demonstrates your operations further private interests, the private interests of the _____ and its _____, and its customers, rather than for a public interest. The organization's _____ activities are primarily aimed at providing _____ services to _____. The organization's other primary activity is aimed at carrying on an unrelated trade or business which does not contribute in a substantial way to the organization's exempt purpose.

Furthermore, the organization does not publish any findings or research, nor demonstrated to have provide any information to other unrelated entities for the benefit of the public.

You differ from the organization in **Revenue Ruling 69-526** for the following reasons. In the ruling multiple _____ are involved in the creation of the organization rather than _____, in your case, _____. The organization in the ruling had results that were made public through publication in professional journals, lectures, and film strips. You have not demonstrated as to how _____ or _____ would be disseminated or even if research has been conducted at all.

In the ruling any personal benefit derived by the _____-creators did not lessen the public benefits flowing from the organization's operations because its activities resulted in a public benefit; however, in your case the benefit derived from your activities does not substantially provide a public benefit because your activities result in a substantial benefit to private interest. _____ in Revenue Ruling 69-526 were referred to the organization as being recognized as in need and _____ based on whether their condition merits _____; however, your service activities are performed on _____ you receive primarily from _____ referrals for the purpose of providing them with _____ and are not evaluated to determine whether their condition warrants a special study. Finally, in the ruling a majority of the organization's _____ have never had contact with its creators; however, in your case a majority of the organization's _____ have had contact with the creator since they are also _____ of his for-profit business.

The organization is like the organization in **Rev. Rul. 72-147**, it does not qualify for exemption under section 501(c)(3) because of the preference provided to its related for-profit entities. Your organization provides services (_____ services) primarily to the _____ of a related for-profit business, and services to customers of another related for-profit business to a degree that indicates preferential treatment.

American Campaign Academy, 92 T.C. at 1077 holds that the organization's activities must benefit the members of that charitable class in a "non-select manner." A _____ organization that primarily provides _____ services to _____ of a related for-profit business and _____ services exclusively to another related for-profit business is not treating all charitable class members in a neutral manner. Instead, the organization's close relationship with the Director/CEO's for-profit businesses has had the effect of directing the organization's operations to more than insubstantially benefit the _____ and customers of the for-profit businesses. In that circumstance, the related for-profit's _____, customers, and business are impermissibly being

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conferred private interest because referrals from and the services to limit most services and all services to specific individuals, instead of treating them all as members of the public in a non-selective manner. Therefore, the organization, like the one in American Campaign Academy, is not operated to serve the public.

International Postgraduate Medical Foundation v. Commissioner holds, “where a for-profit organization benefits substantially from the manner in which the activities of a related exempt organization are carried on, the latter organization is not operated exclusively for exempt purposes within the meaning of section 501(c)(3), even if it furthers other exempt purposes.” The organization operations direct its activities in a manner that more than insubstantially benefited its related for-profit business, , and customers.

While there is some public benefit served by helping and treating , the reason the organization was granted exemption was for charitable, educational and/or scientific purposes, not to primarily provide services to of a related for-profit business and services to another related for-profit business. For these reasons you are serving primarily private, rather than public interests and no longer qualify for exemption.

Activities not in furtherance of an exempt purpose:

A tax-exempt organization under **Internal Revenue Code Section 501(c)(3)** must be operated exclusively for charitable or other exempt purposes with no part of its net earnings inuring to the benefit of any private shareholder or individual. See also **Treas. Reg. § 1.501(c)(3)-1(a)(1)**.

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

The organization has main activities, is providing services to , the other is providing services to a for-profit entity.

From to the organization charged fees to in exchange for services. receiving services in did receive services free of charge. However, the number of receiving a charitable benefit was low. were provided services free of charge in . No formal charitable policy was provided for inspection and no proof of community benefit was established.

The organization does not research or publish findings from their services to demonstrate how the activity furthers a scientific exempt purpose.

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The organization is not engaged in providing instruction or training to individuals for the purpose of improving or developing their capabilities or the instruction of the public on subjects useful to the individual and beneficial to the community.

From to the organization provided services to a for profit business. The organization's services does not contribute to the development of on or publications concerning or any other. No are conducted, no is provided, and no research has been published because of the activity, therefore the activity is not in furtherance of a charitable or other exempt purpose.

From to the activities above all involved related entities. The and are for-profit business owned and controlled by ; the Director/CEO/Founder of the organization. Secretary of state corporate fillings support these facts. Operations directed to the benefit of related organizations do not further a charitable purpose.

You fail to qualify for exemption because your service and service activities benefit the interest of , their and customers and in manner that is more than insubstantial like the organizations in **Better Business Bureau of Washington, D.C. v. United States, 326 U.S. 279 (1945) and International Postgraduate Medical Foundation v. Commissioner, TCM 1989-36 (1989)**

CONCLUSION

Based on the facts gathered the organization's services to of and services to are its primary activities. The activities are conferring more than an insubstantial amount of benefit to private interest and do not further an exempt purpose. Therefore, the organization fails to demonstrate that its activities substantially further an exempt purpose pursuant to Section 1.501(c)(3)-1(c)(1) of the Treasury Regulations and fails to establish it is operating for the benefit of the public rather than private interest pursuant to Section 1.501(c)(3)-1(d)(1)(ii) of the Treasury Regulations. The proposed revocation of the organization's exempt statutes is effective , .

Form 1120, U.S. Corporation Income Tax Return, should be filed for , , and each year thereafter if the organization remains subject to federal income tax. If the proposed revocation becomes final, appropriate state officials will be notified of such action in accordance with Section 6104(c) of the Internal Revenue Code.

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Alternative Position, if revocation is not sustained.

Unrelated Business Income (UBI)

ISSUE

Whether services revenue is defined as unrelated business income?

Whether the organization required to file Form 990-T?

Whether the organization subject to failure to file tax return and failure to pay tax penalties?

FACTS

Application for Recognition of Tax-Exempt Status

(hereinafter referred to as "the organization") was incorporated in the state of as a nonprofit corporation on

The organization was granted tax-exempt status under IRC section 501(c)(3) within the meaning of section 509(a)(1) and 170(b)(1)(A)(vi) with an effective date of

Exempt Purpose

The organization's articles of incorporation states, its purpose as specified in the articles of incorporation, is charitable, educational and/or scientific.

The organization's application for exemption, Form 1023, was received on . The application described the following activities they planned to accomplish in furtherance of their exempt purposes.

a) The organization will focus on . Our goal is to

b) The project will focus on who have been with , and to as to whether they that has recently been classified as " (" ").

c) The organization will provide information to providers in for possible

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d) The organization will attempt to

During the interview conducted on _____, _____, _____, Director/CEO, said the organization's purpose is to _____ of _____ (_____) and has expanded to other _____ of _____ and _____.

Activity

Service:

The Information Document Request #1 response also states the organization began offering _____ services to _____ in _____ of _____ and was paid by _____ for these services.

Information Document Request #5 asked the organization to provide descriptions of the services The organization provides

The organization responded payments from _____ were for services provided consisting of providing _____ information for _____ and _____ listed on _____ website and for providing _____ to _____ for specific inquires related to products for sale.

During the telephone call conducted on _____, _____, the agent asked _____ to explain the services offered to

_____ responded the organization employee provides costumer service to customers, the employee answers customer questions, provides information on the benefits of the supplements and their uses to customers. Also, the organization's employee provides content for _____'s website. The organization bills _____ based on the time the organization's employee say they spend on _____ business.

The agent asked if the organization keeps track of time employees spend on providing services to _____ answered, they do not keep track of the time spent. They rely on the employee to say how much time they spent conducting

No contracts or agreements was provided in support of the services described by _____ or to support the terms of the arrangement between the organization and

From _____ to _____ revenues from _____ services to _____ averaged _____ % of total revenues.

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The organization receives payment from _____ for _____ services on a regular and ongoing bases as indicated by general ledger posting of payments and bank deposits.

LAW

Internal Revenue Code Section 511 imposes a tax at corporate rates under section 11 on the unrelated business taxable income of certain tax-exempt organizations.

Internal Revenue Code Section 512- Except as otherwise provided in this subsection, the term “unrelated business taxable income” means the gross income derived by any organization from any unrelated trade or business (as defined in section 513) regularly carried on by it, less allowable deductions which are directly connected with the carrying on of such trade or business.

Internal Revenue Code Section 513- The term “unrelated trade or business” means, in the case of any organization subject to the tax imposed by section 511, any trade or business the conduct of which is not substantially related to the exercise or performance by such organization of its charitable function constituting the basis for its exemption under section 501.

Treasury Regulation Section 1.512(a)-1(b) of the regulations states that only expenses attributable solely to the conduct of unrelated business activity, and have proximate relationship to the unrelated business activity, qualify for deduction to the extent that they meet the requirements of sections 162, or 167, or other relevant provisions of the Code.

Internal Revenue Code Section 6651(a)(1) - the failure to file any return required, there shall be added to the amount required to be shown as tax on such return 5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate.

Internal Revenue Code Section 6651(a)(2) – the failure to pay the amount shown as tax on any return, on or before the date prescribed for payment of such tax, there shall be added to the amount shown as tax on such return 0.5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate

Internal Revenue Code Section 6651(c) - the amount of the addition under paragraph (1) of subsection (a) shall be reduced by the amount of the addition under paragraph (2) of subsection (a) for any month to which an addition to tax applies under both paragraphs (1) and (2).

Treasury Regulation Sections 1.513-1(a), (b), (c), (d) Definition of unrelated trade or business. In general, the term unrelated business taxable income means the gross income derived by an organization from any unrelated trade or business, regularly carried on by it, and not substantially

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related to its exempt purpose; less the deductions and subject to the modifications provided in section 512.

TAXPAYER’S POSTION

The Taxpayer’s position is unknown currently.

GOVERNMENTS POSITION

Unrelated Business Income:

services revenue meets the definition of unrelated business income as described in Internal Revenue Code Sections 512 and 513. Services provided to is a business activity engaged by the organization to earn a profit. The organization regularly engages in providing services to Services are not substantially related to the organization’s exempt purpose of charitable, educational, and scientific. Compensated employees provide the services. The unrelated business income is subject to unrelated business income tax under Internal Revenue Code Section 511 at the tax rate stated in Internal Revenue Code Section 11. Exempt Organizations subject to the unrelated business income tax, and must submit the Form 990-T, Exempt Organization Business Income Tax Return, for each taxable year they have gross unrelated taxable income of \$1000 or more.

Expense Allocation:

The agent requested a description of services, contracts, payment agreements, time logs and any other documents in support of the service arrangement between the organization and Organization only provided general descriptions of the services provided. did state billings sent to was based on the time the employee said they had worked on business. However, no documentation was kept keeping track of the time spent or other support for the services provided. No records of time spent on services was provided, no agreements to establish prices for services was executed, and no reasonable bases for expense allocation was maintained by the organization.

Treasury Regulations Section 1.512(a)-1(a) states, only expenses directly connected with the carrying on of the unrelated trade or business and which is attributable solely to the conduct of unrelated business activities that are proximately and primarily related to that business activity, qualify as a deduction.

We have used the gross-to-gross receipt method to allocate expenses related to service revenues. We have determined the gross-to-gross receipt allocation method was reasonable in this situation for the years ending , and , because no records were kept tracking time employees spent on

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activities, no agreements in support of the pay arrangements were executed between the organization and _____, and no expense allocation records were maintained. The method was used to compute the ordinary and necessary expenses by dividing the total _____ service revenue by total revenues, which produced the ratio of _____ % for the tax year ended _____, _____ % for the tax year _____, and _____ % for the tax year _____. See Exhibit 1 – Alternative Position for calculations.

The expense items, employee wages, occupancy, payroll taxes and bank fees, reported on the Form 990-EZ for the tax years _____, _____, and _____, were allocated to the organization's _____ service operations at the applicable ratios. See Exhibit 2 – Alternative Position for calculations.

CONCLUSION

The organization's _____ services activity is subject to unrelated business income tax and the tax for the years ending _____ and _____.

The organization is required to file the Form 990-T returns for the years _____, _____ and _____ to report unrelated business income and pay tax on unrelated business taxable income.

The organization's subject to Failure to File and Failure to Pay penalties for not filing the Form 990-T to report unrelated business taxable income and pay tax for the tax years ending _____.

The organization's unrelated business income taxes and penalties for calendar years _____, _____ and _____ are stated below:

Summary of Taxes, Penalties, and Interest			
Balance Due / Taxes			
Estimated Failure to File – IRC 6651(a)(1)			
Estimated Failure to Pay – IRC 6651(a)(2)			
Estimated Interest			
Estimated Amount Due			

We have prepared Form 4945 and exhibits to provide detailed deductions in assessing the unrelated business income tax for the periods _____, _____, and _____. Penalties and Interest to be calculated at the date of payment by Service Center.