



## DEPARTMENT OF THE TREASURY

Internal Revenue Service  
TE/GE EO Examinations  
1100 Commerce Street  
Dallas, TX 75242

### TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

Number: **200903081**  
Release Date: 1/16/2009

UIL:501.03-01                      October 2, 2008

#### LEGEND

ORG = Organization name              XX = Date              Address = address

ORG

ADDRESS

Person to Contact:

Identification Number:

Contact Telephone Number:

In Reply Refer to: TE/GE Review Staff

EIN:

LAST DATE FOR FILING A PETITION  
WITH THE TAX COURT: December 31, 20XX

### **CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Dear :

This is a Final Adverse Determination Letter as to your exempt status under section 501(c)(3) of the Internal Revenue Code. Your exemption from Federal income tax under section 501(c)(3) of the code is hereby revoked effective January 1, 20XX. You have agreed to this adverse determination, per signed Form 6018, on June 23, 20XX.

Our adverse determination was made for the following reasons:

Organizations described in I.R.C. section 501(c)(3) and exempt under section 501(a) must be organized and operated exclusively for an exempt purpose. Your organization did not engage in any charitable activities and your organization failed to contribute any contributions to the intended supported organization. Your organization is not a charitable organization within the meaning of Treasury Regulations section 1.501(c)(3)-1(d). You have not established that you have operated exclusively for an exempt purpose.

You failed to meet the requirements of IRC section 501(c)(3) and Treas. Reg. section 1.501(c)(3)-1(d) in that you failed to establish that you were operated exclusively for an exempt purpose. Rather, you were operated for the benefit of private interests and a part of your net earnings inured to the benefit of disqualified members.

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code. You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center.

Processing of income tax returns and assessment of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination in court, you must initiate a suit for declaratory judgment in the United States Tax Court, the United States Claim Court or the District Court of the United States for the District of Columbia before the 91<sup>st</sup> day after the date this determination was mailed to you. Contact the clerk of the appropriate court for the rules for initiating suits for declaratory judgment.

You also have the right to contact the office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers. You can call and ask for Taxpayer Advocate assistance. Or you can contact the Taxpayer Advocate from the site where the tax deficiency was determined by calling: Or you can contact the Taxpayer Advocate nearest you by calling: or writing to: Internal Revenue Service, Office of Taxpayer Advocate.

Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations, nor extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

We will notify the appropriate State Officials of this action, as required by section 6104(c) of the Internal Revenue Code.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

Vicki L. Hansen  
Acting Director, EO Examinations

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit Form 990
Name of Taxpayer ORG		Year/Period Ended December 31, 20XX

**LEGEND**

ORG = Organization name      XX = Date      XYZ = State      CO-1, CO-2, CO-3,  
CO-4 = 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> & 4<sup>th</sup> companies      Director = director      President =  
president

**ISSUE:**

Whether the ORG is organized exclusively for charitable, religious or educational activities under section 501(c)(3) and within section 509(a)(3) of the Internal Revenue Code?

**FACTS:**

The ORG was incorporated as a Supporting Organization for CO-1, CO-2 in the State of XYZ on December 16, 19XX.

Per Form 1023 and in the Articles of Incorporation, the organization was formed exclusively for charitable and educational purposes. As stated in Form 1023 and in the Articles of Incorporation, the organization was formed to support and benefit the CO-1 for Objective Studies, an organization described as in section 501(c)(3) within section 509(a)(1) of the Code of 19XX.

ORG (the "Organization") was formed exclusively for charitable and educational purposes. In furtherance of its exempt purposes, the Organization will support and benefit CO-1 (the "CO-1"), an organization recognized as exempt under IRC § 501(c)(3) and described in §§ 509(a)(1) and 170(b)(1)(A)(vi). Form 1023 indicates that the Organization will be operated by, supervised and controlled by the CO-1, which shall be its sole member and which shall elect the board of directors of the Organization.

The Organization's sole activity will be to invest its funds and use the earnings and/or principle exclusively for the benefit of, to perform the functions of, and to carry out the purposes of the CO-1. The Organization was granted exemption under section 501(c)(3) of the IRC, an organization described in section 509(a)(3) of the IRC.

The organization consists of three (3) Board Members and one (1) Director, and two (2) of which are also board members of the supported organization (CO-1). The control is divided fifty/fifty percent.

In 19XX, the President family made an unusual grant (Notes Receivable) in the amount of \$ to the supporting organization (ORG) to support and benefit the Institution organization describe in sections 501(c)(3) and 509(a)(1) of the Internal Revenue Code of 19XX.

Per testimony of the Director, the organization was formed to obtain the donated Notes Receivable from the CO-3. The supported organization, CO-1 for Objective Studies did not want to deal with the Note Receivable and therefore CO-3 was formed. The CO-3 had a note receivable from CO-4 which, President made a loan in the amount of                      dollars to CO-4.

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The initial seed money was in the form of a Notes Receivable from the CO-3 in the amount of \$. The Notes Receivable was given in 19XX listed on the balance sheet. The President family took a contribution deduction of \$.

The organization received small amounts from the Notes Receivable and the organization never distributed any income to the intended supported organization during the entire time in existence.

**LAW:**

Section 501(c)(3) of the Code exempts from federal income tax corporations, and any community chest, fund, foundation or organizations organized and operated exclusively for charitable, educational, and other exempt purposes, provided that no part of earnings of which inures to benefit of any private shareholder or individual, no substantial part of activities of which is carrying on propaganda, or otherwise attempting to influence legislation and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

Section 1.501(c)(3)-1 describes organizations organized and operated for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children and animals.

Section 1.501(c)(3)-1a describes 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 operational test, it is not exempt.

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

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized and operated exclusively for purposes specified in section 501(c)(3) unless it serves a public rather than a private interest. To meet this requirement, an organization must establish that it is not organized or operated for the benefit of private interests such as the creator or his family, or persons controlled, directly or indirectly, by such private interests.

In Revenue Ruling 67-5, 1967-1 C.B. 123, it was held that an organization controlled by the creator's family was operated to enable the creator and his family to engage in financial activities which were beneficial to them, but detrimental to the organization. It was further held that the organization was operated for a substantial non-exempt purpose and served the private interests

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of the creator and his family. Therefore, the organization was not entitled to exemption from Federal Income Tax under section 501(c)(3).

**GOVERNMENT'S POSITION:**

The IRC § 501(c)(3) tax exempt status of the ORG, supporting organization should be revoked because it is not operated exclusively for their tax exempt purposes to which they were created. The ORG is not operating as an organization described in section 501(c)(3) and section 509(a)(3) of the Internal Revenue Code.

The organization fails the operational test. The facts show that the organization was formed to benefit CO-1, an organization exempt from Federal Income Tax under IRC § 501(c)(3) and described in IRC § 509(a)(1) of 1986, as amended and such other organizations which are closely related in purpose or function to CO-1, are exempt from tax under § 501(c)(3) and described in §§ 509(a)(1) or 509(a)(2) of the Code. The organization have not supported or benefited CO-1, therefore, they are not operating for their exempt purpose.

**TAXPAYER'S POSITION:**

The organization has been provided with the government's position on the issues in questioned orally with Treasurer/Secretary, Director and Power of Attorney, CPA and has not provided the examining officer with any opposing position, either in writing or orally. The Officer and Director verbally stated that the will sign Form 6018 agreeing to the revocation.

**CONCLUSION:**

The ORG failed to contribute any contributions to the intended supported organization (The CO-1) since its creation. The Organization (CO-3) has four (4) Board Members, two (2) of which are Board Members of the Supported Organization (The CO-1). There are two disqualified persons, President, a Substantial Contributor and Director. The control is divided 50/50 percent. As the result, the Organization does not meet the first relationship test under Section 509(a)(3) as being operated, supervised or controlled by the supported organization. In addition, the Organization does not meet the third relationship test because it does not pass the integral part test under Section 509(a)(3).

The organization has not conducted any activities in furtherance of their exempt purpose as described in the organization Articles of Incorporation or its initial Application Form 1023. The Organization was formed exclusively for charitable and educational purposes, to support and benefit the CO-1 an IRC 501(c)(3) organization. The Organization has not contributed any funds and used any earnings and/or principal exclusively for the benefit of, to perform the functions of, and to carry out the purposes of the CO-1. The organization failed to meet the operational test.

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Based on the foregoing reasons, ORG has not demonstrated that they qualify for exemption under section 501(c)(3) and section 509(a)(3) of the Internal Revenue Code. The ORG tax exempt status should be revoked as of January 1, 20XX.

We offered you an informal conference with the case manager. However, you declined to hold this conference.

Should this revocation be upheld you are required to file Form 1120 for all future periods, whether or not you have taxable income.