

**DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE**

Number: **200646018**
Release Date: 11/17/2006
Date: May 2, 2006

Legend:
ORG=NAME OF ORG
NUM=EMPLOYER ID
DATE1=EFFECTIVE DATE

UIL: 501.03-01

ORG

Person to Contact:
Identification Number:
Contact Telephone Number:
In Reply Refer to: TE/GE Review Staff
NUM

LAST DATE FOR FILING A PETITION
WITH THE TAX COURT: _____

Dear :

This is a Final Adverse Determination as to your exempt status under section 501(c)(3) of the Internal Revenue Code.

Our adverse determination was made for the following reasons:

ORG has not been operated exclusively for exempt purposes within the meaning of Internal Revenue Code section 501(c)(3). You are not a charitable organization within the meaning of Treasury Regulations 1.501(c)(3)-1(d). You have a substantial nonexempt purpose, you are operated for private benefit, and your earnings inure to the benefit of private individuals.

Based upon the above, we are revoking your organization's exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code retroactively to DATE1

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 for the year ending December 31, and for all years thereafter.

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 91st 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 1-877-777-4778 and ask for Taxpayer Advocate assistance. Or you can contact the Taxpayer Advocate from the site where the tax deficiency was determined by calling The Taxpayer Advocates Office.

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,

Marsha A. Ramirez
Director, EO Examinations



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
Internal Revenue Service
TE/GE Exempt Organizations Examinations Division
1100 Commerce Street MC 4980 DAL
Dallas, Texas 77542

UIL: 501.03-01
ORGANIZATION

Taxpayer Identification Number:

Form:
990-EZ

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:
Telephone:
Fax:

Certified Mail - Return Receipt Requested

Dear :

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

Letter 3618 (04-2002)
Catalog Number 34809F

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate 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. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

Internal Revenue Service
Local Taxpayer Advocate

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

R. C. Johnson
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination

Letter 3618 (04-2002)
Catalog Number 34809F

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number NUMBER	Year/Period ended

Legend: ORG= Name of organization NUM= EIN DATE1=EFFECTIVE DATE DATE2= First year end
Issue:

Whether an organization recognized as exempt under Section 501(c)(3) of the Internal Revenue Code continues to qualify for exemption when inadequate records are maintained by the organization.

Facts:

An examination was conducted of the Org at the residence of the president of the organization, for the tax period ended Date2. An interview was conducted with the president, the bank statements and cancelled checks for the year under examination were reviewed, and transaction journals were obtained for the year under examination and the subsequent year.

On June 2, 2003, a letter was issued to the organization to request documents that were not reviewed at the examination. On July 9, 2003, a second request was issued to the organization, along with a copy of the organization's determination application. On August 5, 2003, after a request for an extension of time, a third request was made for the same documents. By September 4, 2003, the documents had not been received for review.

Law:

Internal Revenue Code ("IRC") §501(c)(3) provides exemption from federal income tax to "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 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."

Treasury Regulation §1.501(c)(3)-1(d)(ii) holds that "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."

IRC §6001 provides that every person liable for any tax imposed by the Code, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

IRC §6033(a)(1) provides, except as provided in IRC §6033(a)(2), every organization exempt from tax under IRC §501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Treasury Regulation §1.6001-1(a) in conjunction with Treasury Regulation §1.6001-1(c) provides that every organization exempt from tax under IRC §501(a) and subject to the tax imposed by IRC §511 on its unrelated business income must keep such permanent books or accounts or records, including inventories, as are sufficient to establish the amount of gross income, deduction, credits, or other matters required to be shown by such person in any return of such tax. Such organization shall also keep such books and records as are required to substantiate the information required by IRC §6033.

Treasury Regulation §1.6001-1(e) states that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained so long as the contents thereof may become material in the administration of any internal revenue law.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number NUMBER	Year/Period ended

Treasury Regulation §1.6033-2(i)(2) provides that every organization which is exempt from tax, whether or not it is required to file an annual information return, shall submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into its exempt status and administering the provisions of IRC Subchapter F (IRC §501 and following), Chapter 1 of Subtitle A of the Internal Revenue Code, IRC §6033, and Chapter 42 of Subtitle D of the Internal Revenue Code. See IRC §6001 and Treasury Regulation §1.6001-1 with respect to the authority of the district directors or directors of service centers to require such additional information and with respect to the books of accounts or records to be kept by such organizations.

In *Church of Gospel Ministry, Inc. v. United States*, 640 F. Supp. 96, 1986 U.S. Dist., due to the taxpayer's failure to keep adequate records, the court held that the taxpayer failed to sustain its burden to show that it was qualified for federal tax exemption as a corporation organized and operated exclusively for religious and charitable purposes, as required under IRC §501(c)(3), and that it was further qualified to receive deductible charitable contributions under IRC §170(c)(2). The court found that the inadequate records failed to show that the taxpayer's operations did not inure to the private benefit of its officers, as provided under IRC §6001. The court found that as a prerequisite to an IRC §6033 filing exemption, it was necessary for the taxpayer to show it qualified as an IRC §501(c)(3) organization, which it could not.

The case decision states, "There is no accurate record of CGM's expenses. CGM's records show numerous checks issued to cash without receipts. There is no record showing whether these funds were expended for operating costs, given to the orphanage or used for other purposes. For example, a sum of \$9,400 in cash listed on CGM's books as expended for charity was kept in a safe by CGM's officers without any record of who received these funds or any indication in the records or corporate minutes that these funds were authorized. In addition, checks are frequently given to church employees or officers to allow them to convert them to cash, without any record or receipt indicating the purpose of the expenditure. CGM also pays certain personal expenses of its officers to compensate them for the use of their homes and cars for CGM business without maintaining any adequate record of these arrangements or the payments."

Government's Position:

In order to claim tax-exempt status a corporation must keep records sufficient to show specifically its items of gross income, receipts and disbursements and show that it is entitled to the exemption, as specified under IRC §6001 and Treasury Regulation §1.6001-1(c).

Org failed to keep and provide records adequate to determine the full nature of its operations and failed to show that its operations do not inure in part to the private benefit of its officers.

As in *Church of Gospel Ministry, Inc. v. United States*, 640 F. Supp. 96, 1986 U.S. Dist., the organization has not met the requirement for the IRC §6033 filing exemption, and has failed to meet the organizational test of IRC §501(c)(3), thus no longer meeting the requirements to be recognized as exempt from tax under IRC §501(a).

Conclusion:

Org. has failed to keep and provide adequate records as required by IRC §§6001 and 6033. The organization has not met the organizational test of IRC §501(c)(3). The organization is not exempt from tax under IRC §501(a). Accordingly, the organization's exempt status is revoked effective Date1

Form 1120 returns should be filed for the tax periods after date1.