



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

TE/GE: EO Examination

625 Fulton Street, Room 503

Brooklyn, NY 11201

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: November 29, 2006

Release Number: 200717018

Release Date: 4/27/07

UIL Code: 501.03-01

Taxpayer Identification Number:
Person to Contact:

Identification Number

Contact Telephone Number:

**LAST DATE FOR FILING A PLEADING
WITH THE TAX COURT, THE CLAIMS
COURT, OR THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT
OF COLUMBIA:**

Dear :

This is a final determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code (IRC). Recognition of your exemption from Federal income tax as an organization described in Internal Revenue Code section 501(c)(3) is retroactively revoked to because it is determined that you are not operated exclusively for an exempt purpose.

IRC 501(c)(3) exempts from taxation organizations which are organized and operated exclusively for charitable or educational purposes, no part of the net earnings of which inure 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 and which do not participate in, or intervene in, any political campaign on behalf of (or in opposition to) any candidate for public office.

We have determined that you are not operating exclusively for charitable or educational purposes. Our examination reveals that you are not conducting charitable or educational activities pursuant IRC section 501(c)(3), and that you failed to meet the "operational test" under Treas. Regs. 1.501(c)(3)-1(d)(ii).

We are revoking your exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code effective

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 all years beginning

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 file a pleading seeking a declaratory judgment in the United States Tax Court, the United States Court of Federal Claims, or the United States District Court for the District of Columbia before the 91st day after the date this final determination was mailed to you. Please contact the clerk of the appropriate court for rules regarding filing pleadings for declaratory judgments and refer to the enclosed Publication 892. You may write to these courts at the following addresses:

United States Tax Court
400 Second Street, NW
Washington, D.C. 20217

United States Court of Federal Claims
717 Madison Place, NW
Washington, D.C. 20005

United States District Court for the District of Columbia
333 Constitution Avenue, NW
Washington, D.C. 20001

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 too-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,
Telephone Number

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

Enclosure:
Publication 892

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Name of Taxpayer A	EIN: B	Year/Period Ended 200412

Legend:

- A = The organization's name
- B = Taxpayer Identification Number
- C = The organization's name abbreviated
- D = State's name
- E = Date incorporated
- F = Date of exemption letter
- G = City's name
- H = Name of fundraising event
- I = Fundraising location
- J = President's name
- K = Date corporate status suspended
- L = Effective date of revocation

ISSUES:

1. Should the Section 501(c)(3) exemption ruling issued to A ("C") be revoked because the organization has no charitable operations and does not meet the operational test as a charitable organization under Internal Revenue Code (IRC) 501(c)(3)?

GENERAL STATEMENT OF FACTS:

Media Exposure of C Activities

An audit of C was instituted due to media reports particularly the G Chronicle's article dated October 31, 2004 alleging political intervention by C's that contained allegations of using C's funds for political donations from November 2001 to September 2004.

OTHER FINDINGS OF FACTS:

Articles of Incorporation and IRS Determination Letter:

C was incorporated under D Non-profit law on E, under the name: "A." It was organized for public and charitable purposes. The specific purpose stated in the articles of incorporation is "to provide support and assistance to those in need of and those providing education". The Articles include all the legal clauses that are required under IRC 501(c)(3).

The IRS issued exemption letter 1045 on F recognizing the entity as exempt under sections 501(c)(3) and 509(a)(1)-170(b)(1)(A)(vi).

C Activities and Board Minutes:

C activities in 2004 consisted primarily of fund-raising. No charitable activities could be verified. C has used loans to provide funding for its fund-raising operations, since these required a large outlay of funds. Its 2004 H fund-raising event was held on the premises of I in G and much of the required services were provided by paid vendors. C loans included loans from J, C's President

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Name of Taxpayer A	EIN: B	Year/Period Ended 200412

who directed C to make political contributions as part of the repayment of her loans. Thus, the contributions were made by J, not C.

On December 16, 2003 C board decided to layoff all of C's employees due to poor economy. Further, it decided to not have any more meetings until there is a fundraising event to raise funds. C board has not met and no activities were reported until the meeting of June 24, 2004, where C board decided to undertake the H fundraising event. These minutes stated that the expected fundraiser cost is \$ - \$ and the expectation is to raise \$ \$

The rest of C'S 2004 minutes described activities to carry out said fund-raiser. The event's results were described on C's minutes dated November 11, 2004 as follows:

-income: \$
-expenses: \$

C's Directors' loans covered the shortfall of \$

On December 16, 2004 C's directors discussed how the G Chronicle's October 31, 2004 article portrayed C in poor light and that it would be difficult to do further fundraisers. No further board meetings were held after that day to the present.

Annual Filing of Form 990

C's corporate status was suspended by FTB on K. C has filed the "Statement by Domestic Corporation" through 2002.

C has not filed information return form 990 with IRS for any of the years 2000-2004. In reply to the question why C has not filed Form 990 for 2004, it was stated that the gross receipts were less than \$ and that deposits made to C bank accounts were greater than \$ due to loans deposits to C rather than gross receipts from its activities or donations.

LAW:

Requirements for Exemption under IRC 501(c)(3):

FINAL-REG, TAX-REGS. §1.501(c)(3)-1(a)(1). Organizational and operational tests. (1) 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.

(2) The term "exempt purpose or purposes", as used in this section, means any purpose or purposes specified in section 501(c)(3), as defined and elaborated in paragraph (d) of this section.

(d) Exempt purposes--(1) In general. (i) 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

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Name of Taxpayer	EIN:	Year/Period Ended
A	B	200412

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.

FINAL-REG, TAX-REGS , §1.501(c)(3)-1(c)(1) Operational test –(1) Primary activities. 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).

GOVERNMENT POSITION

Issue 1:

The government contends that A failed to meet the “operational test” under Regulations Section 1.501(c)(3)-1(d)(ii). It failed to establish that it is operated exclusively for public and charitable purposes.

Based on the audit of the activities conducted during the year ending December 31, 2004, it was determined that the organization does not meet the “operational test” under IRC 501(c)(3) because it conducts no charitable activities. Fundraising is not charitable activity per se and this was the primary activity that C conducted in 2004. Therefore, revocation of C’S exempt status is proposed effective L.

TAXPAYER’S POSITION:

The taxpayer has not submitted a written protest to the examining agent yet.



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
Internal Revenue Service

UIL Code: 501.03-01
Date: February 1, 2006

Taxpayer Identification Number:

Form:

990

Tax Year(s) Ended:

December 31,

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:

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,

Marsha A. Ramirez
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination