



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
Internal Revenue Service

April 16, 2006

Release Number: 200724033
Release Date: 6/15/07
UIL Code: 501.03-01

Taxpayer Identification Number:

ORG

Form:
990

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:

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,

Martha A. Ramirez
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination

Form 886-A	EXPLANATION OF ITEMS	Schedule
Name of Taxpayer ORG		Year Ended

LEGEND:

ORG = Name of Organization

STATE= Name of State

OFFICERS= Name of Officers of the Organization

DATE1= Year of Audit

DATE2=Effective Date

CANDIDATE = Name of Candidate for Office

ISSUE:

Whether ORG qualifies as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code.

FACTS:

ORG was incorporated in the State of "STATE". The organization received a letter of determination from the Internal Revenue Service recognizing it as an organization exempt from federal income tax as described in Code section 501(c)(3).

The officers of the ORG, Inc. during the year were "Officers".

During the year, ORG participated in numerous activities that political activities. Its political campaign activities consisted of the following: publishing a full page article in a newspaper that indicated ORG opposed CANDIDATE's bid for office, two separate mass mailings (which totaled over 4,000 mailings each time) which stated that ORG was in opposition to CANDIDATE's bid for office and placed signs on ORG' trucks that indicated that they were in opposition to CANDIDATE's bid for office.

ORG' political activities were not confined to the election campaign. . It also sent out emails the general public email list, the emails were to support a re-election campaign for Attorney General. More detailed descriptions of the political campaign activities are below:

Newspaper Article

ORG paid for an advertisement to be placed in a newspaper. The full page advertisement states, "CANDIDATE is a Catholic Baby-Killing Hypocrite! And we're going to expose him to the world and show exactly what abortion does to innocent little Babies! This is the most pivotal election in history. If CANDIDATE wins, the babies lose. Forever!." The article also states, "If CANDIDATE gets elected he will appoint one or more pro-abortion judges. The article also requests contributions under the following heading "Help us Expose CANDIDATE and show the

Form 886-A	EXPLANATION OF ITEMS	Schedule
Name of Taxpayer ORG		Year Ended

truth about abortion. The advertisement also solicits contributions that says, "Yes! You can count on my support for this vital mission to expose and defeat the hypocritical baby-killer CANDIDATE. We cannot afford to let this man in office. The solicitation then asks for contributions anywhere from \$5,000 to \$35.

Two Political Mailings of 4000 each

ORG also used its resources and volunteers for two mailings which indicated that CANDIDATE should not be supported in his bid for office. The two different mailings that totaled 4000 each state, "CANDIDATE is a Baby-Killing Hypocrite etc. This is the most pivotal election in history. If CANDIDATE wins, the babies lose. As you know we've pulled out all the stops in a relentless, all-out campaign to expose This Vile Baby-Killer who could easily become our next elected official if we don't do everything we can to stop him." The mailings were approximately 9 pages and states that if CANDIDATE is elected, his election would impact abortion, the mailings also stated that individuals should not vote for CANDIDATE.

2006 Political email alerts

The President of ORG, also sent out emails to individuals on ORG's email list. The email asked for support of Attorney General in the upcoming election. The email states, "[p]lease take a moment to read Attorney General's message then prayerfully consider what you can do to help this brave pro-life warrior continue his fight to uphold the laws of the State!" The email then contains a message from Attorney General, in which he states, "I, however, need your help and the help of all who are appalled at this approach to such issues. One of the tactics of those who oppose us is to delay the legal proceeding until after the next election, to use mainstream media bias to distort the issue, to funnel large amounts of monies to a candidate that will look the other way if elected and after prevailing at the ballot box going back to 'being above the law.'"

Political expenditures

ORG's fundraising information indicated the cost of the trip with the CANDIDATE's signs on the Trucks would cost the organization approximately \$30,000. The advertisement in the newspaper cost ORG \$3,650. ORG also had various expenditures related to the two mass mailings in opposition to CANDIDATE's bid for office.

LAW:

Section 501(c)(3) of the Internal Revenue Code provides that "Corporations 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 ..., 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

Form 886-A	EXPLANATION OF ITEMS	Schedule
Name of Taxpayer ORG		Year Ended

carrying on propaganda, or otherwise attempting, to influence legislation,... and which does not participate 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" shall be exempt from taxation.

In United States v. Dykema, 666 F.2d 1096, (7th Cir. 1981), the Seventh Circuit stated that an organization will lose recognition of its tax-exempt status by participation in any political campaign activity, regardless of whether it is a substantial or an insubstantial part of the organization's activities.

In Association of the Bar of the City of New York v. Commissioner, 858 F.2d 876 (2d Cir. 1988), cert denied, 490 U.S. 1030 (1989), the court held that the organization did not qualify as a tax-exempt charitable and educational organization because its rating of candidates for judgeships at the municipal, state and federal levels constituted prohibited intervention or participation in political campaigns. The ratings were communicated to the members and the public and constituted indirect political activity, not merely the dissemination of objective data, as argued by the association. The court also rejected the association's contention that a substantiality requirement should be applied to political activities, agreeing with the Seventh Circuit's decision in Dykema. The Second Circuit went on to state that no degree of support for an individual's candidacy is permitted. The prohibition against campaign intervention is absolute.

GOVERNMENT'S POSITION:

An organization with recognition of exemption under I.R.C. section 501(c)(3) may 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. This prohibition is absolute.

During the year, ORG Inc. participated in various campaign activities that were in opposition to a candidate that was running for public office.

The advertisement in the newspaper opposed CANDIDATE's bid for office. The ad stated, "[w]e cannot afford to let this man become a public officer." The advertisement was clearly a violation of section 501(c)(3)'s absolute prohibition against political campaigning in opposition to a candidate for public office.

ORG also intervened in a political campaign against CANDIDATE with two massive mailings to the general public. The mailings stated that people should not vote for CANDIDATE. It also stated that ORG was on an all out campaign to expose this "vile-baby-killer" who could easily become our next public officer. The mailers were in opposition to CANDIDATE's bid for the presidency and were a clear violation of section 501(c)(3)'s absolute prohibition against participating in a political campaign on behalf of (or in opposition to) any candidate for public office.

ORG also placed signs on two trucks, during the season. The signs were political in nature because the signs indicated that voters should oppose the CANDIDATE's ticket because of their stand on abortion. The signs were on the trucks for approximately four months and the trucks were driven across the country to try to persuade the public not to vote for CANDIDATE.

Form 886-A	EXPLANATION OF ITEMS	Schedule
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The president of ORG sent out an e-mail (using the organization's email address) to try to gain support for Attorney General in the upcoming election for Attorney General. This is also a violation of the 501(c)(3) prohibition against political campaigning on behalf of (or in opposition to) any candidate for public office.

CONCLUSION:

ORG has violated section 501(c)(3)'s prohibition against participating in, or intervening in, a political campaign on behalf of (or in opposition to) any candidate for public office on several foregoing occasions. This prohibition is absolute. Therefore, ORG, Inc.'s recognition of section 501(c)(3) tax-exempt status should be revoked as of DATE2. Effective in subsequent years, ORG, Inc. is required to file Forms 1120, U. S. Corporate Income Tax Returns. Please provide the required 1120 returns.

LEGEND:

ORG = Name of Organization

NUM=Employer ID Number

Date1 =Effective Date

Date2=Year end of effective date

CANDIDATE= Name of Candidate for Office

UIL: 501.03-01

Date: 7/15/07

ORG

Person to Contact:

Identification Number:

Contact Telephone Number:

In Reply Refer to: TE/GE Review Staff

EIN: NUM

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

Dear :

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

Our adverse determination was made for the following reasons:

ORG is not operated exclusively for exempt purposes within the meaning of Internal Revenue Code section 501(c)(3). ORG also is not a charitable organization within the meaning of Treasury Regulations section 1.501(c)(3)-1(d). You intervened numerous times in the political campaign in opposition to the candidacy of "CANDIDATE", in contravention of the provisions of I.R.C. section 501(c)(3) prohibiting such intervention.

Based upon these reasons, we are revoking your IRC section 501(c)(3) tax exempt status 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 Date2, 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 writing to: Internal Revenue Service, Local 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,

Martha A. Ramirez
Director, EO Examinations