



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
1100 Commerce Street  
Dallas, TX 75242

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

**Date:** November 26, 2007

Number: **200809032**  
Release Date: 2/29/2008

Legend  
ORG = Organization name      Address = address      XX = Date

UIL:501.03-01

**ORG**  
**Address**

**Person to Contact:**  
**Badge Number:**  
**Contact Telephone Number:**  
**Contact Address:**  
**Last Date for Filing Petition:**  
February 25, 20XX

**CERTIFIED MAIL and RETURN RECEIPT**

Dear \_\_\_\_\_ :

This is a final revocation letter as to your exempt status under section 501(c) (3) of the Internal Revenue Code. Recognition of your exemption under Internal Revenue Code section 501(c) (3) is revoked beginning January 1, 20XX for the following reason(s):

You have not been operated exclusively for an exclusive exempt purpose as required by Internal Revenue Code section 501(c) (3). Your net earnings inure to the benefit of private shareholders or individuals, which is prohibited under Internal Revenue Code section 501(c)(3). You are operated for a substantial private purpose, which is not an exempt purpose under Internal Revenue Code section 501(c)(3).

Contributions to your organization are no longer deductible effective January 1, 20XX.

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 Claims Court, or the district court of the United States for the District of Columbia before the (ninety-first) 91st day after the date that this determination was mailed to you. Contact the clerk of the appropriate court for rules for initiating suits for declaratory judgment by referring to the enclosed Publication 892. You may write to the United States Tax Court at the following address: United States Tax Court 400 Second Street, NW

Washington, DC 20217

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 you tax information and can help you get answers. You can call 1-877-777-4778, and ask for the Taxpayer Advocate assistance or you can contact the Advocate from the site where this issue was determined by writing to:

Taxpayer Advocate assistance cannot be used as substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determination, nor extend the time fixed by law that you have to file a petition in 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.

As a result of this revocation of tax-exempt status, your organization is required to file Form 1120 annually with the appropriate Campus identified in the instructions.

This letter is a final revocation letter and should be kept within your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely,

Marsha Ramirez  
Director, EO Examinations

Enclosures:  
Publication 892



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

**DEPARTMENT OF THE TREASURY**

Internal Revenue Service  
Stop 4925STP  
30 E. 7th St; Suite 1130B  
St. Paul, MN 55101

December 8, 2006

ORG  
Address

Taxpayer Identification Number:

Form:

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.

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,

Marsha A. Ramirez  
Director, EO Examinations

Enclosures:  
Publication 892  
Publication 3498  
Report of Examination

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
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**ISSUE:** Does the ORG qualify to be exempt under IRC Section 501(c)(3)?

**FACTS:**

The ORG (the Organization) was incorporated on December 31, 19XX. The Organization received its exempt status in August 19 .

The Articles of Incorporation give the purpose as providing individual and family social, counseling, welfare or referral services to assist Motto in their post-immigration acclimatization.

The bylaws give the Executive Director the right to sign contracts and to conduct the business of the Organization. The executive director is Director.

In 20XX and 20XX the Organization was offering English as a Second Language classes. Grant money for the program was received from State Department .

The contract ran from July 20XX through June 20XX. The contract required that the Organization hold classes for Motto. The students had to be in the Country for less than 5 years and had to be in the State Family Investment Program. The students were required to attend classes for 3 months. This program ended in 20XX. The state was no longer receiving funding for the classes.

There was a contract with the Department of Human Services called Self-Sufficiency. The purpose of the contract was for the Organization to get the Motto in language programs and help them find jobs. To qualify for the program the motto have to be in the Country for less than five years. The last contract provided was for the period October 20XX through September 20XX.

The Organization had a contract with County to provide services under the      services program. The Organization would work with motto who needed help improving their English and life skills for the American workplace, as well as provide assistance in finding housing, family difficulties and legal documents. After the motto completed the English as a Second Language course the Organization would help them with job placement and retention support. The      contract ran from January 1, 20XX through December 31, 20XX.

In 20XX, the English classes, Self-Sufficiency program, and the      program came to an end. Some programs ended because the state had lost its funding. Some ended because the Motto

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were not taking part in the programs. The executive director stated the motivation wasn't there for the motto to attend the English as a Second Language classes.

The executive director began to look for other ways to help the motto. She wanted to start a business that made and packaged      foods for sale in the grocery stores. She set up a for profit company, CO-1 (the Company) to operate the business. Director is the sole owner of the Company.

When Director talked to the state about getting grants for the new enterprise the state told her she should have the Company owned and operated by ORG. She said that it is hard to make quick decisions when there is a board. She kept the Company as a for-profit and herself as sole owner.

During 20XX, Director did feasibility studies and marketing studies on the viability of making prepared      dinners to be sold in grocery stores.

In January 20XX, the Organization transferred \$ to CO-1 (the Company). This money was used to pay an outside company to test the recipes that Director had developed for the food products. Director stated that part of the \$ was back wages for her. There was a check to Director from the Organization in June 20XX that stated it was for pay periods October 21, 20XX through April 20, 20XX. There was another check in December 20XX that said it was for wages from October 6, 20XX to November 6, 20XX.

During January 20XX, Director went to XYZ to do research for product development for the Company. There was \$ used from the Organization's bank account for this trip.

In September 20XX, Director went to XYZ. The flight and hotels were paid for by the Organization. The total amount spent by the Organization was \$. This trip was to interview a cold packer that was based in City, XYZ. This work was performed for the Company.

The Organization offered counseling and other services to victims of violence. The program was under the State Center      . The contracts ran from July through June, the last contract ended June 20XX. The Organization filled out a report on "Domestic Violence Community Advocacy Program" for each quarter and filed them with the State Center      . The copy of the report received from the State Center      shows that the organization helped 20 victims in the quarter ending September 30,

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20XX, 5 victims in the quarter ending December 20XX, 14 victims in the quarter ending March 31, 20XX, and 11 victims in the quarter ending June 30, 20XX.

Another part of the report for the State Center is the Sexual Assault Program. There were quarterly reports provided for the quarters ending December 31, 20XX, March 31, 20XX, and June 30, 20XX. The report for the quarter ending June 30, 20XX requests the number of primary victims served and secondary victims served be entered. There is a zero for both of these entries. The report instructs the organization to track the type and numbers of time a service is provided to a victim.

On June 8, 20XX in response to our request for a copy of the report sent to the state a spreadsheet was provided by the Organization. It was entitled "Domestic Violence Clients". The spreadsheet did not separate the services between the Domestic Violence Community advocacy Program and the Sexual Assault Program. The spreadsheet indicates there were 8 victims in the first quarter, 3 in the second, 8 in the third and 7 in the last quarter. The following chart shows the differences in the amounts shown on the reports sent to the state and the spreadsheet that was provided by the Organization for the same period. The period ran from July 1, 20XX to June 30, 20XX.

Advocacy	Assault	
from the	from the	from the
report	report	
sent	sent	Organization's
to the	to the	
state	state	spreadsheet

**Services Provided 7/1/20XX to 9/30/20XX**

crisis counseling/intervention  
 counseling/intervention

Unknown  
 there  
 was no  
 report  
 for this  
 quarter

information & referral  
 personal advocacy  
 criminal justice support/advocacy  
 emergency legal advocacy  
 emergency financial assistance  
 assistance in filing reparations claims

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group treatment/support  
therapy

**Services Provided 10/1/20XX –  
12/31/20XX**

crisis counseling/intervention  
counseling/intervention  
information & referral  
personal advocacy  
criminal justice support/advocacy  
emergency legal advocacy  
emergency financial assistance  
assistance in filing reparations claims  
group treatment/support  
therapy

**Services Provided 1/1/20XX –  
3/31/20XX**

crisis counseling/intervention  
counseling/intervention  
information & referral  
personal advocacy  
criminal justice support/advocacy  
emergency legal advocacy  
emergency financial assistance  
assistance in filing reparations claims  
group treatment/support  
therapy

**Services Provided 4/1/20XX –  
6/30/20XX**

crisis counseling/intervention  
counseling/intervention  
information & referral



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- personal advocacy
- criminal justice support/advocacy
- emergency legal advocacy
- emergency financial assistance
- assistance in filing reparations claims
- group treatment/support
- therapy

The minutes of the board meetings for the years 20XX through 20XX were initially requested March 3, 20XX. They were requested again on April 4, 20XX, April 28, 20XX and August 10, 20XX. The minutes for the meetings in 20XX were provided in August 19, 20XX. The minutes for 20XX and 20XX were requested again on September 19, 20XX, October 19, 20XX, February 21, 20XX, and May 15, 20XX. On June 8, 20XX copies were provided for the minutes for 20XX. On June 9, 20XX the copies of the minutes for 20XX were requested again.

There were copies of minutes for August 12, 20XX, October 14, 20XX and August 18, 20XX. The minutes for August 18, 20XX discussed the need for board recruitment because so many meetings had been missed in 20XX.

There were minutes provided for a meeting                      April 5, 20XX and one for July 5, 20XX. These minutes were provided via e-mail because Director said she hadn't printed them out. It is unclear if the July 5, 20XX date is correct; the agenda provided was for July 5, 20XX and the date line of the July 5, 20XX meeting has April 5, 20XX on it. The board members listed were BM-1, BM-2, and Dr. BM-3 for both meetings. Letters were sent to these individuals asking what they remembered of the board meetings. All of them stated they hadn't been at the meetings since 20XX. One stated they mainly talked about the homeless and what they could do for them. The minutes do not indicate any board discussion; all of it is Director giving reports and making statements.

The minutes dated July 5, 20XX start with a request from Director that her salary at the year end be paid in a lump sum. It shows that she wants \$ which is equal to 2080 hours at \$ per hour. An update on the Company was provided. It states that she went to City, XYZ and used \$ of the Organization's money, but that it was owed to her for back wages.

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The Organization has provided 2 profit and loss statements for 20XX. The first one was printed on June 7, 20XX and shows total salaries of \$; officer salaries were shown as \$. The second was printed on August 29, 20XX and shows \$ for total salaries; officer salaries were shown as \$.

The minutes dated July 5, 20XX state that back in 20XX Director expressed a desire to go back to school and to service ORG by serving on the board. At that time one of the board members suggested to close down ORG. At that meeting Director made a suggestion about entrepreneurship areas to make the organization self-sufficient. The minutes indicate the board did not discuss the idea. It goes on to state that Director spent her own resources to do the research on the entrepreneurship.

By January 20XX the English as a Second Language had stopped, the Organization was no longer doing job placement and only had minor activities for the Motto. The reports show that some of the services provided by this time were helping the clients fill out paperwork, drive them to interviews or show them how to ride the bus.

During 20XX there were two employees on the payroll, the executive director and the receptionist. In 20XX there were 12 employees and in 20XX there were 24 employees.

There were no cancelled checks for payroll for the last quarter of 20XX. Invoices provided by hospitals show that Director was in the hospital on the following dates in 20XX: July 6 -13, September 18 -30, October 20 – November 24, and November 24 to January 20XX.

On February 17, 20XX, Director stated that the manufacturing of the food products didn't pan out and that she was looking at starting up a                      restaurant.

The Organization received a grant of \$ from the                      Foundation to set up a house for battered women. This money is in a savings account because the house was never purchased.

In 20XX, there were still leases on three locations even though the Organization was only using one of them. Director started to set up a nail salon in one of the locations. She thought this would be a good place for the Motto to work. The salon never opened.

In 20XX, the Organization left their location in City and moved to City, XYZ. The new office that is being used by the Organization now has the Company's name on the door.

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**LAW:**

IRC Section 501(c)(3) provides that an organization is only exempt from taxation if they are organized and operated exclusively for religious, charitable, scientific, testing for public safety, literacy, or educational purposes, or to foster national or international amateur sports competition or the prevention of cruelty to children or animals and no part of the net earnings inure to the benefit of any private shareholder or individual.

Internal Revenue Regulation 1.501(c)(3)-1(t)(1) provides that an organization is only considered to be operated exclusively for one or more exempt purposes if it engages primarily in activities that accomplish one or more exempt purposes. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Internal Revenue Regulation 1.501(c)(3)-1(c)(2) says that an organization is not operated exclusively for exempt purposes if its net earnings inure to the benefit of a private shareholder or individual. The words "private shareholder or individual" refer to persons having a personal and private interest in the activities of the organization. Net earnings include all of the assets of the organization.

Internal Revenue Regulation 1.501(c)(3)-1(d)(1)(ii) provides that to meet the operational test, an organization must be engaged in activities furthering "public" purposes rather than private interests. It must not be operated for the benefit of designated individuals or the persons who created it.

The presence of a single substantial nonexempt purpose destroys the exemption regardless of the number or importance of the exempt purposes. *Better Bus. Bureau v. Country*, 326 U.S. 279, 283, 66 S.Ct. 112, 90 L.Ed. 67 (1945); *American Campaign Academy v. Commissioner*, 92 T.C. 1053, 1065, 1989 WL 49678 (1989). When an organization operates for the benefit of private interests, the organization by definition does not operate exclusively for exempt purposes.

**GOVERNMENT'S POSITION**

The ORG doesn't qualify to be exempt because assets of the Organization inured to the benefit of the executive director and there is a substantial nonexempt purpose. The Organization's primary

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activity is setting up a for-profit company and is no longer in furtherance of their exempt purpose.

The Organization has stated that they did have some services for their clients in 20XX. There are no minutes or reports to support this statement. The Organization has provided contradictory information in regards to the services provided under the programs with . The numbers reported on the report sent to the state do not match the numbers shown on the Organization's spreadsheet provided to the Internal Revenue Service. Therefore, the information in the report cannot be relied on.

The minutes provided for 20XX and 20XX are not credible. The officers listed have stated they didn't attend any meetings in those years. There is nothing in the minutes to indicate that the officers asked questions or discussed issues raised by Director. The minutes for July 5, 20XX state Director asked to be paid in a lump-sum at the end of the year. The lump sum payment occurred in January 20XX. It would serve no purpose to discuss that in 20XX, it is something that would be discussed in a 20XX meeting. The minutes for the July 5, 20XX meeting also have Director telling the board she used money of ORG while traveling for CO-1 in January and September 20XX. There is a conflict on the dates and activities; for the payment of wages the discussion would have been in 20XX but for the travel in 20XX the minutes would have been in 20XX. The two topics wouldn't have been discussed in the same meeting. The request would be done prior to the end of 20XX and the information on the trips would be given after the trips in 20XX.

Director received wages in 20XX of \$ and 20XX of \$. She received checks in June and December of 20XX. If the organization had decided to pay her in a lump sum there wouldn't have been additional checks during the year. The notations on the memo lines for checks received at the beginning of 20XX show that part of the wages were for December 20XX. In 20XX, she received checks in January, February, May, June, July, and September. The timing of the checks in 20XX indicates the Organization did not consider the large payment in January 20XX as part of her wages. The profit and loss statements provided by the Organization aren't credible. It appears the amounts were changed after questions regarding the \$ transfer were brought up. If the Organization had meant the \$ to be wages it would have been reflected in the financial documents at the time of the payment.

In the minutes of July 5, 20XX Director states she had carried out research, attended classes and did testing for the business she wanted to start. In 20XX she took two trips, one to XYZ and one

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to XYZ in furtherance of the business. There have been no documents provided to show the hours Director worked for the Organization and the hours worked on the Company.

There may have been some help given to victims but the amount of time spent by the Organization on that activity cannot be determined. The reports provided to the state for the Victims of Violence program are not credible because they do not match the records of the Organization. Based on the documents and information provided, the Organization's primary activity in 20XX was to set up the new company of the executive director.

The executive director has used the resources of the Organization to set up a new business. The Company is solely owned by the executive director.

In 20XX, the Organization gave the Company \$ for a feasibility study on the products. The executive director used \$ of the Organization's money to travel on business for the Company. The bank statements provided for 20XX show the organization had \$ in their bank account at the beginning of 20XX and had \$ in the account at the end of the year. The balance in the bank accounts included the \$ earmarked for a home for battered women and couldn't be used for other programs by the Organization. A total of \$ of the Organization's money was used, in 20XX, for activities of the Company. This amount is more than an insubstantial portion of the Organization's resources.

The purposes of the Organization were to offer counseling, welfare services, and referral services to motto during their acclimatization. The English as a Second Language and motto programs stated that the program was only for motto that had been in the Country for not more than five years. The operation of the Company would not further the purposes listed in the Organization's articles of incorporation.

The Organization no longer has a board that oversees the activities of the executive director. The evidence shows that the executive director had a free reign to do whatever she wished with the assets of the Organization. Without a board an organization cannot meet the requirement in Regulation 1.501(c)(3)-1(d)(1)(ii) that the organization be engaged in activities furthering "public" purposes rather than private interests. The organization is not being operated in accordance with their articles of incorporation because there is no board.

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Section 501(c)(3) requires that an organization be operated exclusively for one or more exempt purposes. An organization is considered to be operated exclusively for exempt purposes if it primarily engages in activities to accomplish their exempt purposes and they do not have a non-exempt activity that is more than insubstantial. Regulation 1.501(c)(3)-1(c)(1) The use of the Organization's money for the development of product for the Company and the trips taken by Director for the Company show the development of the Company was more than an insubstantial activity.

The executive director has stated that the purpose of the Company is to provide jobs for the Motto. Since the Company is owned by one individual that individual would get the profits of the company. The primary benefits of the Company would go to the owner and the workers and only an incidental benefit would serve the needs of the public. Internal Revenue Regulation 1.501(c)(3)-1(c)(2) says that an organization is not operated exclusively for exempt purposes if its net earnings inure to the benefit of a private shareholder or individual. The words "private shareholder or individual" refer to persons having a personal and private interest in the activities of the organization. Net earnings include all of the assets of the organization. Therefore, this Organization is no longer exempt because its assets have inured to the benefit of the executive director.

**TAXPAYER'S POSITION**

The Organization sent a letter on January 29, 20XX in response to the report. The letter is attached as Exhibit A. In the letter three items of the facts section that she questioned. These are minor changes and do not change the government's position.

**CONCLUSION**

The Organization should not be exempt beginning on January 1, 20XX. The Organization needs to file Forms 1120 for the years beginning January 1, 20XX. The assets of the Organization need to be given to other qualified exempt organizations.