



DEPARTMENT OF THE TREASURY

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

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

Release Number: **200822033**

Release Date: 5/30/08

February 1, 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:

UIL: 501.03-01

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

LAST DATE FOR FILING A PETITION
WITH THE TAX COURT: May 1, 20XX

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:

Exemption from income tax is a matter of legislative grace and taxpayers have the burden of establishing their entitlement to exemptions. Section 6033 requires organizations exempt from tax to keep such records and render such statements as are required by such rules and regulations as the Secretary may prescribe. Treasury Regulations section 1.6033-2 (h)(2) requires organizations exempt from tax to submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into the organization's exempt status.

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 October 1, 20XX.

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 September 30, 20XX, 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, 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

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit 1
Name of Taxpayer		Year/Period Ended
ORG		September 30, 20XX

LEGEND

ORG = Organization name XX = Date City = City CO = Company
 President = President Director = Director

Issue:

Should the tax exempt status of the ORG be revoked as of October 1, 20XX for knowingly failing to provide information necessary for The Internal Revenue Service to confirm the organization's tax exempt status?

Facts:

ORG is incorporated in the state of City. They operate under the group exemption number issued to CO.

The first attempt to make contact with the organization was made on April 14, 20XX using Letter 3606. An information document request was included in the package mailed to the organization along with a copy of Publication 1. The agent did not receive a response to this letter.

On May 30, 20XX agent reviewed the organization's tax return, noting the President's phone number. Agent called this number, and connected to an answering machine of "President." Agent left a message requesting a call back on President machine. Agent did not receive a call.

On June 19, 20XX agent called President's phone again, and left message again. Agent also drafted and mailed a second examination letter L3606, a second copy of the initial Information Document Request, and Publication 1 to the President, Vice President, and Treasurer as listed on the tax return via certified mail. Agent received signed receipt cards for each; delivery dated June 22. No response was received.

On August 21, 20XX, agent searched Internet seeking additional contact information for ORG, finding no new contact information. Agent drafted and mailed via certified mail a letter with wording describing possible loss of exemption if organization does not respond to examination. Also enclosed were a third copy of the Information Document Request, and Publication 1. Agent mailed copies to President, Vice President, and Treasurer again. Letters to Vice President and Treasurer were returned to agent as unclaimed mail. On September 5, 20XX agent received signed delivery receipt for letter sent to President.

On October 18, 20XX agent again called President, and left message on machine. No response was received. Agent followed 3rd party contact procedures and completed Form 12175 before calling Director, CO ——— Region Director per CO Web site.

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On October 20, 20XX agent called and spoke with Director, CO's Regional Director. was receptive to agent's situation, and will seek to have ORG President contact agent. Agent thanked Director for his assistance.

October 30; Agent has not heard from ORG. Agent called and left message on President machine again, and also called and left message on Director's machine regarding lack of response from ORG.

November 2, 20XX; agent received phone message from President, who left a work number for agent to call. Agent called and spoke with President. President claims to have sent requested information to agent. Agent and office secretary searched office, finding no package from tax payer. Agent called President and asked her to mail information again; agent mailed another (4th) IDR and Pub 1 to President.

As of April, 20XX, agent had not received or heard anything from ORG.

On April 2, 20XX agent met with manager and decide to move toward revocation based on knowing failure to respond to examination.

On May 7, 20XX, agent drafted and mailed a final warning letter containing the following language:

"This letter serves as a final notice to your organization. Failure to respond to this notice by providing all requested information by May 25, 20XX will result in our office taking the adverse action of revoking your organization's tax exempt status."

Agent mailed this letter via certified mail with a 5th copy of the Information Document Request and Publication 1, with a final due date of May 25, 20XX. Agent received return receipt on May 31, 20XX, confirming tax payer receipt of final warning letter.

As of June 7, 20XX, no response was received from ORG

Law:

Section 7602 of the Internal Revenue Code states, "For the purpose of ascertaining the correctness of any return, making a return where none has been made, determining the liability of any person for any internal revenue tax or the liability at law or in equity of any transferee of fiduciary of any person in respect of any internal revenue tax, or collecting any such liability, the

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Secretary is authorized- (1) to examine any books, papers, records, or other data which may be relevant or material to such inquiry..."

Section 1.6001-1(e) of the Federal Tax Regulations 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 as long as the contents thereof may be material in the administration of any internal revenue law."

Section 1.6033-1(h)(2) of the Federal Tax Regulations provides that, "every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Internal Revenue Code and section 6033."

Revenue Ruling 59-95, 1959-1 C.B. 627, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. The organization's records were so incomplete the organization was unable to furnish such statements. The Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of section 6033 of the Internal Revenue Code and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

Taxpayer's Position:

The ORG did not provide any position or response to any communication, as the organization does not respond to repeated contacts made by the Internal Revenue Service.

Government's Position:

It is the government's position that the tax exempt status of the ORG under section 501(c)(3) of the Internal Revenue Code should be revoked for knowingly failing to provide information requested by the Internal Revenue Service.

Treasury Regulation Section 1.6033-2(i)(2) provides, in part, that every organization which is exempt from tax, whether or not it is required to file an annual return, shall submit such additional information as may be required by the Internal Revenue Service for the purpose of

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inquiring into its exempt status and administering the provision of subchapter F, chapter 1 of subtitle A of the Code, IRC Section 6033, and Chapter 42 of Subtitle D of the Code.

ORG has been given adequate opportunity to provide the requested information. As stated previously the organization was mailed five separate letters by the Internal Revenue Service with the information document request and copies of Publication 1. From first contact the organization was given approximately 1 year to provide the requested information.

The final attempt to obtain information necessary to conduct an examination of the books and records of ORG was made through a drafted letter sent via certified mail. This letter specifically stated, "This letter serves as a final notice to your organization. Failure to respond to this notice by providing all requested information by May 25, 20XX will result in our office taking the adverse action of revoking your organization's tax exempt status."

Based on the wording of these letters which were used to make contact with ORG and the return receipts and single phone call from the president, which show that the organization received the letters, it is apparent that the organization was adequately advised of the consequences of failing to provide the requested information to the Internal Revenue Service.

Since ORG did not comply with the Internal Revenue Service's repeated requests for information, and thus did not comply with Treasury Regulation 1.6033-2(i)(2), the government is unable to determine whether their activities are consistent with their exempt status under Section 501(c)(3) of the Internal Revenue Code. Since ORG could not meet the requirements of the operational test set forth in Section 1.501(c)(3)-1 of the Federal Tax Regulations, it is the government's position that their tax exempt status under section 501(c)(3) of the Internal Revenue Code should be revoked.

Conclusion

The tax exempt status of the ORG under Section 501(c)(3) of the Internal Revenue Code should be revoked because the organization has not established that it is observing conditions required for the continuation of exempt status; providing information enabling the Service to conduct an examination.

The effective date of revocation is October 1, 20XX, the first day of the tax year under examination.

Based on the revocation of the ORG's tax exempt status the organization will be required to file Forms 1120 beginning in 20XX for all tax periods subsequent to the revocation of their tax exempt status.

Internal Revenue Service

Department of the Treasury

Date:

ORG
ADDRESS

Taxpayer Identification Number:

Form:

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