



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

MC 4920 DAL

1100 Commerce Street

Dallas, TX 74252

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

February 14, 2008

UIL: 501.03-01

Release Number: **200822037**

Release Date: 5/30/08

Legend

Org= Organization name

Org

Address

XX = Date Address = Address

Employer Identification #

Person To Contact/ID#:

Contact Telephone Number

Taxpayer Advocate's Office, Address,
And telephone Number:

CERTIFIED MAIL LAST DATE TO FILE A
PETITION IN TAX COURT

May 14, 20XX

Dear :

This is a final adverse determination that you do not qualify for exemption from income tax under section 501(a) of the Internal Revenue Code (I.R.C.) as an organization described in I.R.C. § 501(c)(3). In addition, you do not qualify as an organization described in I.R.C. § 509(a). Internal Revenue Service recognition of your status as an organization described in I.R.C. section 501(c)(3) is revoked, effective January 1, 20XX. Our adverse determination is made for the following reason(s):

You have not established you operated exclusively for exempt purposes within the meaning of I.R.C. § 501(C) (3). You failed to provide adequate documentation to confirm the organizations exempt 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 the exempt purposes specified in IRC §501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. Your organization has not provided any evidence you engaged in any activities that furthers your exempt purposes.

Contributions made to you are no longer deductible as charitable contributions by donors for purposes of computing taxable income for federal income tax purposes. See Rev. Proc. 82-39 1982-2 C.B. 759, for the rules concerning the deduction of contributions made to you between January 1, 20XX and the date a public announcement, such as publication in the Internal Revenue Bulletin, is made stating that contributions to you are no longer deductible.

You are required to file income tax returns on Form 1120 and Form 1041 for all years

beginning after January 1, 20XX. Returns for the years ending December 31, 20XX, December 31, 20XX, and December 31, 20XX must be filed with this office within 60 days from the date of this letter, unless a request for an extension of time is granted.

Send such returns to the following address:

Tax returns for subsequent years are to be filed with the appropriate Campus identified in the instructions for those returns. If you decide to contest this determination in court, you must initiate a suit for declaratory judgment in the district court of the United States for the District of Columbia, The United States Court of Federal Claims, or the United States Tax Court, before the 91st day after the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for initiating suits for declaratory judgment. You may write to the Tax Court at the following address:

The processing of income tax returns and assessment of any taxes due will not be delayed because a petition for declaratory judgment has been filed under I.R.C. section 7428.

If you have questions about this letter, please write to the person whose name and address are shown on this letter. If you write, please attach a copy of this letter to help identify your account. Keep a copy for your records. Also, please include your telephone number and the most convenient time for us to call, so we can contact you if we need additional information.

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. Or you can contact the Taxpayer Advocate office located nearest you at the address and telephone number shown in the heading of this letter.

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 I.R.C. section 6104(c).

This is a final revocation letter.

Sincerely,

Marsha A. Ramirez
Director, EO Examinations

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended
ORG		12/31/20XX

LEGEND

ORG = Organization name XX = Date President = President CO-1 = 1st company, CO-2 = 2nd company,

Issue:

Is the ORG an organization exempt from tax under section 501(c)(3) of the Internal Revenue Code?

Facts:

Internal Revenue Service records show that the ORG, hereinafter the Foundation, was incorporated on January 10, 20XX and received recognition as an organization exempt under Internal Revenue Code section 501(c)(3) Private Operating Foundation in January of 20XX with a deductibility year of 20XX. The organization filed Form 990-PF for the year ended January 31, 20XX at the Ogden Service Center on November 18, 20XX.

On November 3, 20XX, the Internal Revenue Service sent Letter 3611 and Form 4564 to the organization along with Publication 1, *Your Rights as a Taxpayer*. The form asked the organization for information and documents about its activities. The information was due on November 29, 20XX, the date of the examination. The examination took place at the representative's office (President did not attend). The representative had bank statements, check stubs, profit and loss statements, & balance sheet, all for the year ending December 31, 20XX. Also Form 1023, determination letters, and printouts (dated 20XX) from the organization's website were provided. It should be noted that the website is currently inactive.

The Foundation reported total revenue of \$. Schedule B of the Form 990-PF and records submitted show the Foundation's sole source of income was from the founder and President. The taxpayer was unable to provide the actual activities conducted by the Foundation, nor purpose of the expenditures made by the foundation during the initial examination at the representative's office. Form 4564 Information Document Request #2 was mailed to the representative on December 12, 20XX requesting additional information. The material sent included a spreadsheet listing all of the payments made by the Foundation asking for invoices, purpose of the payments, and descriptions on how these payments further the Foundation's exempt purpose.

The foundation spent \$ on legal fees, \$ was paid to individuals and an organization called CO-1 for religious research. From the \$ spent on religious research, \$ was paid for rent for an individual named Employee. \$ was given to various individuals. The Foundations spent \$ on publicity, \$ on professional fees (investigating), \$ on printing, and \$ on meetings and conferences. The conference and meeting expense of \$ was paid to Conductor for Conductor – CO-2.

In addition to other information requested, the service asked the organization to explain how these payments furthered its exempt purpose.

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No response was received from the organization's representative by the due date of December 28, 20XX. An extension was granted to the representative on Form 4524 #2 on January 10, 20XX to the first week of February 20XX.

On February 13, 20XX The Internal Revenue Service sent a letter along with Form 4564 (IDR #2 that was mailed on 12/12/20XX) to the organization asking for

- An explanation and supporting documentation for the payments to various individuals during the year under audit including:
- Invoices
- Types of services provided for the religious research
- How do these payments further the foundation's exempt purpose?
- Where grants to individuals for travel, study, or similar purposes? What were the purposes of the grants?
- A list of EIN and addresses for grants made to organizations.
- How the payments to _____ for CD's totaling \$ (under publicity) and the \$ in professional fees for investigation further the Foundation's exempt purpose?

The due date for this information was February 23, 20XX. The representative informed the Revenue Agent on February 22, 20XX that she called President of the Foundation, to gather the requested information, but he has not returned her call. All the above items had previously been requested in the document request dated December 12, 20XX. No response was received to this letter.

Law:

Section 501(c)(3) of the Internal Revenue Code provides for exemption from taxation for organizations "organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur athletic 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 . . ."

Section 1.501(c)(3)-1(c)(1) of the Income tax regulations states that "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). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose."

Section 1.501(c)-1(d)(1)(ii) of the Income tax regulations states that "An organization is not organized or operated exclusively for one or more of the purposes specified . . . 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

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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."

Section 1.6033-2(i)(2) of the Income tax regulations 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 in inquiring into its exempt status and administering the provisions of subchapter F (section 501 and following), chapter 1 of subtitle A of the Code...."

Rev. Rul 59-95, An organization previously held exempt from Federal income tax was requested to produce a financial statement as of the end of the year and a statement of its operations during such year. However, its records were so incomplete that it was unable to furnish such statements. Section 6033 of the Internal Revenue Code of 1954 provides that every organization, except as provided therein, exempt from taxation under section 501(a) of the Code shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and shall keep such records, render under oath such statements, make such other returns and comply with such rules and regulations as the Secretary of the Treasury or his delegate may from time to time prescribe. Held, failure or inability to file the required information return or otherwise to comply with the provision of section 6033 of the 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 an exempt status.

Rev. Rul. 56-304, Organizations privately established and funded as charitable foundations which are organized and actively operated to carry on one or more of the purposes specified in section 501(c)(3) of the Internal Revenue Code of 1954, and which otherwise meet the requirements for exemption from Federal income tax are not precluded from making distributions of their funds to individuals, provided such distributions are made on a true charitable basis in furtherance of the purposes for which they are organized. However, organizations of this character which make such distributions should maintain adequate records and case histories to show the name and address of each recipient of aid; the amount distributed to each; the purpose for which the aid was given; the manner in which the recipient was selected and the relationship, if any, between the recipient and (1) members, officers, or trustees of the organization, (2) a grantor or substantial contributor to the organization or a member of the family of either, and (3) a corporation controlled by a grantor or substantial contributor, in order that any or all distributions made to individuals can be substantiated upon request by the Internal Revenue Service.

Government's Position:

The Internal Revenue Service asked the Foundation to provide specific information about its actual activities during the year ending December 31, 20XX. Other than printouts from the Foundation's website from 20XX, the organization provided no information on how it conducts its charitable activity.

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The Internal Revenue Service asked the organization to describe the activities that produced the legal expenses in the amount of \$. The Foundation did not provide any invoices for the legal expenses. The Foundation did not explain how the legal fees help to accomplish its exempt purpose - religious research. The organization did not show the legal fees were for the benefit of the Foundation.

The Internal Revenue service asked the organization to describe the activities that produced religious research expenses totaling \$. The organization did not provide any information showing what activities were performed by the Foundation, what activities constitute religious research, or how these payments benefited a charitable class.

The Internal Revenue Service asked the organization to show how it determined the payments made to individuals totaling \$ or how these payments benefited a charitable class. As required by Revenue Ruling 56-304, the Foundation did not provide adequate records to show the purpose for which the aid was given; the manner in which the recipient was selected and the relationship, if any, between the recipient and (1) officers, or trustees of the organization, (2) a grantor or substantial contributor to the organization or a member of the family of either, and (3) a corporation controlled by a grantor or substantial contributor, in order that any or all distributions made to individuals can be substantiated upon request by the Internal Revenue Service.

The Internal Revenue Service asked the organization to describe its activities that produced expenses for CD's totaling \$, \$ in professional fees for investigation, \$ was paid to Conductor for Conductor – CO-2, and \$ on printing further the Foundation's exempt purpose?

An exempt organization must respond to Internal Revenue Service inquiries to establish that it is entitled to tax exempt status. In this case the taxpayer had failed to establish that it was engaged in exempt activities, that its expenditures were for the purpose of exempt activities, or that its assets did not inure to private shareholders or individuals.

Taxpayer's Position:

The organization has not submitted its position.

Conclusion:

Exemption under Code section 501(c)(3) for the ORG is revoked effective January 1, 20XX. The organization is required to file Form 1120 for all taxable years beginning after December 31, 20XX.



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service
IRS TEGE Division
450 Golden Gate Avenue, MS 7401
San Francisco, CA 94102-3412

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