



It is further determined that your failure to file a written appeal constitutes a failure to exhaust your available administrative remedies. However, 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. To secure a petition form, write to the following address:

Please understand that filing a petition for a declaratory judgment under IRC section 7428 will not delay the processing of subsequent income tax returns and assessment of any taxes due.

The last day for filing a petition for declaratory judgment is June 11, 20XX.

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 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.

This letter 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 A. Ramirez  
Director, EO Examinations

Enclosures:  
Publication 892



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service  
1100 Commerce Street  
Dallas, TX 75242

September 26, 2007

ORG  
ADDRESS

Taxpayer Identification Number:

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,

Marsha 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
<b>Name of Taxpayer</b>  <b>ORG,</b>		<b>Year/Period Ended</b>  <b>12/31/20XX</b>

**LEGEND**

ORG = Organization name      XX = Date      EIN = EIN      XYZ = State  
CO-1 = 1<sup>st</sup> company  
President = President      Vice President = Vice president      Secretary =  
Secretary      Treasurer = Treasurer      Director = Director      CEO = CEO  
Board Member = Board Member      Board Member 1 = board member

**Issue:**

Whether ORG (ORG) was operated exclusively for exempt purposes described within Internal Revenue Code section 501(c)(3):

- a. Whether ORG is engaged primarily in activities that accomplish an exempt purpose?
- b. Whether more than an insubstantial part of ORG's activities is in furtherance of a non-exempt purpose?
- c. Whether ORG was operated for the purpose of serving a private benefit rather than public interests?

**Facts**

**Background of ORG:**

ORG (ORG), with EIN, was initially incorporated in the XYZ under the name of CO-1 on January 26, 19XX. The specific purpose of the corporation was financial counseling. On March 2, 19XX, ORG applied for registration of a fictitious name as "ORG" with the XYZ. An Articles of Amendment was filed on July 30, 19XX to change its name to ORG. The amendment was signed by the former president, President as CO-1 DBA ORG

ORG filed Form 1023, *Application for Recognition of Exemption under Section 501(c) (3) of the Internal Revenue Code*, for the Service to make a determination whether ORG meets a publicly supported organization described under Internal Revenue Code section 509(a) (1) or 170(b)(1)(A)(vi) or 509(a)(2) in February 19XX. The application was signed by President as director of ORG. ORG described its activities and operational information on page 2 of Form 1023 as and hereby quoted:

“

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b>  ORG,		<b>Year/Period Ended</b>  12/31/20XX

LEGEND

ORG = Organization name      XX = Date      EIN = EIN      XYZ = State  
CO-1 = 1<sup>st</sup> company  
President = President      Vice President = Vice president      Secretary =  
Secretary      Treasurer = Treasurer      Director = Director      CEO = CEO  
Board Member = Board Member      Board Member 1 = board member

These counseling services will be performed in our offices by persons experienced in the credit and debt management field.”

The officers, directors and trustees listed on the Form 1023 were President, , and Secretary and all of them listed as not receiving any compensation.

ORG adopted its bylaws in July 19XX and the Board of Directors had elected a fictitious name “ORG”. The officers of ORG in the bylaws named President as President, Vice President as Vice President, Secretary as Secretary and Treasurer Treasurer.

The Service recognized ORG as a publicly supported organization described under Internal Revenue Code section 509(a)(2) on August 04, 19XX. The determination exemption letter was issued to ORG under the name of CO-1

On January 21, 19XX, ORG adopted another set of bylaws. The bylaws were signed by Secretary as the Secretary. On April 22, 19XX, ORG filed with the State of the Statement and Designation by Foreign Corporation for doing business in On October 28, 20XX, ORG filed with the State of for the authorization to transact business in On March 28, 20XX, ORG filed with the XYZ for the authorization to transact business in XYZ.

The officers and directors for the year under examination are Secretary as and Secretary, Director and Board Member, CEO as Chief Executive Officer, and Board Member ( ) as Treasurer and Board Member. The former officers and directors were President ( ) as former CEO, Board Member 1 as former Board Member, and Treasurer former Board Member.

Form 886A	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b>  ORG,		<b>Year/Period Ended</b>  12/31/20XX

LEGEND

ORG = Organization name      XX = Date      EIN = EIN      XYZ = State  
CO-1 = 1<sup>st</sup> company  
President = President      Vice President = Vice president      Secretary =  
Secretary      Treasurer = Treasurer      Director = Director      CEO = CEO  
Board Member = Board Member      Board Member 1 = board member

**Minutes:**

During the year under examination, ORG had one Certified Statement of Corporate Resolutions dated January 12, 20XX signed by Secretary, as secretary. The statement indicated and hereby quoted,

“I, undersigned, Secretary, Secretary of ORG, Inc., a corporation organized and existing the laws of the XYZ, being first duly sworn, do hereby certify that the following resolutions were lawfully and properly enacted by the Board of Directors of the Corporation, either with or without a meeting, in accordance with the Articles of the Corporation and By laws of the corporation and all applicable laws:

BE IT RESOLVED that \_\_\_\_\_ shall remain on the Board of Directors, that \_\_\_\_\_, Board Member and Board Member 1 shall be added to the Board of Directors. It was also resolved that \_\_\_\_\_ shall be president of the corporation and that \_\_\_\_\_ shall be \_\_\_\_\_, all of whom shall serve until their successors are duly appointed, and said resolution is hereby approved by the Corporation with an effective date of May 15, 20XX;

“BE IT RESOLVED, that proposed salary agreements for Secretary were submitted to and discussed by the Board of Directors without \_\_\_\_\_ participation in the discussions, to wit: an annual salary in the amount of \$ \_\_\_\_\_ for calendar year 20XX was approved. Furthermore, in recognition of \_\_\_\_\_ of prior service without compensation, it was resolved that future compensation shall be awarded for those \_\_\_\_\_ of prior services without compensation. In this regard, it was resolved that for every year of future employment \_\_\_\_\_ shall be awarded additional compensation in the amount of \$ \_\_\_\_\_ to be deferred and paid in a future calendar year subject to the availability of funds, as independently determined by the Board at such a date, in addition, it was also resolved that should ORG, Inc., be liquidated, dissolved or otherwise discontinue its operations, that \_\_\_\_\_ shall then be credited with any remaining years of prior service, not to exceed \_\_\_\_\_, of deferred compensation at an annual salary of \$ \_\_\_\_\_. Said salary agreements with Secretary are hereby approved by the Corporation with an effective date of January 1, 20XX;

In addition to the above resolutions, various discussions were held among board members on a proposal to expand the activities of ORG, Inc. in providing educational information to the general public on budgeting, buying practices, and the sound use of consumer credit through the use of public speakers and the distribution of publications as concerns were expressed by

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b>  <b>ORG,</b>		<b>Year/Period Ended</b>  <b>12/31/20XX</b>

LEGEND

ORG = Organization name      XX = Date      EIN = EIN      XYZ = State  
CO-1 = 1<sup>st</sup> company  
President = President      Vice President = Vice president      Secretary =  
Secretary      Treasurer = Treasurer      Director = Director      CEO = CEO  
Board Member = Board Member      Board Member 1 = board member

that attendance at previous educational seminars had been disappointing, and that alternate measures needed to be considered. It was also discussed that a proposal will be presented by \_\_\_\_\_ for the Board's consideration to implement long term plans to monitor and evaluate the effectiveness of the Corporation's activities in relation to its credit counseling and educational objectives.

.....”

For the 20XX year, ORG again had one Certified Statement of Corporate Resolutions signed on April 12, 20XX by Secretary. This statement indicated and hereby quoted,

“BE IT RESOLVED that effective January 1, 20XX, an annual salary in the amount of \$ \_\_\_\_\_ for calendar year 20XX was approved for Secretary, without Secretary's participation in the discussions or vote.”

....

“In addition to the above resolutions, various continuing discussions were held among board members on a proposal to expand the activities of ORG, Inc. in providing educational information to the general public on budgeting, buying practices, and the sound use of consumer credit through the use of public speakers and the distribution of publications. In the past, concerns had been expressed by Secretary that attendance at previous educational seminars had been disappointing, and that alternate measures needed to be considered.

As an alternate measure, it was proposed by Secretary that the Board consider a proposal to terminate the debt management services offered by the Organization, and instead to concentrate the organization's resources in educational activities and initiatives conducted in collaboration with the adult educational programs of willing colleges and universities, as well as with the prospective graduating senior students of public and private secondary schools willing to participate in those educational activities.”

Section 2.14 of the amended bylaws stated, “Board Action by written consent without a meeting

Any action required or permitted to be taken by the Board of Directors may be taken without a meeting, if all members of the Board individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board. Such action by written consent shall have the same force and effect as a unanimous vote of the Board of Directors. “

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b>  <b>ORG,</b>		<b>Year/Period Ended</b>  <b>12/31/20XX</b>

LEGEND

ORG = Organization name      XX = Date      EIN = EIN      XYZ = State  
CO-1 = 1<sup>st</sup> company  
President = President      Vice President = Vice president      Secretary =  
Secretary      Treasurer = Treasurer      Director = Director      CEO = CEO  
Board Member = Board Member      Board Member 1 = board member

It was noted that the above two set of minutes did not have any written consents filed by the officers and board members. The minutes were only signed by Secretary. The minutes also did not disclose whether there were any board members present to discuss the actions taken as mentioned in the minutes. There were no documentations showing any detail discussions on the proposed salary agreements for \_\_\_\_\_ as well as the discussions on compensating \_\_\_\_\_ prior by the board. The Service has not made any determination whether the compensation paid to \_\_\_\_\_ and any future compensation that will be paid to \_\_\_\_\_ for \_\_\_\_\_ past services constitute any excess benefit transaction.

**Various names, office addresses and websites used by ORG:**

1

One of ORG's web addresses is \_\_\_\_\_ . In 19XX, according to the archive research on the web address, ORG was located at \_\_\_\_\_ with the name of ORG ORG ( \_\_\_\_\_ ). During 19XX, there were three debt management agreements used by ORG, one for \_\_\_\_\_ which was identified as Form #ORG \_\_\_\_\_ , one for \_\_\_\_\_ which was identified as Form #ORG- \_\_\_\_\_ , and one for \_\_\_\_\_ which was identified as Form #ORG - \_\_\_\_\_

In 20XX, one of the web pages is hereby quoted,

“

”

This web page had the office address as \_\_\_\_\_

In 20XX and 20XX, the web address had a new front web page stating,

“Clear your debt with ORG \_\_\_\_\_

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b>  ORG,		<b>Year/Period Ended</b>  12/31/20XX

LEGEND

ORG = Organization name      XX = Date      EIN = EIN      XYZ = State  
CO-1 = 1<sup>st</sup> company  
President = President      Vice President = Vice president      Secretary = Secretary  
Secretary      Treasurer = Treasurer      Director = Director      CEO = CEO  
Board Member = Board Member      Board Member 1 = board member

the bills to pile up, for the monthly expenses to bury you, for the over due notices to trickle then pour in. And you react somehow to try to patch things up. The new approach with ORG is different. We call it “ ”. Instead of waiting for the bad news, we manage your finances to anticipate and avoid problems.

How? We can show you.

ORG Inc specializes in helping you make a rapid transition from “ ” using qualified, and guidelines, along with up-to-date technology. And just because you’re heavily in debt, even behind with some of your bills, don’t think it’s too late for you.

We’ll take all of the debt that you have and put them into one low payment for you. We will obtain benefits such as lowered interest rates and creates an affordable monthly payment you can live with – one that will maintain your good credit without putting you on bread and water.

ORG is a nationwide nonprofit, 501 C-3 debt managing , with over experience in the credit counseling industry, can provide the rewards of happiness and peace of mind to you and your loved ones.

. (So you have nothing to lose except the debt itself).

Act now. Don’t just keep “ ”.”

The web page also had a page called “ ” where one could go and download brochures and pamphlets on various topics on credit and debt topics.

The 20XX web page still showed the office address as

In 20XX, the web site had an office address as

In 20XX, the web site had the following addresses:

The main page of this web page mentioned the following:

“

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b>  ORG,		<b>Year/Period Ended</b>  12/31/20XX

LEGEND

ORG = Organization name      XX = Date      EIN = EIN      XYZ = State  
CO-1 = 1<sup>st</sup> company  
President = President      Vice President = Vice president      Secretary =  
Secretary      Treasurer = Treasurer      Director = Director      CEO = CEO  
Board Member = Board Member      Board Member 1 = board member

Stop Late and over-limit fees.  
Stop creditor calls  
Consolidate all your debts into one affordable payment

Get out of DEBT With a PLAN that works for YOU

Enroll Now!

.....”

One of the pages of this web page provided Counseling Center information. It stated,

“Counseling Center

ORG is a leader in the credit counseling industry providing caring, supportive, and a hassle free way to families and individuals in need of debt relief. Our state certified credit counselors are uniquely qualified to assist you with handling your credit cards, department store cards, signature loans and gasoline cards. We believe we are the obvious choice to do business with when it comes to consolidating your debts, consider the following reasons for choosing ORG.

- We do not affect your **credit score** in a negative manner
- We are able to keep you in a current status with your creditors (if you are current when joining our services)
- We do not put you on a program, we provide you with a service
- You pay off your debt as you have agreed to with your creditors
- Solely committed to supporting you in becoming totally debt free (through **God’s Principles**)
- State-of-the-art servicing department to manage and track your progress to insure that your creditors are paid on time.

If you are behind or struggling with high interest rates on your credit cards or other unsecured debts, please call                      for immediate assistance, or go to the Online Form to begin.

Counselors are available between 9am and 6pm EST, Monday through Friday. The online enrollment form is available 24 hours a day, seven days a week.”

was one of the pages on the 20XX web page and hereby quoted,

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b>  <b>ORG,</b>		<b>Year/Period Ended</b>  <b>12/31/20XX</b>

LEGEND

ORG = Organization name      XX = Date      EIN = EIN      XYZ = State  
CO-1 = 1<sup>st</sup> company  
President = President      Vice President = Vice president      Secretary =  
Secretary      Treasurer = Treasurer      Director = Director      CEO = CEO  
Board Member = Board Member      Board Member 1 = board member

“      **Information**

ORG was founded in January 19XX.

ORG, Inc. is a Non-Profit 501(c)-3 corporation. It originated in  
and is a licensed & bonded counseling office.

Another page of the website provided questions and answers on various topics on budget, home loans and scams, getting back in the black, and money saving ideas.

Another web address of ORG is      . In 20XX, this web address would link  
to ORG’s main web address      . However, in 20XX under archive research,  
the web address      would link to the related entity- ORG located in

**ORG’s common officers with other entities:**

Together they founded this entity, ORG, in XYZ and ORG (another entity) the same name as ORG but different employer identification number in      in the early 19XXs. For the year under examination, ORG claimed that these two entities had their own operations. However, the Service has not made any determination as to the nature of ORG’s overall operation with the  
entity.

    . On ORG’s cover letter that was received by the Service on April 10, 20XX, ORG claimed that this entity does not provide any services to ORG.

According to the Service’s records, ORG- For Profit and ORG compensated the following officers and family members in 20XX:

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b>  <b>ORG,</b>		<b>Year/Period Ended</b>  <b>12/31/20XX</b>

**LEGEND**

ORG = Organization name      XX = Date      EIN = EIN      XYZ = State  
CO-1 = 1<sup>st</sup> company  
President = President      Vice President = Vice president      Secretary = Secretary  
Treasurer = Treasurer      Director = Director      CEO = CEO  
Board Member = Board Member      Board Member 1 = board member

Name	ORG	ORG- For Profit
Board Member	\$	\$
)	\$	\$
Secretary	\$	\$

ORG-For Profit's name is similar to ORG; however, the Service has not made any determination as to the nature of ORG's overall operation with ORG-For Profit.

CO-1 of \_\_\_\_\_, another tax exempt organization recognized under IRC 501 (c)(4), has the same common officers of ORG- Secretary and Board Member. This entity also provides debt management services to individuals. This entity is currently under examination.

**Debt Management Program:**

ORG provides debt management program services to individuals who have debt problems. ORG had approximately \_\_\_\_\_ clients in 20XX. The number of new clients signed up during that year was \_\_\_\_\_. The number of clients that dropped out in 20XX was \_\_\_\_\_ and the number of individuals who successfully completed the program was \_\_\_\_\_.

ORG has two volumes of Training and Procedures Manuals. Volume 2A has one section that deals with procedures used by the \_\_\_\_\_. Another section of that volume deals with Counseling Department Intake Work Instructions.

From Volume 2A, an individual who signed up for the DMP is asked for a monthly fee of \$ \_\_\_\_\_ which ORG referred to as a "\_\_\_\_\_". From a random sample review of 30 client files, the majority of them paid \$ \_\_\_\_\_ while some paid in a range of \$ \_\_\_\_\_.

ORG's latest updated version (Rev.3, 7/6/20XX)'s Counseling Department Intake Work Instructions from Volume 2A is hereby quoted,

**"I. Introduction**

- A. Greet Caller: "ORG. This is \_\_\_\_\_. May I help you?"
  - B. Briefly, explain ORG's services: "We consolidate unsecured debt such as credit cards, store cards, signature loans. Is this the kind of debt you have?"
- If caller:

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b>  <b>ORG,</b>		<b>Year/Period Ended</b>  <b>12/31/20XX</b>

**LEGEND**

ORG = Organization name      XX = Date      EIN = EIN      XYZ = State  
CO-1 = 1<sup>st</sup> company  
President = President      Vice President = Vice president      Secretary =  
Secretary      Treasurer = Treasurer      Director = Director      CEO = CEO  
Board Member = Board Member      Board Member 1 = board member

1. Has **only** debt we cannot consolidate (i.e. home/auto, student loans, medical), refer to another
2. Wants advice, **briefly** answer and/or recommend financial management books.
3. Wants credit report, get signed authorization and money order ("MO" for \$ - once we have these we can pull the report immediately & call back w/results. We can often consolidate at least some of what we find on report.
4. Has debt we can consolidate, continue. We can:
  - a. Consolidate into one monthly payment, which we disburse to creditors.
  - b. Most creditors will lower or eliminate interest rates for us, reducing payback time, which saves money.

**II. Data Collection-** (Do over the phone. If caller does not have information ready, make appointment for later that day or next day to call him/her back to obtain information.)

.....  
B. Budget Analysis- get as much information as possible. (Must have Social Security Number before opening account.) Amount available for Debt retirement must be enough to cover adjusted monthly payment.  
....."

From ORG's Counseling Department Question and Answer Guide (Rev. 2, 6/28/06) in Volume 2A, one of the questions is as follows:

"What is the difference between ORG and other debt management companies?

ORG is far different from other organizations. We offer four payment date options as opposed to one: you choose the most convenient time of the month for your payment. We have the ability to electronically withdraw from your bank and pay your creditors timely each month. Most other organizations require other forms of payment that are less convenient, such as money orders. Perhaps the most important difference is that we are a non-profit, that works in harmony with , and educational opportunities.  
....."

Once an individual signed up the DMP with ORG, ORG's counselor is required to file out the "Completed Folder Checklist". One of the boxes is "Application" and one of the requirements is "Client has at least \$ in debts. Any less has been cleared through Supervisor."

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b>  <b>ORG,</b>		<b>Year/Period Ended</b>  <b>12/31/20XX</b>

**LEGEND**

ORG = Organization name      XX = Date      EIN = EIN      XYZ = State  
CO-1 = 1<sup>st</sup> company  
President = President      Vice President = Vice president      Secretary =  
Secretary      Treasurer = Treasurer      Director = Director      CEO = CEO  
Board Member = Board Member      Board Member 1 = board member

**Clients' files and incoming calls:**

A random sample of clients files were selected for review during the . From the clients' permanent notes, there were no discussions made by the counselors on areas regarding the clients' employment, education, buying habits, spending patterns, and changes on the clients' earnings and expenses. There were no written recommendations from the counselors regarding various options presented by the counselors to the clients addressing their debt problems. Further, there was no documentation showing any discussion on advantages and disadvantages of various options and any recommendations regarding the best option that was suitable to the client's particular situation. The permanent notes only recorded discussions between clients and the counselors/Customer Care Representatives regarding late payments, missed payments, changes of Automatic Check Handling (ACH) dates, and conversations with creditors regarding proposals and so forth.

Revenue Agent sat and listened in 18 calls during the visit at the . Majority of the 18 calls were calls that the counselors either had already spoken with the individuals or made initial contact with the Internet applicants. Some calls were from individuals who wanted to get a free quote for the DMP service that ORG provides. On one call, the caller was not behind on his credit card payments but wanted to take advantage of the DMP. The receptionist gave him ORG's website and told him that she would send information to him and would assist him.

Another call was for free quote estimate. The caller was behind on her payments and wanted to consolidate all the debts since she just opened a business in March 20XX. The caller was asked whether she had contacted the credit card companies. She said yes but she was not sure about lower interest rates on those accounts. After the budget analysis, the counselor gave out the monthly payment amount and told the caller that she would fax the paperwork to her and asked the caller to send them back with a voided check.

Some of the other calls were between the counselors and the credit card companies regarding processing payments. When talking to potential DMP clients, the counselors mentioned that ORG works with credit card companies to stop late fees and over the limit fees and would consolidate the debts into one single payment to the creditors. The majority of the calls between the counselors and the potential DMP clients lasted about 15 to 20 minutes. There were no lengthy discussions on various options, recommendations, advantages or disadvantages of these options made to these individuals. There was only one of the 18 calls in which the counselor

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b>  ORG,		<b>Year/Period Ended</b>  12/31/20XX

**LEGEND**

ORG = Organization name      XX = Date      EIN = EIN      XYZ = State  
CO-1 = 1<sup>st</sup> company  
President = President      Vice President = Vice president      Secretary =  
Secretary      Treasurer = Treasurer      Director = Director      CEO = CEO  
Board Member = Board Member      Board Member 1 = board member

mentioned to the caller to contact \_\_\_\_\_ to seek for assistance on utility bills. On a few other calls, the callers were told to contact their credit card companies for hardship programs.

**ORG's employees:**

ORG has \_\_\_\_\_ counselors and \_\_\_\_\_ Customer Care Representatives since ORG had moved its \_\_\_\_\_ in October 20XX from \_\_\_\_\_. The remaining employees in \_\_\_\_\_ are the general manager, accounting supervisor, accounting assistant, technical support, office clerk and receptionist. The \_\_\_\_\_ is the \_\_\_\_\_ where four employees are located. The four employees received \_\_\_\_\_ processing data daily from the \_\_\_\_\_ for verification before making any communications with the creditors. Secretary managed the \_\_\_\_\_ and had communications frequently with the \_\_\_\_\_ since \_\_\_\_\_), \_\_\_\_\_) are the general manager, accounting supervisor and CCR supervisor in the \_\_\_\_\_.

**Customer Care Representative and Counselor:**

From the Employee Handbook - Volume 1, under the Servicing Department and Accounting Department, ORG has CCR and Accounting Clerk job position descriptions. There was no job position description for Counselor.

The job description for the CCR is described in the Employee Handbook as follows:

**"Duties and Responsibilities:**

Customer Care Representative (CCRs) are responsible for answering all incoming calls into ORG (ORG) Call Center. The handling and managing of the client accounts includes all file maintenance, paperwork, and necessary computer adjustments. This position will be responsible for all inquiries from clients, creditors, and other satellite offices verbally via the telephone or through correspondence pertaining to their assigned position. Some inquiries may include research, which is, but not limited to, client assistance, calling the creditor, check research, review of the client database, and collaboration with other internal departments.

**Skills and Abilities:**

Qualified applicants will possess the followings skills and abilities:

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b>  <b>ORG,</b>		<b>Year/Period Ended</b>  <b>12/31/20XX</b>

**LEGEND**

ORG = Organization name      XX = Date      EIN = EIN      XYZ = State  
CO-1 = 1<sup>st</sup> company  
President = President      Vice President = Vice president      Secretary =  
Secretary      Treasurer = Treasurer      Director = Director      CEO = CEO  
Board Member = Board Member      Board Member 1 = board member

- Great attitude and professionalism in Customer Service.
- Be able to communicate clearly and professionally via telephone.
- Knowledge and understanding of basic computer and office skills.
- Experience in problem solving, organization, and prioritization.
- Ability to do multiple tasks as given or assigned.
- Maintain composure while handling difficult customers and situations.
- Capability to perform necessary research to answer questions.
- Analyze information to determine the nature of communication whether it be a complaint, inquiry or service request.
- Team and goal orientated.

**Background requirements:**

**Educational Requirements:**

- High School Diploma/GED, at least two years of College preferably.

**Previous Work Experience:**

- One to two years of work experience in an office environment.
- One year of Customer Service experience.
- Preferable work experience, six months in a Call-Center environment.

**Knowledge:**

- General understanding of credit cards and consumer lending, such as, annual percentage rates, monthly creditor statements, etc.
- Use of facsimile machine and photocopier.
- Excellent oral and written communications skills.

During the visit to \_\_\_\_\_, ORG had nine individuals whose job titles were Customer Care Representatives and four were counselors.

Revenue Agent conducted interviews with three counselors during the \_\_\_\_\_ visit. When asked about their daily assignment, the three counselors' responses were: their schedules involved responding to internet and phone applications for DMP by sending paperwork to the potential clients in a timely manner. They also responded to questions from potential clients that were sent through ORG's e-mail system. They also checked back with the individuals with

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b>		<b>Year/Period Ended</b>
<b>ORG,</b>		<b>12/31/20XX</b>

**LEGEND**

ORG = Organization name      XX = Date      EIN = EIN      XYZ = State  
CO-1 = 1<sup>st</sup> company  
President = President      Vice President = Vice president      Secretary =  
Secretary      Treasurer = Treasurer      Director = Director      CEO = CEO  
Board Member = Board Member      Board Member 1 = board member

follow-up calls to see whether these individuals already received the packages that were sent to them. For budget analysis, the average call may last 15 to 20 minutes. Since ORG does not give legal advice, if the caller's situations need to go through bankruptcy, they were referred by the counselors to contact their local attorneys for bankruptcy. They do not get calls for information on educational seminars. They all received

) certification and on-the-job training for 2 weeks. When asked whether they have any ongoing training, the counselor's supervisor, , mentioned that once a month he would sit with the counselors and provided informal training by going through the potential DMP client's financial information, such as credit card balances, and discussed them with the individual counselors. He also discussed with the counselors some of the changes that are required by the counselors. He also monitors their calls. However, none of the discussions are in writing. Upon reviewing these counselors' personnel files during the visit, their personnel files did not contain any performance evaluations that were conducted by their supervisor for all the years since they had been employed. Revenue Agent also requested employees' personnel files for the employees who used to work in the Servicing Department in . It was noted that some of the employees had no performance evaluations at all. For the few employees who had performance evaluations, the employees' supervisor made recommendations on their evaluations mentioning the employees need consistently sign up an average of 20 or more accounts per week for the next three months from the evaluation date.

Revenue Agent also conducted interviews with four CCRs in the . Their primary positions were to work on proposals with the creditors, review disbursements to creditors, review update statements for the clients and contact them for past due accounts or missed payments. The majority of their phone calls were dealt with creditors. They called clients when the clients missed payments and so forth. In some situations, they could refer clients to various websites for their free credit reports.

For new CCRs, they were trained by for the initial two weeks. used the New Employee Training Checklist which included trained items such as Account Changes, Adding Creditors once on the program, Creditor Calls, Creditors Information, Credit Reports, Decreases, Delinquent Report/Calls, Disbursements to Creditors, Drop Lists, Due Dates, Editing the Client Screen, Increases, Insurance Cancellation, Notes, Payment Research, Payoffs for Clients, Payoff for Accounting, Payout Notes, Proposals, Reference Letters, Returned Personal Checks, Stop Payments, Transferring and Startsat, ACH Changes, Checks for Split ACH Dates, NSF & Returned ACH, ACH Fees, Guides to Due Dates, and New Client Folder Checks.

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b>		<b>Year/Period Ended</b>
ORG,		12/31/20XX

**LEGEND**

ORG = Organization name      XX = Date      EIN = EIN      XYZ = State  
CO-1 = 1<sup>st</sup> company  
President = President      Vice President = Vice president      Secretary =  
Secretary      Treasurer = Treasurer      Director = Director      CEO = CEO  
Board Member = Board Member      Board Member 1 = board member

Upon reviewing all the CCRs personnel files, there were no performance evaluations completed on them since they were employed. Some of the employees were employed by other related entities as mentioned above under the "ORG's common officers with other entities" section before they became employees of ORG.

**Education and outreach:**

When the Service asked about the public service and community outreach activities for the year under examination, ORG mentioned on a cover letter that was received by the Service on April 10, 20XX the following events:

Date	Location	Time
2/23/20XX		3:00 to 4:30 pm
4/12/20XX		1:00 to 4:00 pm
6/30/20XX		2:00 to 3:30 pm
9/7/20XX		2:00 to 4:00 pm
11/16/20XX		No time mentioned
12/28/20XX		9:00 to 7:00 pm

ORG did not keep a register or log of attendees. Even though ORG mentioned on the cover letter that a sample of forms and letters distributed were enclosed in its response on April 10, 20XX they were not enclosed in the response package. ORG's website had one page called " " which provides information on various topics such as Credit Reporting, Money Savers, Facts and Figures, Bankruptcy, Creditor Harassment, and Fair Debt Collection. ORG also had some pamphlets and flyers that were placed in the for individuals to obtain.

During the interview with the General Office Manager, Mr. Board Member, the CPA, posted a question for . He asked if ORG had a \$ that could be allocated for an educational program, what could do with the funds stated he had to think about it since the seminars provided at church had hardly been attended by anyone. He did not have any ideas for now as to what to do with the funds if they were available.

**Financial Data:**

The Form 990 return's revenue and expenses amounts were different from the general ledger provided. The reconciliation that was provided by the CPA revealed that the amounts shown on

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b>  ORG,		<b>Year/Period Ended</b>  12/31/20XX

LEGEND

ORG = Organization name      XX = Date      EIN = EIN      XYZ = State  
CO-1 = 1<sup>st</sup> company  
President = President      Vice President = Vice president      Secretary = Secretary  
Treasurer = Treasurer      Director = Director      CEO = CEO  
Board Member = Board Member      Board Member 1 = board member

the general ledger were after the trial balance adjustment. Therefore, the following financial data was from the general ledger and reflects a more accurate reporting.

Revenue:

For the year under examination, ORG received its funding from the following:

Category	Amount	Percentage
Program Service Revenue	\$	99%
Interest	\$	5%
Dividends	\$	-0-
Net loss on sales of assets	\$ ( )	(4%)
Total Revenue	\$	100%

From the general ledger, Program Service Revenue consisted of fair share income, fair share contributions reimbursed and refund, fair share contributions transfer and client service fee of \$

For the year under examination, ORG incurred the following expenses:

Category	Amount	Percentage
Wages and salaries	\$	34%
Advertising	\$	17%
Automobile	\$	1%
Educational expenses	\$	8%
Moving and Relocation	\$	3%
Office expenses/supplies	\$	3%
Rent	\$	7%
Travel	\$	1%
Others	\$	26%
Total Expenses	\$	100%

It was noted that for the educational expenses, ORG actually made payments to an entity called . ORG claimed that was a tax exempt organization that . ORG also made payments that were recorded in this account to an entity named “ ” where ORG

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b>  ORG,		<b>Year/Period Ended</b>  12/31/20XX

LEGEND

ORG = Organization name      XX = Date      EIN = EIN      XYZ = State  
CO-1 = 1<sup>st</sup> company  
President = President      Vice President = Vice president      Secretary =  
Secretary      Treasurer = Treasurer      Director = Director      CEO = CEO  
Board Member = Board Member      Board Member 1 = board member

and                      shared the fair share contributions from the creditors and client fees on these clients. ORG also paid an individual named                      for seminar and promotional services for ORG. However, there were no supporting documents showing the type of the seminars that                      had conducted.

Upon reviewing the selected sample of the expenses, adjustments were made to the expenses for the following:

A disallowance of \$                      was made to the Travel Account due to lack of documentation showing the expenses were for legitimate business purposes. It was also noted that some payments were made for individual(s) who are not ORG's employees. Please see the attached detailed calculation for the percentage of disallowance.

A disallowance of \$                      was made to the Office Expenses Account. ORG had made this payment to an entity named                      . Revenue Agent did computer research and drove by the location. The place was a private residence and not a                      .

A disallowance of \$                      was made to the rent payments to                      . During the agent's visit to the                      visit on April 19<sup>th</sup> 20XX, Ms. Secretary provided two sets of lease agreements. One agreement was for the name of ORG-                      (ORG) and the other agreement was the                      entity. ORG paid \$                      per month for the                      period in 20XX. Since ORG is liable for its own rental expenses, the rents should be \$                      per month. At this time, the Service also has not determined whether the rental amount of \$                      is the fair market rental value.

A disallowance of \$                      was made to the Automobile Expense Account since there was no documentation to support the payments for gasoline and other automobile expenses paid for employees and officers were for legitimate business expenses.

A disallowance of \$                      was made to the relocation cost which the CPA indicated as Loss on sales of assets upon relocation. ORG did not provide any supporting documents to substantiate the loss.

The total revised expenses are as follows:

Category	Amount	Percentage
Total Revenue	\$	100%

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b>  ORG,		<b>Year/Period Ended</b>  12/31/20XX

**LEGEND**

ORG = Organization name      XX = Date      EIN = EIN      XYZ = State  
CO-1 = 1<sup>st</sup> company  
President = President      Vice President = Vice president      Secretary =  
Secretary      Treasurer = Treasurer      Director = Director      CEO = CEO  
Board Member = Board Member      Board Member 1 = board member

Expenses:		
Wages and salaries	\$	36%
Advertising	\$	18%
Automobile	\$	.1%
Educational expenses	\$	8%
Moving and Relocation	\$	2%
Office expenses/supplies	\$	3%
Rent	\$	4%
Travel	\$	.9%
Others	\$	28%
Total Expenses	\$	100%
Total net income	\$	

**Bank Statements:**

ORG maintained the following accounts as of the end of each tax year under examination. The account balances shown on the bank and brokerage statements for these accounts were as follows:

Account	Number	Type	Balance as of 12/31/

**LAW:**

Section 501(a) of the Internal Revenue Code provides that an organization described in section 501(c)(3) is exempt from income tax. Section 501(c)(3) of the Code exempts from federal income tax corporations organized and operated exclusively for charitable, educational, and other purposes, provided that no part of the net earnings inure to the benefit of any private shareholder

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b>		<b>Year/Period Ended</b>
ORG,		12/31/20XX

LEGEND

ORG = Organization name      XX = Date      EIN = EIN      XYZ = State  
CO-1 = 1<sup>st</sup> company  
President = President      Vice President = Vice president      Secretary =  
Secretary      Treasurer = Treasurer      Director = Director      CEO = CEO  
Board Member = Board Member      Board Member 1 = board member

or individual. The term charitable includes relief of the poor and distressed. Section 1.501(c)(3)-1(d)(2), Income Tax Regulations.

The term educational includes (a) instruction or training of the individual for the purpose of improving or developing his capabilities and (b) instruction of the public on subjects useful to the individual and beneficial to the community. Treas. Reg. § 1.501(c)(3)-1(d)(3). In other words, the two components of education are public education and individual training.

Section 1.501(c)(3)-1(a)(1) of the regulations provides that, 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.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities that 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. The existence of a substantial nonexempt purpose, regardless of the number or importance of exempt purposes, will cause failure of the operational test. Better Business Bureau of Washington, D.C. v. U.S., 326 U.S. 279 (1945).

Educational purposes include instruction or training of the individual for the purpose of improving or developing his capabilities and instruction of the public on useful and beneficial subjects. Treas. Reg. § 1.501(c)(3)-1(d)(3). In Better Business Bureau of Washington D.C., Inc. v. United States, 326 U.S. 279 (1945), the Supreme Court held that the presence of a single non-exempt purposes, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes. The Court found that the trade association had an "underlying commercial motive" that distinguished its educational program from that carried out by a university.

In American Institute for Economic Research v. United States, 302 F. 2d 934 (Ct. Cl. 1962), the Court considered the status of an organization that provided analyses of securities and industries and of the economic climate in general. The organization sold subscriptions to various periodicals and services providing advice for purchases of individual securities. Although the court noted that education is a broad concept, and assumed for the sake of argument that the organization had an educational purpose, it held that the organization had a significant non-

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b>		<b>Year/Period Ended</b>
<b>ORG,</b>		<b>12/31/20XX</b>

LEGEND

ORG = Organization name      XX = Date      EIN = EIN      XYZ = State  
CO-1 = 1<sup>st</sup> company  
President = President      Vice President = Vice president      Secretary = Secretary  
Treasurer = Treasurer      Director = Director      CEO = CEO  
Board Member = Board Member      Board Member 1 = board member

exempt commercial purpose that was not incidental to the educational purpose and was not entitled to be regarded as exempt.

An organization must establish that it serves a public rather than a private interest and "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." Treas. Reg. § 1.501(c)(3)-1(d)(1)(ii). Prohibited private interests include those of unrelated third parties as well as insiders. Christian Stewardship Assistance, Inc. v. Commissioner, 70 T.C. 1037 (1978); American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989). Private benefits include an "advantage; profit; fruit; privilege; gain; [or] interest." Retired Teachers Legal Fund v. Commissioner, 78 T.C. 280, 286 (1982).

An organization formed to educate people in Hawaii in the theory and practice of "est" was determined by the Tax Court to a part of a "franchise system which is operated for private benefit," and, therefore, should not be recognized as exempt under section 501(c)(3) of the Code. est of Hawaii v. Commissioner, 71 T.C. 1067, 1080 (1979). Although the organization was not formally controlled by the same individuals who controlled the for-profit entity that owned the license to the "est" body of knowledge, publications, and methods, the for-profit entity exerted considerable control over the applicant's activities by setting pricing, the number and frequency of different kinds of seminars and training, and providing the trainers and management personnel who are responsible to it in addition to setting price for the training. The court stated that the fact that the organization's rights were dependent upon its tax-exempt status showed the likelihood that the for-profit entities were trading on that status. The question for the court was not whether the payments made to the for-profit were excessive, but whether the for-profit entity benefited substantially from the operation of the organization. The court determined that there was a substantial private benefit because the organization "was simply the instrument to subsidize the for-profit corporations and not vice versa and had no life independent of those corporations."

The Service has issued two rulings holding credit counseling organizations to be tax exempt. Rev. Rul. 65-299, 1965-2 C.B. 165, granted exemption to a 501(c)(4) organization whose purpose was to assist families and individuals with financial problems and to help reduce the incidence of personal bankruptcy. Its primary activity appears to have been meeting with people in financial difficulties to "analyze the specific problems involved and counsel on the payment of their debts." The organization also advised applicants on proration and payment of debts, negotiated with creditors and set up debt repayment plans. It did not restrict its services to the needy. It made no charge for the counseling services, indicating they were separate from the debt

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b>		<b>Year/Period Ended</b>
<b>ORG,</b>		<b>12/31/20XX</b>

**LEGEND**

ORG = Organization name      XX = Date      EIN = EIN      XYZ = State  
CO-1 = 1<sup>st</sup> company  
President = President      Vice President = Vice president      Secretary =  
Secretary      Treasurer = Treasurer      Director = Director      CEO = CEO  
Board Member = Board Member      Board Member 1 = board member

repayment arrangements. It made "a nominal charge" for monthly prorating services to cover postage and supplies. For financial support, it relied upon voluntary contributions from local businesses, lending agencies, and labor unions.

Rev. Rul. 69-441, 1969-2 C.B. 115, granted 501(c)(3) status to an organization with two functions: it educated the public on personal money management, using films, speakers, and publications, and provided individual counseling to "low-income individuals and families." As part of its counseling, it established budget plans, i.e., debt management plans, for some of its clients. The debt management services were provided without charge. The organization was supported by contributions primarily from creditors. By virtue of aiding low income people, without charge, as well as providing education to the public, the organization qualified for section 501(c)(3) status.

In the case of Consumer Credit Counseling Service of Alabama, Inc. v. U.S., 44 A.F.T.R.2d 78-5052 (D.D.C. 1978), the District Court for the District of Columbia held that a credit counseling organization qualified as charitable and educational under section 501(c)(3). It fulfilled charitable purposes by educating the public on subjects useful to the individual and beneficial to the community. Treas. Reg. § 1.501(c)(3)-1(d)(3)(i)(b). For this, it charged no fee. The court found that the counseling programs were also educational and charitable; the debt management and creditor intercession activities were "an integral part" of the agencies' counseling function and thus were charitable and educational. Even if this were not the case, the court viewed the debt management and creditor intercession activities as incidental to the agencies' principal functions, as only approximately 12 percent of the counselors' time was applied to debt management programs and the charge for the service was "nominal." The court also considered the facts that the agency was publicly supported and that it had a board dominated by members of the general public as factors indicating a charitable operation. See also, CO-1 of Oklahoma, Inc. v. United States, 79-2 U.S.T.C. 9468 (D.D.C. 1979), in which the facts and legal analysis were virtually identical to those in Consumer CO-1 of Alabama, Inc. v. United States, discussed immediately above.

The organizations included in the above decision waived the monthly fees when the payments would work a financial hardship. The professional counselors employed by the organizations spent about 88 percent of their time in activities such as information dissemination and counseling assistance rather than those connected with the debt management programs. The primary sources of revenue for these organizations were provided by government and private foundation grants, contributions, and assistance from labor agencies and United Way.

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b>		<b>Year/Period Ended</b>
<b>ORG,</b>		<b>12/31/20XX</b>

**LEGEND**

ORG = Organization name      XX = Date      EIN = EIN      XYZ = State  
CO-1 = 1<sup>st</sup> company  
President = President      Vice President = Vice president      Secretary = Secretary  
Treasurer = Treasurer      Director = Director      CEO = CEO  
Board Member = Board Member      Board Member 1 = board member

Outside the context of credit counseling, individual counseling has, in a number of instances, been held to be a tax-exempt charitable activity. Rev. Rul. 78-99, 1978-1 C.B. 152 (free individual and group counseling of widows); Rev. Rul. 76-205, 1976-1 C.B. 154 (free counseling and English instruction for immigrants); Rev. Rul. 73-569, 1973-2 C.B. 179 (free counseling to pregnant women); Rev. Rul. 70-590, 1970-2 C.B. 116 (clinic to help users of mind-altering drugs); Rev. Rul. 70-640, 1970-2 C.B. 117 (free marriage counseling); Rev. Rul. 68-71, 1968-1 C.B.249 (career planning education through free vocational counseling and publications sold at a nominal charge). Overwhelmingly, the counseling activities described in these rulings were provided free, and the organizations were supported by contributions from the public.

Internal Revenue Code section 501(c)(3) specifies that an exempt organization described therein is one in which “no part of the net of earnings inures to the benefit of any private shareholder or individual.” The words “private shareholder or individual” in section 501 refer to persons having a personal and private interest in the activities of the organization. Treas. Reg. Section 1.501(a)-1(c). The inurement prohibition provision “is designed to prevent the siphoning of charitable receipts to insiders of the charity...” United Cancer Council v. Commissioner, 165 F.3d 1173 (7<sup>th</sup> Cir. 19XX). Reasonable compensation does not constitute inurement. Birmingham Business College v. Commissioner, 276 F.2d 476, 480 (5<sup>th</sup> Cir. 1960).

Where an organization provided a source of credit to companies of which a private shareholder was either an employee or an owner, the court found that a portion of the organization’s net earnings inured to the benefit of that private shareholder. Easter House v. United States, 12 Cl. Ct. 476 (1987). That such loans were made showed that the companies controlled by the private shareholder had a “source of loan credit” in the organization.

In Revenue Ruling 98-15, the Service ruled that an important factor in evaluating joint ventures between exempt organizations and for-profit entities is the degree of control retained by the exempt entity in operating the joint venture.

**Taxpayer’s Position:**

ORG’s position has not been determined.

**Government’s Position:**

The Service contends that ORG has a more than insubstantial nonexempt purpose. ORG provides its DMP service as the only activity. In addition, the net earnings of ORG had inured to

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b>		<b>Year/Period Ended</b>
<b>ORG,</b>		<b>12/31/20XX</b>

LEGEND

ORG = Organization name      XX = Date      EIN = EIN      XYZ = State  
CO-1 = 1<sup>st</sup> company  
President = President      Vice President = Vice president      Secretary =  
Secretary      Treasurer = Treasurer      Director = Director      CEO = CEO  
Board Member = Board Member      Board Member 1 = board member

and to individuals which ORG did not demonstrate they were for exempt function purpose. Therefore, its exemption status should be revoked.

ORG's total source of funding was from fair share contributions. ORG did not receive any private or governmental grants for the year under examination. ORG had completely relied on the creditors' fair share and client service fees for its operation.

The contribution amounts solicited from the DMP clients are not charitable gifts or donations. They are fees for services and ORG may have misled its clients into claiming contribution deductions in which they are not entitled to.

From the 18 calls that the revenue agent sat and listened to that were initial contacts to ORG, the counselors asked financial information to determine whether the individual qualified for DMP. There were no lengthy discussions between the counselors and the potential clients about their education, their employment situations, buying habits, and any significant changes in earnings and expenditures and reasons for the changes. Also, there were no discussions on different options, or recommendations, their advantages and disadvantages. The counselors did not utilize any list for referral agencies which they could refer the potential clients for appropriate support services. Upon completion of their \_\_\_\_\_, the counselors did not receive any ongoing training sessions that were documented in their files. There were no performance evaluations on them or evidences showing they continuously receive training on how to develop options and recommendations for the incoming callers. There was no evidence or plan for the development of skills for the counselors to identify underlying personal problems of the callers so they can make appropriate referrals for the callers.

The main page of ORG's website emphasized \_\_\_\_\_, Stop late and over-limit fees, Stop creditor calls, Consolidate all your debts into one affordable payment and DMP is the main option. There was nothing mentioned about educational counseling service or other referral agencies that an individual can go to for assistance. Even though ORG has one page called " \_\_\_\_\_ " and pamphlets and flyers to give out, ORG has no tracking system showing who actually utilizes access to this information. The website is mainly emphasized on the DMP service that ORG provides.

**Conclusion:**

In summary, ORG has not established that it is operated exclusively for tax exempt purpose since it did not engage primarily in activities that accomplish an exempt purpose. More than an

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b>  <b>ORG,</b>		<b>Year/Period Ended</b>  <b>12/31/20XX</b>

LEGEND

ORG = Organization name      XX = Date      EIN = EIN      XYZ = State  
CO-1 = 1<sup>st</sup> company  
President = President      Vice President = Vice president      Secretary =  
Secretary      Treasurer = Treasurer      Director = Director      CEO = CEO  
Board Member = Board Member      Board Member 1 = board member

insubstantial part of ORG's activities are in furtherance of a non-exempt purpose and a part of ORG's net earnings inured to benefit a few private individuals. Accordingly, it is determined that ORG is not an organization described in section 501(c)(3) effective January 1, 20XX.

According to the Internal Revenue Manual Section 4.75.12.9, the Service will expand the examination into the 20XX year and 20XX year Form 990 returns. The following are estimated tax computations based on the available records that the Service obtained:

	20XX year	20XX year
Total revenue	\$	\$
Total expenses		
Net income		
Total Taxes Due		

For the 20XX year, since ORG had an extension until August 15, 20XX for the filing, the Service has not compute the estimate tax due for that year.