

Tax Court 400 Second Street, NW Washington, DC 20217

You also have the right to contact the Office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access you tax information and can help you get answers. You can call 1-877-777-4778, and ask for the Taxpayer Advocate assistance or you can contact the Advocate from the site where this issue was determined by writing to:

Taxpayer Advocate assistance cannot be used as substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determination, nor extend the time fixed by law that you have to file a petition in Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

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

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

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

Sincerely,

Marsha Ramirez
Director, EO Examinations

Enclosures:
Publication 892



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
Internal Revenue Service
1100 Commerce Street
Dallas, TX 75242

August 7, 2007

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.

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 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit Exhibit 1-4
Name of taxpayer ORG	Tax Identification Number	Year/Period ended 12/31/20XX

LEGEND

ORG = Organization name XX = Date President = president City = city
 Co-1 = 1st company CO-2 = 2nd company Agent = agent XYZ = State
 Housing = housing address = address

Issues

Does ORG, an organization recognized as exempt under section 501(c)(3) of the Internal Revenue Code (Code), continue to qualify for exemption where the funds of the organization are used for private purposes?

Facts

ORG was incorporated in the State of XYZ on May 15, 19XX as a nonprofit public benefit corporation. President is the incorporator and a board member of ORG. The determination letter was issued to the organization as a 501(c)(3) organization by the City Office dated October 21, 19XX.

President had control of the daily operations of ORG.

The following facts are excerpts from the documents noted below.

A. Activities:

In the Part II of Form 1023, it stated that ORG's primary exempt activities are:

- Mentorship: Acting as role models for the children
- Job Search: Finding jobs for the children both by going to state agencies and to private agencies, and word of mouth. Teaches the children respect for themselves and others.
- Extracurricular Activities Including Sports: taking the children to events and games to turn their attentions away from negative activities.
- Good Samaritens Program: Children assist in providing a variety of services for the community, i.e. assistance to the elderly and low-income with house painting, mowing lawns, making minor repairs, and more. The purpose is to teach the children about virtues and give them a sense of giving back to the community.
- Spiritual Guidance: Offers a means to measure a child's progress in the program, where they came from and where they have come to.

President stated in the letter dated on September 30, 20XX that "I stopped foster care in 20XX. I believe CO-1¹ was a Adult Drug & Alcohol Program I started in 20XX."

No application was sent to Internal Revenue Service for amending or expanding exempt activities for ORG.

B. Financial Activities:

No donations were received for ORG for the year 20XX.

¹ CO-1 was registered in State of XYZ under Assumed Business Name of ORG on May 6, 20XX. President was the officer of CO-1.

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The Employer Identification Number (EIN) of ORG was used by CO-1 and CO-2² for the year 20XX. No EIN was found in the Data Base of Internal Revenue Service for CO-1 or CO-2.

CO-2:

There were \$ in contributions made to CO-1 and \$ in contributions made to CO-2. Those contributions were deposited into the CO-2's _____ account #. The Tax Identification Number for CO-2's _____ account was. See the bank signature card of CO-2 at Exhibit 1.

President wrote checks to cash from the CO-2 account without any documentation or explanation. The checks written to cash totaled \$. See Exhibit 2 for detailed information regarding withdraws.

A check of \$ was issued on May 30, 20XX to U.S. Treasury by President. The check paid President's personal taxes, Form 1040, for the year 20XX. See Exhibit 2 for detailed information regarding the check.

CO-1:

There were \$ in contributions made to CO-1 that were deposited to CO-1's _____ account. In addition, \$ in unidentified contributions were deposited into CO-1's account. CO-1 and ORG shared a same _____ account. The Tax Identification Number for CO-1 and ORG's _____ account was. See the bank signature card for ORG and CO-1 at Exhibit 3.

President wrote checks to cash from the CO-1 account. No documentation or explanation was provided in response to interview or IDR. The checks written to cash totaled \$. See Exhibit 4 for detailed information regarding withdraws.

Expenditure Information of ORG was requested in Information Document Request 0001. President is currently in state prison and has no access to any records. Agent conducted an interview with President in Housing, _____, on November 1, 20XX. During the interview, agent asked President whether he kept any records for any of the expenses of ORG, CO-1, or CO-2. President replied that he did not remember if there was any recordkeeping for those three organizations. Also, if there were any records kept for those organizations, he did not know where those records would be now.

Agent informed President that she had copies of the bank statements and cancelled checks from ORG, CO-1, and CO-2. Bank statements and cancelled checks for ORG, CO-1, and CO-2 were included in the case referral information by Department of Justice of XYZ. Agent offered to bring the copies of these bank statements and cancelled checks to a second meeting with President so he would have an opportunity to provide an explanation regarding his questionable withdraws. President refused the requested second interview with Agent.

C. Meeting Minutes:

In the initial Information Document Request mailed on March 29, 20XX, the meeting minutes from January 1, 20XX through December 31, 20XX were requested. According to the president of ORG,

² CO-2 was registered in State of XYZ on June 25, 19XX as a religious organization. President was the pastor, registered agent, president and secretary for CO-2

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President, no meetings were held under the year of audit. President explained during the initial interview conducted on November 1, 20XX by Agent, that he was the only officer for ORG, CO-1, and CO-2 for the year 20XX through 20XX.

ORG has been administratively dissolved with the XYZ Secretary of State since July 16, 20XX.

CO-2 was incorporated as a religious corporation in XYZ but was administratively dissolved on August 27, 20XX. President was the pastor of this church.

President, who was the Executive Director, President, and Board Director of the ORG, has been incarcerated since fall 20XX in the XYZ state prison system for felony sex abuse convictions. He is currently lodged at Housing, address, city XYZ.

Law

Internal Revenue Code ("IRC") §501(c)(3) provides exemption from federal income tax to "Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office."

Treasury Regulation §1.501(c)(3)-1(c)(1) holds 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."

Treasury Regulation §1.501(c)(3)-1(c)(2) holds that "An organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals. The §1.501(a)-1(c) definition of "private shareholder or individuals" is that persons having a personal and private interest in the activities of the organization

Treasury Regulation §1.501(c)(3)-1(d)(ii) holds that "An organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (i) of this subparagraph 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 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."

The Tax Court held in *Bubbling Well Church of Universal Love, Inc. v. Commissioner of Internal Revenue*, 74 T.C. 531, that the administrative record does not establish that no part of petitioner's net earnings inure to the benefit of private individuals in violation of sec. 501(c)(3), I.R.C. 1954."

Government's Position

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It is the Government's Position that ORG did not meet the requirements of IRC §501(c)(3) and Reg. §1.501(c)(3)-1(c)(1) in that it did not operate exclusively for exempt purposes only and did not engage primarily in activities which accomplish one or more exempt purposes. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

It also did not operate exclusively for exempt purposes because it did not serve a public rather than a private interest (Reg. 1.501(c)(3)-1(d)(1)(ii)).

The website³ of CO-1 stated that CO-1 was an adult residential rehabilitation facility. President explained to Agent during the interview conducted on November 1, 20XX that CO-1 (CO-1) was part of CO-2's ministries.

The original application for ORG provided that the organization's primary activities were running a group home for trouble youth. There was no group home activity for ORG under the year of examination. This is based on the responses to the Information Document Request 0001 dated September 30, 20XX and initial examination interview conducted on November 1, 20XX.

Examination of bank records of ORG revealed that its' Employer Identification Number (EIN) and bank accounts were shared with CO-1, and CO-2.

President wrote checks to cash from ORG, CO-1, and CO-2. The checks written to cash totaled \$. In addition, President sent a cashier's check from the account to the United States Treasury in the amount of \$ to pay his personal income taxes, Form 1040, for the year 20XX. President refused to explain these questionable expenditures.

The total contributions made to CO-1 and CO-2 were \$ for the year 20XX. President wrote checks that constituted a substantial portion of the total deposits, \$, to cash. His refusal to provide explanations demonstrates that a substantial portion of net earnings of ORG House inured to the benefit of President.

The case of *Bubbling Well Church of Universal Love, Inc. v. Commissioner of Internal Revenue*, 74 T.C. 531 is like ORG . President, the president of ORG, cashed ORG's funds and he refused to provide explanations. It demonstrates that the administrative record of ORG does not establish that no part of its net earnings inure to the benefit of private individuals in violation of sec. 501(c)(3), I.R.C. 1954.

ORG and its President, President, failed to operate in accordance with IRC §501(c)(3) and Treas. Reg. 1.501(c)(3)-1(c)(1).

Treas. Reg. §1.501(c)(3)-1(c)(1) provides that an organization will not be regarded as charitable if more than an insubstantial part of its activities is not in furtherance of an exempt purpose..

Treasury Reg. §1.501(c)(3)-1(c)(2) holds that "An organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

³ CO-1 website () stated that "CO-1 was established June 20XX, by founder Pastor President of CO-2....", and "... This is why their was a need for a program such as CO-1 drug and alcohol treatment center for the adult men and women who deserve better...." The website was taken down in the year 20XX.

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The substantial portion of the funds donated to CO-1 d.b.a. ORG were deposited and subsequently were cashed by President for unknown purposes. Agent requested the income and expenditures documentation in the Information Documentation Request 0001. The response to Information Documentation Request 0001 dated on September 30, 20XX, President stated, "Being in prison inmate family have a tendency of staying out of contact with you, so what I am saying I do not know were my information is you are requesting, and I can not get in touch with family members who might know were all my belongings are...." Agent requested explanations regarding the organization's expenditures during the initial interview. President replied that he did not have access to the records. Agent explained to President that she has the bank statements and cancelled checks for ORG, CO-1, and CO-2. These bank statements and cancelled checks were provided by Department of Justice of XYZ. Agent offered to bring the copies of these bank statements and cancelled checks to a second meeting with President so he would have an opportunity to provide an explanation regarding these checks written to cash. President replied that "No. It is too stressful."

ORG is no longer in existence because the organization has been administratively dissolved with the XYZ Secretary of State since July 16, 20XX.

Based on the review of bank records, corporation records from the XYZ Secretary of State, and the interview with the organization's only officer, President, we concluded that ORG does not meet the "operational test" under IRC 501(c)(3). Therefore, revocation of the exempt status is proposed effective January 1, 20XX.

Exhibit 1
Exhibit 2
Exhibit 3
Exhibit 4