



DEPARTMENT OF THE TREASURY

Internal Revenue Service
TE/GE EO Examinations
1100 Commerce Street
Dallas, TX 75424

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

April 28, 2008

Number: **200837033**
Release Date: 9/12/2008

UIL: 501.03-01

LEGEND

ORG = Organization name XX = Date Address = address

ORG
ADDRESS

Person to Contact:
Identification Number:
Contact Telephone Number:
In Reply Refer to: TE/GE Review Staff
EIN:

LAST DATE FOR FILING A PETITION
WITH THE TAX COURT: July 28, 20XX

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear :

This is a Final Adverse Determination Letter as to your exempt status under section 501(c)(3) of the Internal Revenue Code. Your exemption from Federal income tax under section 501(c)(3) of the code is hereby revoked effective January 1, 20XX. You have agreed to this adverse determination, per signed Form 6018, on January 9, 20XX.

Our adverse determination was made for the following reasons:

Organizations described in I.R.C. section 501(c)(3) and exempt under section 501(a) must be organized and operated exclusively for an exempt purposes. You have provided incomplete information regarding your receipts, expenditures, and activities. You further operated an unregistered activity through the sale of donated cars. The ORG is not a charitable organization within the meaning of Treasury Regulations section 1.501(c)(3)-1(d). You have not established that you have operated exclusively for an exempt purpose.

You failed to meet the requirements of IRC section 501(c)(3) and Treas. Reg. section 1.501(c)(3)-1(d) in that you failed to establish that you were operated exclusively for an exempt purpose. Rather, you were operated for the benefit of private interests and a part of your net earnings inured to the benefit of your members.

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code. You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the year ending December 31, 20XX, and for all years thereafter.

Processing of income tax returns and assessment of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination in court, you must initiate a suit for declaratory judgment in the United States Tax Court, the United States Claim Court or the District Court of the United States for the District of Columbia before the 91st day after the date this determination was mailed to you. Contact the clerk of the appropriate court for the rules for initiating suits for declaratory judgment.

You also have the right to contact the office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers. You can call and ask for Taxpayer Advocate assistance. Or you can contact the Taxpayer Advocate from the site where the tax deficiency was determined by calling: Or you can contact the Taxpayer Advocate nearest you by calling: or writing to: Internal Revenue Service, Office of Taxpayer Advocate.

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

We will notify the appropriate State Officials of this action, as required by section 6104(c) of the Internal Revenue Code.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

Marsha A. Ramirez
Director, EO Examinations



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service
TE/GE: E/O Examinations
1100 Commerce Street
Dallas TX 75242

January 25, 2008

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 A. Ramirez
Director, E/O Examinations

Enclosures:
Publications 892; 3498
Form 6018; Form 886A
Report Of Examination

Form 886-A	EXPLANATION OF ITEMS	Schedule or Exhibit No.
Name of Taxpayer: ORG		Years Ended 20XX

LEGEND

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 President = President Officer, Officer-1, Officer-2 = Officers POA = POA

ISSUES

- 1) Whether ORG's (ORG) exempt status under Internal Revenue Code (IRC) § 501(c)(3) should be revoked because it has not established that it qualifies for tax exempt status and that it is operated exclusively for tax exempt purposes.
- 2) Whether ORG has failed to substantiate information material to determine whether the organization is entitled to continue as an exempt organization and is not operating in a manner that benefits designated individuals or other persons connected to the organization.

FACTS

Organizing Documents:

- EO did not have a copy of its Application for Exemption available for inspection by the general public as required by IRC 6104.
- EO did not have its Determination Letter available for inspection by the general public as required by IRC 6104.
- IRS computer records shows the EO filed for exemption and/or received its determination letter in December 19XX. There is no administrative record.
- EO provided XYZ Articles of Incorporation dated March 5, 20XX and stated it was not incorporated in the XYZ.

Articles of Incorporation:

ORG's articles of incorporation were filed with XYZ's Secretary of State on May 5, 20XX, #

General Purpose:

ORG is a nonprofit XYZ Corporation organized solely for educational, religious, scientific, and general charitable and eleemosynary purposes.

- a) as provided in § 81.290(1)(b) of the XYZ revised Statutes as amended and
- b) within the meaning of § 170 and 501(c)(3) of the Internal Revenue Code of 1954, as amended (herein the "Code") and any acts amendatory thereto.

Specific Purpose:

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- To correspond with folks who are incarcerated and to help them stay in contact with their family and friends on the outside by sending them and their families writing materials, greeting cards, and stamps so they know they have not been forgotten.
- To provide probation counseling, resume counseling, resume preparation, and job counseling upon request.
- To assist folks by getting limited legal advice and pointing them in the right direction so they can resolve their own legal difficulties.
- To advance and promote knowledge of the prevailing state and prison systems to members of the public and to seek alternate sentencing for non-violent drug offenses and all non-violent crimes.
- To provide assistance to persons being released from prison that they may learn to become self sufficient, self supporting and self reliant, and avoid recidivism.
- To promote and facilitate education of members of the general public with regard to the problems of incarcerated and formerly incarcerated persons.
- To coordinate and cooperate with other individuals and entities having purposes similar to this Foundation and seeking to assist incarcerated persons and formerly incarcerated persons.
- To assist in the assertion of legal rights of incarcerated and formerly incarcerated persons to the extent permitted under the laws of the XYZ.

Officers/Incorporators:

Incorporators, Relationship per Articles:

Officer
 Officer-2, spouse of President
 Officer-3, daughter of President & Officer-2
 President was not listed as an original incorporator & did not sign the articles.

Officers, Relationship per Form 990, Annual Information Return:

President, President
 Officer, Vice President
 Officer-2, Secretary/Treasurer, spouse of President

Board Minutes:

- There were no minutes.

Activities

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Overview:

On its Form 990EZ, Part IV, "Reason for Non-Profit Foundation Status" Line 5 was checked. Line 5 states the organization is a church, convention of churches, or association of churches exempted under section 170(b)(1)(A)(i). Officer-2, secretary/treasurer and director was not certain about why the organization was classified as a church but said the organization was not a church. President was responsible for all information reported on Form 990EZ and for its timely filing. The computer used to record the organizations transactions was stolen in July 20XX from their offices located at Address. The organization did not make backup copies of its computer records. Officer-2 stated that a police report was filed but did not provide a copy of the requested police report. ORG was not able to provide hard copy accounting records, vendor invoices, or vendor statements, etc. because it did not maintain or retain hard copy documentation. The organization did, however, provide bank statements with copies of cancelled checks for its donation program's operating account and an incomplete spread sheet for its monthly expenses prepared by Officer-2. Personal living expenses for ORG managers, President & Officer-2, were paid directly from the vehicle program's operating account. Personal living expenses, identified by Officer-2, included payments for their home mortgage, household utilities, personal loans, credit cards, and telephones, etc. ORG filed Form 990EZ in tax year 20XX. The Form was signed by Mr. President, president. In tax years 20XX - 20XX, ORG filed Forms 990 EZ. The forms were signed by Officer-2, secretary. The organization shows no Form 990/990EZ filings prior to tax year 20XX. ORG's 20XX tax year Form 990EZ is under audit.

Form 990, Part III, Program Service Accomplishments state:

In 20XX:

- Prison Ministry and all related services to approximately 200 prisoners and their families, \$.
- Senior Citizens Ministry aid including but not limited to religious counseling. Approximately 75 people and their families benefited from our services, \$.
- Homeless Ministry aid including but not limited to religious counseling. Approximately 175 people benefited from our services, \$.

In 20XX:

- Prison Ministry and all related services to approximately 200 prisoners and their families, \$.

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- Senior Citizens Ministry aid including but not limited to religious counseling. Approximately 100 people and their families benefited from our services, \$.
- Homeless Ministry aid including but not limited to religious counseling. Approximately 200 people benefited from our services, \$.

In 20XX:

- Prison Ministry and all related services to approximately 3,000 prisoners and their families, \$.
- Senior Citizens Ministry aid including but not limited to religious counseling. Approximately 300 people and their families benefited from our services, \$.
- Homeless Ministry aid including but not limited to religious counseling. Approximately 400 people benefited from our services, \$.

In 20XX, the audited year:

- Prison Ministry and all related services to approximately 3,000 prisoners and their families, \$.
- Senior Citizens Ministry aid including but not limited to religious counseling. Approximately 300 people and their families benefited from our services, \$.
- Homeless Ministry aid including but not limited to religious counseling. Approximately 400 people benefited from our services, \$.

Initial Interview:

On July 6, 20XX our initial interview began at President & Officer-2's personal residence located at Address. Present were Officer-2, secretary/treasurer, Mr. President, president, and POA and organization attorney. President was in a wheelchair because he has been recovering from a stroke suffered in December 20XX. Officer-2 stated past charitable activities consisted of ministering to prisoners and their families. Assistance was made in the form of writing materials, envelopes and stamps for postage. The ministry was funded by President & Officer-2, but personal commitments prevented its continued support unless additional funding was found. During 20XX Officer-2 said needy people were given cash to pay for rent or electric/telephone bills. There were no paper trails for monies disbursed.

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Officer-2 stated the vehicle donation program was created to raise monies to support and to continue its prison ministry. Once the vehicle donation program became operational, the time and manpower commitments required to continue its operation was greater than originally anticipated. In 20XX, the organization's only activity was exclusively operating its car donation program. Program revenues were used exclusively to pay car donation program operating expenses, wages, President & Officer-2's personal living expenses, and other costs of doing business.

Books and records consisted of an incomplete spreadsheet of expenses prepared by Officer-2 and the vehicle donation program's operating bank account records including cancelled checks. All checks were signed by either Mr. President or Officer-2.

Form 990-EZ reported Revenue, Expenses & Net Assets as follows:

Revenue	20XX	20XX	20XX	20XX
Contributions, Grants & Gifts				
Total Revenue				
Expense				
Member Benefit				
Salary/Other Compensation				
Prof Fees/Indep Contr Payments				
Occup/Utilities				
Printing/Pubs & Postage				
Bad Debt				
Total Expenses				
Excess(Deficit)				
Beg Of Year Net Fund/Asset Bal				
Other Changes				
Beg Of Year Net Fund/Asset Bal				

**Form 990EZ
Balance Sheet**

Tax Year	20XX		20XX		20XX		20XX	
	BOY	EOY	BOY	EOY	BOY	EOY	BOY	EOY
Cash, Savings, Investments								
Total Assets								
Total Liabilities								
Net Fund Balance								

Activities per Audit:

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ORG operated a car donation program in the XYZ, offices were located at:

Address

Lot Sites:

Address

Address

State Requirements:

The XYZ Office of the Attorney General, Registry of Charitable Trusts require organizations operating a charitable fundraising program in the XYZ to register with the state by completing a "Notice of Intent to Solicit" for charitable purposes prior to commencing fundraising activities. Officer-2 stated at our initial interview ORG was registered with the XYZ and a copy of their registration statement would be provided to us. To date a copy of their registration statement has not been provided.

Books & Records:

Officer-2 confirmed disbursements made from ORG's operating bank account were used to pay for President & Officer-2's personal living expenses. Disbursements included payments for their home mortgage, household utilities, telephones, personal loans, and credit cards, etc.

Officer-2 acknowledges that ORG's books and records were not adequately maintained and that funds were co-mingled. Her expertise was not accounting and a more hands-on approach was needed but that funding was not available to pay for a bookkeeper/accountant. Officer-2 also stated that personal living expenses for President & Officer-2 should not have been paid directly from ORG's operating account. No other explanation was given.

In mid-year 20XX, Officer-2 further stated the organization's computer containing all the operating data, (program details, invoices, cash disbursements and cash receipts journals, balance sheet and income statement information etc) was stolen. Backups were not made and there was no supporting hard copy documentation in which to rebuild the files. A police report was filed reporting the theft; a copy of the police report was requested at the time of our initial interview. A copy of the police report has not been provided by ORG.

ORG's 20XX Form 990EZ revenues reported were \$ and \$ in expenses. Conversely, deposits made to the operating account totaled \$ for the period January 1, 20XX – December 22, 20XX. Disbursements for the same period totaled \$. Officer-2's only explanation for the differences reported on Form 990EZ and actual

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bank records was that her husband kept all the figures in his head and made yearly estimates for the organization's Form 990EZ's revenues and expenses. The organization's 20XX Form 990EZ shows a (\$) deficit reported on line 18. As noted in the table below, deposits actually exceed disbursements by \$. Furthermore, the organization's business savings account carried a net ending balance of \$ at December 31, 20XX. Total excess for the year amounted to \$. Form 990EZ for 20XX reported end of year assets of \$. ORG's (restated) end of year assets should be \$.

Tax Year 20XX
Car Donation Program Operating Bank Account
Spreadsheet of Monthly Deposits and Disbursements

Month	Deposits	Withdrawals	Balance
January (adj for 20XX (dep&disb))			
February			
March			
April			
May			
June			
July			
August			
September			
October			
November			
December			
Totals			

Salaries & Related Expense:

In 20XX, Form 990EZ, Line 12, reported \$ paid in salaries, other compensation and employee benefits. Payroll taxes were not withheld, w-2s, and Forms 941 were not filed with the Social Security Administration and the Internal Revenue Service respectively. An examination of checks disbursed and in follow/up discussions with Officer-2 we found that actual wages paid amounted to \$ in the calendar year. ORG is not subject to federal unemployment (Futa) tax because it is a 501(c)(3) organization.

ORG was not able to provide any credit card statements including individual receipts supporting amounts disbursed from its car donation operating account. In January 20XX, bank records disclose approximately \$ was disbursed to credit card providers.

Vehicle Donation Program:

The organization received donated cars etc, stored, refurbished, and sold to individuals from company lots, substantially all transactions were cash. The bill of sale document at the top reads: "Condition of Sale---As

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Is---Parts Only: ORG determined whether the car donation had value or should be "junked."¹ It's unclear if money was paid in exchange for cars processed. Records, if any, were not available. The junked car files reviewed did not indicate the presence of financial transactions.

We reviewed one hundred and eight (108) individual vehicle donation files and records. We found:

- No qualified appraisals for vehicles worth \$ or more.
- No donor acknowledgement after vehicle was sold.
- No report of required information to the Internal Revenue Service using their own statement or Copy A, Form 1098C
- No signed contracts between towing service or auto dismantlers.
- No numbered forms were used when donated vehicles were picked up by towing service.

American Jobs Creation Act of 2004:

Compliance Requirements:

New rules affecting charities receiving property donations in the form of cars, boats and aircraft became effective after December 31, 20XX. Charities operating a vehicle donation program where a donated vehicle sale exceeds \$ are required to provide in addition to the information required for all acknowledgements, a contemporaneous acknowledgement sent to the donor within 30 days from the date of the vehicles sale. The acknowledgement must include:

- A statement certifying that the vehicle was sold in an arm's length transaction between unrelated parties.
- The date the vehicle was sold.
- The gross proceeds received from the sale and
- A statement that the donor's deduction may not exceed the gross proceeds from the sale.

Of 108 sold vehicle donation program files reviewed, approximately 74 files involved car sales in excess of \$. There were 4 files where car donations had no value and the cars were junked. There were 2 files where cars were gifted. The combined gift values equaled \$. 28 files included cars sold for \$ or less. In "no instances" did the reviewed files show ORG compliant with new rules prescribed by the American Jobs Creation Act of 2004. The organization failed in every instance to send the appropriate donor acknowledgement with the required information described above. In no instances did the files include a

¹ _____, and _____ processed the organizations junked cars.

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qualified appraisal when the vehicle's retail value equaled or exceeded \$. The organization also failed to file required information with the Internal Revenue Service on its own statement or Copy A, Form 1098C.²

The operating bank account records provided by Officer-2 shows that the proceeds from vehicle sales were used exclusively to fund ORG's "fundraising activities" and for the "personal expenses" of its foundation managers. The organization was not able to provide any general ledger accounting records or other documentation supporting its cash receipts for 20XX. Manual records supporting its cash sales were also missing.

EO's Charitable Activities:

Contrary to statements made in its Form 990EZ's, program service accomplishments, disbursing \$ for its charitable programs, our review of ORG's 20XX bank statements and cancelled checks, could not substantiate any activities in furtherance of its exempt purposes.

Related Entities

- There were no related entities

LAW

IRC section 501(c)(3) exempts from federal income tax organizations organized and operated exclusively for charitable, educational, and other exempt purposes, provided that no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

Treasury Regulation section 1.501(c)(3)-1(a)(1) provides that in order to be exempt as an organization described in section 501(c)(3) of the Code, the organization must be one that is both organized and operated exclusively for one or more of the purposes specified in that section.

Treasury Regulation section 1.501(c)(3)-1(c)(1) provides 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.

²When reporting donor acknowledgements mailed after December 31, to the Internal Revenue Service the charity must use Copy A, Form 1098C. The due date for filing Form 1098C is February 28 (March 31 if filing electronically) of the year following the year the charity provides written acknowledgement to the donor.

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Treasury Regulation section 1.501(c)(3)-1(c)(2) provides 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 words "private shareholder or individual" refer to persons having a personal and private interest in the activities of the organization. The term "Private shareholder or individual" is defined in regulation section 1.501(a)-1(c).

Treasury Regulation section 1.501(c)(3)-1(d)(1)(ii) provides an organization is not organized or operated exclusively for one or more exempt purposes 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 the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

IRC section 6001 provides that every person liable for any tax imposed by the Code, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

Treasury Regulation section 1.6001-1(a) in conjunction with section 1.6001-1(c) provides that every organization exempt from tax under section 501(a) of the Code and subject to the tax imposed by section 511 on its unrelated business income must keep such permanent books or accounts or records, including inventories, as are sufficient to establish the amount of gross income, deduction, credits, or other matters required to be shown by such person in any return of such tax. Such organization shall also keep such books and records as are required to substantiate the information required by section 6033.

Treasury Regulation section 1.6001-1(e) of the regulations states that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.

IRC section 6033(a)(1) provides, except as provided in section 6033(a)(2), every organization exempt from tax under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

The presence of a single substantial nonexempt purpose can destroy the exemption regardless of the number or importance of exempt purposes. *Better Business Bureau v. United States*, 326 U.S. 279, 283, 90 L. Ed. 67, 66 S. Ct. 112 (1945); *American Campaign Academy v. Commissioner*, 92 T.C. 1053, 1065

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(1989); see also *Old Dominion Box Co., Inc. v. United States*, 477 F2d. 340 (4th Cir. 1973) (“operating for the benefit of private parties who are not members of a charitable class constitutes a substantial nonexempt purpose”). When an organization operates for the benefit of private interests, such as designated individuals, the creator or his family, or persons directly or indirectly controlled by such private interests, the organization by definition does not operate exclusively for exempt purposes. *American Campaign Academy v. Commissioner*, supra at 1065-66.

Revenue Ruling 68-489, 1998-2 CB 210 held that an organization will not jeopardize its exemption under section 501(c)(3) of the Code, even though it distributes funds to nonexempt organizations, provided it retains control and discretion over use of the funds and maintains records establishing that the funds were used for section 501(c)(3) purposes.

GOVERNMENT POSTION

The law requires that an organization claiming exemption under IRC § 501(c)(3) also be operated exclusively for prescribed exempt purposes. Under the operational test an organization is regarded as operated “exclusively for” exempt purposes only if it engages primarily in activities that accomplish one or more exempt purposes. ORG must establish that it is organized and operated exclusively for exempt purposes in order to qualify for tax-exempt status under IRC § 501(c)(3). In this context, the term “operated exclusively for exempt purposes” is interpreted as “engaged primarily in activities” in furtherance of one or more of the organization’s exempt purposes. This is known as the primary purpose doctrine.

Substantially all of ORG activity in 20XX was operating a vehicle donation program. Interviews with the organization’s secretary/treasurer and director, Officer-2 and a detailed review of the organization’s operating banking records, including cancelled checks, discloses ORG did not engage in any charitable activity in furtherance of their exempt purposes in the audited year. Operating a vehicle donation program as a fundraiser is not a charitable activity.

An organization will lose its tax exempt status if any part of the organization’s net earnings inure to the benefit of any private shareholder or individual. The term “private shareholder or individual” refers to persons having a personal and private interest in the activities of the organization. President & Officer-2, both officers and one of its original incorporators commingled funds. Disbursing amounts to pay for their personal living expenses from the vehicle program’s operating account.

Failure to provide relevant information is a sufficient basis for both the Service and the courts to refuse to recognize an organization as exempt. This reduces the possibility that an organization may retreat into claims of ignorance about its own operations. Simply stated, the organization must establish the factual basis for its exemption. ORG failed to establish that it is operated in accordance with IRC § 501(c)(3). Based on these facts, ORG’s 501(c)(3) exempt status should be revoked.

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TAXPAYERS POSITION

Officer-2, sec/treas and director agrees ORG was not in compliance with existing IRC § 501(c)(3). The organization's recordkeeping methods were substandard; internal controls were minimal at best; and a more professional hand-on approach was required in the accounting department. Officer-2 acknowledges their (President & Officer-2) personal living expenses were disbursed as needs required from the donation program's operating checking account. Officer-2 recommended hiring a professional accountant on several occasions. Her recommendations were never implemented.

CONCLUSION

Based on the facts presented above, ORG has not established that it primarily engages in activities that accomplish exempt purposes. Moreover an organization that serves private interests more than incidentally fails to qualify as an organization exempted from federal income tax under IRC § section 501(c)(3). The proposed revocation of ORG's tax exempt status is effective beginning January 1, 20XX.

Form 1120 U.S. Income Tax Return should be filed for tax years ending December 31, 20XX and 20XX. Subsequent returns are due no later than the 15th day of the 3rd month after the end of its tax year. Returns should be sent to the following mailing address:

Internal Revenue Service