



TAX-EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
TE/GE - EO Mandatory Review
1100 Commerce Street, MC 4920-DAL
Dallas, TX 75242

Release Number: **2008400051**

Release Date: 10/3/08

UIL Code = 501.03-01

Legend

ORG = Organization name

Date: June 26, 2008

ORG

ADDRESS

XX = Date

Address = address

Employer Identification Number:

Person to Contact:

Identification Number:

Contact Telephone Number:

In Reply Refer To:

TE/GE Review Staff

**LAST DAY FOR FILING A
PETITION WITH TAX COURT:**

September 24, 20XX

CERTIFIED MAIL - Return Receipt Requested

Dear

This is a final revocation letter as to your exempt status under section 501(c)(3) of the Internal Revenue Code (IRC). The Internal Revenue Service's (IRS) recognition of your organization as an entity described in section 501(c)(3) is hereby revoked effective January 1, 20XX.

We have made this determination for the following reasons:

ORG has not demonstrated that you are operated exclusively for exempt purposes within the meaning of IRC section 501(c)(3). You failed to comply with the conditions of your exemption in that you did not file all required Forms 990 or respond to repeated reasonable requests to allow the IRS to examine your books, records, and activities. You have provided no information showing that you conduct a real and substantial charitable program.

As such, you failed to meet the requirements of IRC section 501(c)(3) and Treasury Reg. section 1.501(c)(3)-1(d) in that you failed to establish that you were operated exclusively for an exempt purpose.

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code.

You are required to file Federal income tax return Form 1120. These returns should be filed with the appropriate Internal Revenue Campus 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 exempt status was determined by calling faxing or writing to: Internal Revenue Service, Taxpayer Advocates Office.

Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals process, 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,

Marsha A. Ramirez
Director, EO Examinations

EXPLANATIONS OF ITEMS

Schedule number or exhibit

Name of taxpayer

Tax Identification Number

Year/Period ended
20XX12 20XX12, 20XX12

ORG

LEGEND

ORG = Organization name
President-2 = 2nd president
XX = Date
XYZ = State
EMP-1, EMP-2 = 1st & 2nd employees
President = President

Issue:

Whether ORG qualifies for exemption under Section 501(c)(3) of the Internal Revenue Code.

Facts:

ORG (ORG) was incorporated as a non-profit corporation under XYZ law on July 29, 19XX. It is unclear, from a review of the administrative file, when ORG received its exempt status under IRC § 501(c)(3). ORG operates a community-based halfway house for chemically dependent male and female adults, providing programming which is culturally specific to traditional Ways. There are three basic services provided: a chemical dependency treatment program, a cultural program and room and board services. The chemical dependency services are based upon the Alcoholics Anonymous 12-step program and include individual counseling, lectures, group therapy, family groups, after-care group therapy and appropriate referrals and follow-up services. The cultural program is based on the traditional ceremonies of custom. The focus of the program is to provide support to residents in the recovery of personal integrity and values. Room and board services are offered to up to thirty-two men and women who are referred by City assessors for, typically, a 75 day period of treatment. Full dining room services are provided for the residents.

ORG filed the Form 990, Return of Organization Exempt from Income Tax, for the 20XX and 20XX taxable years. It reported total revenues in the amounts of \$ and \$ for 20XX and 20XX, respectively. Based upon ORG's filing history, there is a presumption that it would have been required to file Forms 990 for subsequent years. ORG, however, did not file the Form 990 for years subsequent to 20XX. A review of ORG's Employment tax filings indicate that the Form 941, Employer's Quarterly Federal Tax Return, for the four quarters filed relating to tax year 20XX12 totaled \$. A review of Form W-3, Transmittal of Wage and Tax Statements for the 20XX12 and 20XX12 tax years totaled \$ and \$ respectively. In addition, Form 1099-MISC - Miscellaneous Income was filed for 20XX12 totaling \$. In all three years the amounts paid in compensation exceeds \$ and indicates a filing requirement for F990.

Due to the organization's failure to respond to the Compliance Check that requested filing of tax returns for 20XX12, 20XX12, 20XX12 an examination was opened for consideration of the qualification for tax exempt status. On May 9, 20XX Letter 4055 was sent to the organization along with F4564, Information Document Request, asking for a copy of the organizational documents, receipts ledger showing sources of revenue received and a statement of the activities conducted during the examination years. Also attached was Publication 1 and a copy of the Compliance Check Correspondence Letter 3887 dated Oct 21, 20XX, certified receipts signed by EMP-1 dated Dec 19, 20XX and Letter 2408 dated Dec 12, 20XX. Both Compliance Check

EXPLANATIONS OF ITEMS

Schedule number or exhibit

Name of taxpayer

Tax Identification Number

Year/Period ended
20XX12, 20XX12, 20XX12

ORG

Letters also included Pub 4386 and EOCU Attachment #1. Both Compliance Check letters asked for filing of the delinquent return for the 20XX year only. The initial examination letter L4055 requested the records necessary to establish if the organization continued to qualify for tax exempt status for the years 20XX, 20XX and 20XX.

Phone contact was made, by the tax examiner, with the organization President, President's receptionist who stated she would have President call the tax examiner back. Additional calls were placed on April 10, 20XX, April 11, 20XX and April 13, 20XX. On April 13, 20XX, the tax examiner secured President's cell phone number, called him and was successful in contacting him. President explained that he had just received the "information" from the accountant and that he would mail the documents to the tax examiner that day. The requested documents were never received. The case was then transferred to a revenue agent to open an examination to continue to request returns along with books and records.

The revenue agent then called the organization and talked to EMP-2 who was a counselor with no POA or ability to bind the organization. EMP-2 took the revenue agent's name, badge number and contact information and said he would have President call back the next day. The revenue agent also called the cell phone for President but only received voice messaging. She left her name, badge number and contact information for President to call her back. No response was ever received.

The agent then sent a proposed 30 day letter to the current President, President-2, at the address shown on the record from the XYZ Secretary of State. There was no response to that letter.

Exhibit A provides copies of the Internal Revenue Service correspondence to Exempt Organization (EO) requesting that Exempt Organization file the Form 990 for the tax periods ending December 31, 20XX.

Summary of Exhibit A

Contact Type	Correspondence Sent	Date Sent	Certified Mail? Y/N	Receipt Signed? Y/N	EO Advised returns would be filed?
Letter 3887	Initial Compliance Check letter	10/21/XX	N		N
Letter 2408	Compliance Check Follow up letter	12/09/XX	Y	Y	N
Receipt	Certified mail receipt for Compliance Check follow up letter 2408	12/19/XX	Y	Y	

EXPLANATIONS OF ITEMS

Name of taxpayer ORG	Tax Identification Number	Year Period ended 20XX12, 20XX12, 20XX12
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ORG failed to respond to the Internal Revenue Service correspondence or file the Forms 990 for the tax period ending December 31, 20XX, therefore, the subsequent un-filed tax years of 20XX12 and 20XX12 were included in the examination.

Law:

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

Treas. Reg. § 1.6001-1(a) in conjunction with **Treas. Reg. § 1.6001-1(c)** provides that every organization exempt from tax under IRC § 501(a) and subject to the tax imposed by IRC § 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 IRC § 6033.

Treas. Reg. § 1.6001-1(e) 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 § 6033(a)(1) provides, except as provided in **IRC § 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, under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

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

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

EXPLANATIONS OF ITEMS

Schedule number or exhibit

Name of taxpayer

Tax Identification Number

Year/Period ended
20XX12, 20XX12, 20XX12

ORG

In accordance with the above cited provisions of the Code and regulations under IRC §§ 6001 and 6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax.

Organization's Position

Due to the lack of response, the organization's position is unknown.

Conclusion:

It is the IRS's position that the organization failed to meet the reporting requirements under IRC §§ 6001 and 6033 to be recognized as exempt from federal income tax under IRC § 501(c)(3). Furthermore, the organization has failed to establish that it continues to qualify for tax exempt status. Accordingly, the organization's exempt status is revoked effective January 1, 20XX.

Form(s) 1120 U.S. Corporation Income Tax Return, should be filed for the tax periods on or after January 1, 20XX.



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
Mail Stop 1112, PO Box 12307
Ogden, UT 84412

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

LEGEND

ORG = Organization name XX = Date Address = address

ORG
ADDRESS

DATE OF THIS NOTICE:

CONTACT PERSON/ID

CONTACT TELEPHONE
NUMBERS:
Toll Free
Long Distance

Employer Identification Number:
Tax Period(s):
Form(s):

Dear

Based on our records, your organization has been contacted upon several occasions regarding delinquent Form(s) 990, *Return of Organizations Exempt From Income Tax*, that were not filed for the tax period(s) referenced above. To date, the requested returns have not been received.

Failure to file a timely return can result in the assessment of a penalty imposed by IRC section 6652(c)(1). That penalty results in the imposition of a \$ per day penalty, (\$ per day for organizations having gross receipts exceeding \$) for each tax year that is filed late and does not include a written statement explaining the cause for filing late.

An exempt organization's failure to file required information returns or comply with the Internal Revenue Code (Code) and applicable regulations is grounds for termination of the organization's tax exempt status. 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 is necessary.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action*. We will then send you a final letter revoking your exempt status. 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 and this letter will become final. In that event, you will be required to file federal income tax returns (Form(s) 1120) for the tax period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days 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. If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

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 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,

Revenue Agent
Exempt Organizations Compliance Area,

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination (F886-A)