



DEPARTMENT OF THE TREASURY

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

TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

Release Number: **200846026**

Release Date: 11/14/08

August 14, 2008

LEGEND

UIL: 501.03-01

ORG = Organization name

Address = address

XX = Date

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: November 12, 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.

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 purpose. You have ceased operating as an exempt organization and providing any activities of any kind. ORG also 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.

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:

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,

Vicki L. Hansen
Acting, Director
EO Examinations

Form 886-A REV JANUARY 19XX	EXPLANATION OF ITEMS		
NAME OF TAXPAYER ORG	TAX IDENTIFICATION NUMBER	YEAR/PERIOD ENDED 20XX12/20XX12	

REVOCATION AS AN ORGANIZATION THAT MEETS 501(C)(3) REQUIREMENTS

LEGEND

ORG = Organization name XX = Date XYZ = State Address = Address
City = city motto = motto

ISSUES:

1. Under the circumstances described, we are proposing revocation of exemption under section 501(c)(3) of the Internal Revenue Code?

FACTS:

ORG filed original articles of incorporation with the Secretary of State of XYZ on February 8, 19XX. ORG (The Organization) was granted exemption from federal income tax as an Internal Revenue Code Section 501(c)(3) organization by letter in January 19XX. The purpose of The Organization was to provide health care services to patients from City, XYZ regardless of their ability to pay. The Organization operated for this purpose until it closed its doors and ceased to operate as a charitable motto in 20XX. The Organization is in the termination of its exempt status period in that the only operations being conducted is the paying of creditor bills. The Organization intends to file articles of dissolution as soon as all creditor debts have been disposed of.

The Internal Revenue Service mailed appointment letter L-3611 to The Organization's mailing address (Address) dated March 20, 20XX. This letter was returned to the IRS on March 30, 20XX as undeliverable. On April 2, 20XX, the IRS mailed another letter L-3611 to the street address of The Organization (Address), via UPS overnight delivery.

The IRS received a response letter dated April 11, 20XX from an attorney, who states, in part,

“I am responding to your letter dated March 20, 20XX... The ORG has not been operational since 20XX. Unfortunately the Motto experienced substantial losses for several years and could not keep its doors open... I have as part of the City community been responding to unpaid creditors notices to which there are many. Your letter was forwarded to me due to this. I will be filing dissolution papers in the near future with the Secretary of State. The motto is not functioning and has no employees or assets.”

LAW:

Internal Revenue Code Section 6001 NOTICE OR REGULATIONS REQUIRING RECORDS, STATEMENTS, AND SPECIAL RETURNS.

Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns,

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render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title.

Internal Revenue Code Section 6033 RETURNS BY EXEMPT ORGANIZATIONS.

IRC 6033(a) ORGANIZATIONS REQUIRED TO FILE.--

IRC 6033(a)(1) IN GENERAL.--Except as provided in paragraph (2), every organization exempt from taxation 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 purpose of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and shall 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; except that, in the discretion of the Secretary, any organization described in section 401(a) may be relieved from stating in its return any information which is reported in returns filed by the employer which established such organization.

Internal Revenue Code Section 6652

FAILURE TO FILE CERTAIN INFORMATION RETURNS, REGISTRATION STATEMENTS, ETC.

Internal Revenue Code Section 6652(c)(1) ANNUAL RETURNS UNDER SECTION 6033 OR 6012(a)(6) .--

Internal Revenue Code Section 6652(c)(1)(A) PENALTY ON ORGANIZATION.--In the case of--

Internal Revenue Code Section 6652(c)(1)(A)(i) a failure to file a return required under section 6033 (relating to returns by exempt organizations) or section 6012(a)(6) (relating to returns by political organizations) on the date and in the manner prescribed therefore (determined with regard to any extension of time for filing), or

Internal Revenue Code Section 6652(c)(1)(A)(ii) a failure to include any of the information required to be shown on a return filed under section 6033 or section 6012(a)(6) or to show the correct information, there shall be paid by the exempt organization \$20 for each day during which such failure continues. The maximum penalty under this subparagraph on failures with respect to any 1 return shall not exceed the lesser of \$10,000 or 5 percent of the gross receipts of the organization for the year. In the case of an organization having gross receipts exceeding \$1,000,000 for any year, with respect to the return required under section 6033 or section 6012(a)(6) for such year, the first sentence of this subparagraph shall be applied by substituting "\$100" for "\$20" and, in lieu of applying the second sentence of this subparagraph, the maximum penalty under this subparagraph shall not exceed \$50,000.

Treas. Reg. §1.501(a)-1. Exemption from taxation

(a) *In general; proof of exemption.* (1) Section 501(a) provides an exemption from income taxes for organizations which are described in section 501(c) or (d) and section 401(a), unless such organization is a

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“feeder organization” (see section 502), or unless it engages in a transaction described in section 503. However, the exemption does not extend to “unrelated business taxable income” of such an organization (see part III (Section 511 and following), subchapter F, chapter 1 of the Code).

(2) An organization, other than an employees’ trust described in section 401(a), is not exempt from tax merely because it is not organized and operated for profit. In order to establish its exemption, it is necessary that every such organization claiming exemption file an application form as set forth below with the district director for the internal revenue district in which is located the principal place of business or principal office of the organization. Subject only to the Commissioner’s inherent power to revoke rulings because of a change in the law or regulations or for other good cause, an organization that has been determined by the Commissioner or the district director to be exempt under section 501(a) or the corresponding provision of prior law may rely upon such determination so long as there are no substantial changes in the organization’s character, purposes, or methods of operation. An organization which has been determined to be exempt under the provisions of the Internal Revenue Code of 1939 or prior law is not required to secure a new determination of exemption merely because of the enactment of the Internal Revenue Code of 1954 unless affected by substantive changes in law made by such Code.

Treas. Reg. § 1.6001-1. Records

Treas. Reg. § 1.6001-1(c) *Exempt organizations.* In addition to such permanent books and records as are required by paragraph (a) of this section with respect to the tax imposed by section 511 on unrelated business income of certain exempt organizations, every organization exempt from tax under section 501(a) shall keep such permanent books of account or records, including inventories, as are sufficient to show specifically the items of gross income, receipts and disbursements. Such organizations shall also keep such books and records as are required to substantiate the information required by section 6033. See section 6033 and §§1.6033-1 through -3.

Treas. Reg. § 1.6033-2 Returns by exempt organizations (taxable years beginning after December 31, 1969) and returns by certain nonexempt organizations (taxable years beginning after December 31, 1980)

Treas. Reg. § 1.6033-2(1) *In general.* (1) Except as provided in section 6033(a)(2) and paragraph (g) of this section, every organization exempt from taxation under section 501(a) shall file an annual information return specifically setting forth its items of gross income, gross receipts and disbursements, and such other information as may be prescribed in the instructions issued with respect to the return. Except as provided in paragraph (d) of this section, such return shall be filed annually regardless of whether such organization is chartered by, or affiliated or associated with, any central, parent, or other organization.

Treas. Reg. § 601.201 Rulings and determination letters PART 01 OF 02.

Treas. Reg. § 601.201(6)(i) *Revocation or modification of rulings or determination letters on exemption and foundation status.* An exemption ruling or determination letter may be revoked or modified by a

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ruling or determination letter addressed to the organization, or by a revenue ruling or other statement published in the Internal Revenue Bulletin. The revocation or modification may be retroactive if the organization omitted or misstated a material fact, operated in a manner materially different from that originally represented, or engaged in a prohibited transaction of the type described in subdivision (vii) of this subparagraph. In any event, revocation or modification will ordinarily take effect no later than the time at which the organization received written notice that its exemption ruling or determination letter might be revoked or modified.

Rev. Rule 59-95 *Held*, failure or inability to file the required information return or otherwise to comply with the provision of section 6033 of the Code and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of an exempt status.

TAXPAYER'S POSITION:

The ORG has not been operational since 20XX. Unfortunately the Motto experienced substantial losses for several years and could not keep the doors open. The motto had a negative worth at the start of 20XX of \$ and paid out expenses of \$ without receiving any revenue during 20XX. The Motto will be filing dissolution papers in the near future with the Secretary of State [for XYZ]. The motto is not functioning and has no employees or assets.

GOVERNMENT'S POSITION:

Recommendation is revocation as an organization that meets 501(c)(3) requirements. The organization has failed to demonstrate that it is operating as a 501(c)(3) organization.

CONCLUSION:

Revenue Ruling 59-95 can be used to support revocation where, despite application of section 6652(c), the organization will not supply information to enable the Service to make a determination whether there have been any substantial changes in the organization's character, purpose, or methods of operation and there is substantial doubt that the organization should continue to be exempt.

Treas. Reg. 1.6033-2(I)(2), provide the Commissioner with authority to request information from exempt organizations as may be required for the purpose of inquiring into its exempt status and if such information is not provided, good cause exists for revocation. Treas. Reg. § 1.501(a)-1(2).

The organization has failed to demonstrate that it is observing the conditions necessary for continuation of its exempt status.

The Organization's exempt status should be revoked effective December 31, 20XX.



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service
TEGE, Exempt Organizations
1100 Commerce Street
Dallas, TX 75242

ORG
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

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

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Marsha Rameriz,
Director, Exempt Organizations

Enclosures:
Publication 892
Publication 3498
Report of Examination