



DEPARTMENT OF THE TREASURY
 INTERNAL REVENUE SERVICE
 TEGE EO Examinations Mail Stop 4920 DAL
 1100 Commerce St.
 Dallas, Texas 75242

501.03-00

TAX EXEMPT AND
 GOVERNMENT ENTITIES
 DIVISION

Date: June 21, 2010

Release Number: 201037029
 Release Date: 9/17/10
 LEGEND
 ORG = Organization name
 XX = Date Address = address

Taxpayer Identification Number:
 Person to Contact:
 Employee Identification Number:
 Employee Telephone Number:
 (Phone)
 (Fax)

ORG
 ADDRESS

LAST DATE TO FILE A PETITION
 IN TAX COURT: September 20, 20XX

CERTIFIED MAIL – RETURN RECEIPT

Dear

This is a final adverse determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code (the Code). Our favorable determination letter to you dated November 19, 19XX is hereby revoked and you are no longer exempt under section 501(a) of the Code effective January 1, 20XX.

The revocation of your exempt status was made for the following reason(s):

Organizations described in section 501(c)(3) of the Code and exempt under section 501(a) of the Code must be both organized and operated exclusively for exempt purposes. Based upon the facts found during the examination, you are not operated exclusively for exempt purposes within the scope of section 501(c)(3) of the Code because you devote a substantial portion of your resources to a non-exempt activity. As a result you do not qualify for exemption under section 501(c)(3) of the Code. Your earnings are being used to benefit specific individuals (CO-1 dance line members whose parents participate in fundraising events) rather than youth dance participants as a whole. You are serving the private interests of the dance line members of CO-1 and their parents by allowing its earning to flow directly to the dance line members through their parents' participation in fundraising events.

Contributions to your organization are no longer deductible under section 170 of the Code after January 1, 20XX.

You are required to file income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the tax year ending December 31, 20XX, and for all tax years thereafter in accordance with the instructions of the return.

Processing of income tax returns and assessments 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 under the declaratory judgment provisions of section 7428 of the Code, a petition to the United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia must be filed before the 91st Day after the date this determination was mailed to you. Please contact the clerk of the appropriate court for rules regarding filing petitions for declaratory judgments by referring to the enclosed Publication 892. You may write to the United States Tax Court at the following address:

You also 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:

See the enclosed Notice 1546, Taxpayer Advocate Service - Your Voice at the IRS, for Taxpayer Advocate telephone numbers and addresses.

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

Sincerely,

Nanette M. Downing
Director, EO Examinations

Enclosures:
Publication 892



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE
985 Michigan Ave., 10th Fl.
Detroit, MI 48226
ATTN: Adam Standen, EO: 7934

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: March 3, 2010

Taxpayer Identification Number:
Form:
Tax Years Ended:
Person to Contact/ID Number:
Contact Numbers:
Telephone:
Fax:

ORG
ADDRESS

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, please sign and return the enclosed Form 6018, Consent to Proposed Action - Section 7428. If you have already given us a signed Form 6018, you need not repeat this process. 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.

In lieu of Letter 3618

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.

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,

Nanette M. Downing
Acting Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination

In lieu of Letter 3618

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

LEGEND

ORG = Organization name XX = Date State = state President =
 president CO+1 = 1st COMPANY

ISSUE:

Whether ORG (“ORG”) is operated exclusively for exempt purposes within the scope of Internal Revenue Code (“IRC”) Section 501(c)(3).

FACTS:

ORG was incorporated on April 23, 19XX as a non-profit corporation in the State of State. Per its Articles of Incorporation, its purposes are to develop the talent and capabilities of young dance artists by providing them with instruction and performance experience, promote and stimulate public interest in the arts, including the art of dance; and such other charitable and educational purposes as are permitted under IRC Section 501(c)(3).

On November 19, 19XX, ORG was issued a determination letter from the Internal Revenue Service (“IRS”) advising it that it had been recognized as exempt under IRC Section 501(c)(3).

The President of ORG, President, owns CO-1 (“CO-1”). CO-1 is a for-profit educational facility which instructs students in all areas of the performing arts.

ORG conducts fundraising activities in association with a professional fundraising company. These fundraising events are conducted in the following manner: parents of dance line members of CO-1 operate concession booths at professional concerts and sporting events. The workers earn a share of the profits from these events. The workers’ shares are not distributed directly to the workers, but rather they are applied to their children’s accounts at CO-1. These funds are then used to pay competition fees, travel expenses, and other competition-related expenses. ORG has never paid the expenses of a dance line member whose parents do not participate in the fundraising events.

The funds from these fundraising events are first provided to ORG by the fundraising company. Then, ORG provides the funds to CO-1, who then pays the third party charging entities.

During calendar years 20XX and 20XX, a total of \$ was debited from the checking account of ORG for checks and other debits. During this same time period, a total of \$ was deposited into the account of ORG. During these two years, a total of \$ (49% of the deposits and 49% of the total debits) was paid to CO-1.

LAW:

IRC Section 501(c)(3) describes certain organizations exempt from taxation under section 501(a) of the Code and reads as follows: Corporations, and any community chest, fund, or foundation,

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organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, 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, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

Section 1.501(c)(3)-1(a)(1) of the Treasury Regulations 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. If an organization fails to meet either the organizational or operational test, it is not exempt.

Section 1.501(c)(3)-1(c)(1) of the Treasury Regulations provides that an organization will not be regarded as operated exclusively for exempt purposes if more than an insubstantial part of its activities is not in furtherance of exempt purposes. Thus, to qualify for exemption, the organization must show that it engaged "primarily" in activities which accomplished that exempt purpose. The organization will not qualify for exemption if a nonexempt activity is more than an insubstantial part of its activities, or if an activity of the organization has more than an insubstantial nonexempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the Treasury Regulations provides that 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, 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.

Revenue Ruling 69-175, 1969-1 C.B. 149 states that when a group of individuals associate to provide a cooperative service for themselves, they are serving a private interest. By providing bus transportation for school children the organization is enabling the participating parents to fulfill their individual responsibility of transporting their children to school. Thus, the organization serves a private rather than a public interest. Accordingly, it is not exempt from Federal income tax under section 501(c)(3) of the Code.

Revenue Ruling 65-2, 1965-1 CB 227, (Jan. 01, 1965) describes an organization which is organized and operated exclusively for the purpose of teaching a particular sport to the children of a community by providing free instruction, free equipment, and facilities. The foundation was formed to provide educational and character building programs for the children of the community. Its activities consist of conducting clinics for student players at playgrounds and at parks, coaching clinics for instructors of the student players, provide free instruction in schools, playgrounds, and parks and furnish free equipment to those children who are unable to afford such equipment, stimulates interest in its program through the use of film and other instructional devices. Its program

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and facilities are available to any child in the community who desires to participate, is physically able, and has reached the qualifying age level.

The ruling concludes that the organization's activities of instructing individuals to develop their capabilities are educational. Further, its furnishing of free instruction, equipment, and facilities to children of the community is accomplishing the charitable purpose of combating juvenile delinquency. Accordingly, the organization qualifies for exemption under IRC 501(c)(3).

Revenue Ruling 80-215, 1980-2 C.B. 174, describes an organization which is organized and operated to develop, promote, and regulate a sport for junior players, and to promote sportsmanlike competition for junior players in a particular state. The organization is comprised of affiliated individual associations, clubs, leagues, and teams. Each club may be comprised of any number of teams. The organization organizes local and state-wide competition for individuals under 18 years of age; promulgates rules; organizes officials; and presents seminars for players, coaches, and referees. The organization provides a framework for protests, appeals, and procedures. It also distributes a newsletter, and otherwise encourages the growth of the sport throughout the state. This ruling holds that the organization's activities combat juvenile delinquency and promote the education of children. Therefore, the organization qualifies for exemption under IRC 501(c)(3).

Better Business Bureau of Washington D.C., Inc. v. United States, 326 U.S. 279, 283, 66 S. Ct. 112, 90 L. Ed. 67, 1945 C.B. 375 (1945), the presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes.

Anthony Haswell v. United States, 205 Ct. Cl. 421; 500 F. 2d 1133 (1974): In this case, an exempt organization devoted about 20 percent of its total resources to non-exempt activities. The court held that these non-exempt activities were more than insubstantial. Consequently, the organization did not operate for an exempt purpose.

Murray Seasongood and Agnes Seasongood v. Commissioner of Internal Revenue, 227 F. 2d. 907 (1955): In this case, an organization devoted 5 percent of its resources to non-exempt activities. The court held that these non-exempt activities were not substantial.

GOVERNMENT'S POSITION:

Based upon the facts found during the examination, ORG is not operated exclusively for exempt purposes within the scope of IRC Section 501(c)(3) and as a result, it does not qualify for exemption under IRC Section 501(c)(3).

Parents of CO-1 dance line members participate in the fundraising events and earn a share of the profits from each event, which is then applied to their children's accounts at CO-1 to help pay competition-related expenses. As a result, the parents are receiving a direct private benefit from

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ORG through the opportunity to participate in fundraising events to help offset the competition-related expenses of their children. ORG has no program to help offset the expenses of participants whose parents do not participate in fundraising events and/or who are unable to pay the required expenses. Consequently, the earnings of ORG are being used to benefit specific individuals (CO-1 dance line members whose parents participate in fundraising events) rather than youth dance participants as a whole.

As indicated in Section 1.501(c)(3)-1(d)(1)(ii) of the Treasury Regulations, an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest.

ORG is serving the private interests of the dance line members of CO-1 and their parents by allowing its earnings to flow directly to the dance line members through their parents' participation in fundraising events.

As indicated in *Better Business Bureau*, the presence of a single exempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes.

In *Seasongood*, the court determined that devoting 5 percent of an organization's resources to non-exempt activities is not substantial. In *Haswell*, the court determined that devoting 20 percent of an organization's resources to non-exempt activities is substantial.

After reviewing the bank statements and check register of ORG, it was determined that 49 percent of the total deposits into ORG's checking account during calendar years 20XX and 20XX was paid to CO-1. The funds paid to CO-1 were earned at fundraising events and were used to pay the competition-related expenses of CO-1 dance line members whose parents participated in the fundraisers. Based on *Haswell*, a non-exempt activity that uses 49% of an organization's resources is substantial.

For the reasons described above, ORG is not organized exclusively for exempt purposes within the scope of IRC Section 501(c)(3) because it devotes a substantial portion of its resources to a non-exempt activity. Consequently, we are proposing revocation of ORG's tax exemption.

TAXPAYER'S POSITION:

Taxpayer agreed to revocation by signing Form 6018.

CONCLUSION:

We are proposing revocation of your tax-exempt status effective January 1, 20XX.

Forms 1120 should be filed for years ended December 31, 20XX, 20XX, 20XX, and 20XX.