



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

1100 Commerce Street  
Dallas, TX 75242

501.03-00

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

**Date:** April 18, 2011

Number: **201128029**  
Release Date: 7/15/2011

LEGEND

ORG - Organization name  
XX - Date Address - address

**Person to Contact:**  
**Badge Number:**  
**Contact Telephone Number:**  
**Contact Address:**  
**Employer Identification Number:**

ORG  
ADDRESS

**CERTIFIED MAIL**

Dear :

This is a final notice of adverse determination that your exempt status under section 501(c) (3) of the Internal Revenue Code is revoked. Recognition of your exemption under Internal Revenue Code section 501(c)(3) is revoked effective January 1, 20XX for the following reason(s):

Organizations described in I.R.C. section 501(c)(3) and exempt under section 501(a) must be organized and operated exclusively for exempt purposes. You have not demonstrated that you are operated exclusively for charitable, educational, or other exempt purposes within the meaning of I.R.C. section 501(c)(3). You have not demonstrated that the part of your activities that is not in furtherance of a charitable purpose is insubstantial.

Contributions to your organization are no longer deductible effective January 1, 20XX.

Since your exempt status has been revoked, you are required to file Form 1120, U.S. Corporation Income Tax Return, for all years beginning on or after January 1, 20XX.

Income tax returns for subsequent years are to be filed with the appropriate Service Center identified in the instructions for those returns.

It is further determined that your failure to file a written appeal constitutes a failure to exhaust your available administrative remedies. However, 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 Claims Court, or the district court of the United States for the District of Columbia before the (ninety-first) 91st day after the date that this determination was mailed to you. Contact the clerk of the appropriate court for rules for initiating suits for declaratory judgment.

To secure a petition form, write to the following address: United States Tax Court, 400 Second Street, NW, Washington, DC 20217.

Please understand that filing a petition for a declaratory judgment under IRC section 7428 will not delay the processing of subsequent income tax returns and assessment of any taxes due.

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.

This letter 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,

Nanette M. Downing  
Director, EO Examinations

Enclosures:  
Publication 892

**Internal Revenue Service**

**Department of the Treasury**  
5990 West Creek Road, Stop 405  
Independence, OH 44131

Date: January 27, 2011

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,

Nanette M. Downing  
Director, EO Examinations

Enclosures:  
Publication 892  
Publication 3498  
Report of Examination

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATIONS OF ITEMS</b>	Schedule number or exhibit  1 of 4
Name of taxpayer <b>ORG (formerly ORG)</b>	Tax Identification Number  <b>EIN</b>	Year/Period ended  20XX12

**LEGEND**

ORG - Organization name      XX - Date      City - city      State - state  
 President - president      DIR-1 & DIR-2 - 1<sup>st</sup> & 2<sup>nd</sup> DIR      CO-1 THROUGH CO-4 - 1<sup>st</sup>  
 THROUGH 4<sup>TH</sup> COMPANIES

**Issue:**

Should the IRC Section 501(c)(c) tax exempt status of the ORG (referred to as the "EO") be revoked because it is not operated exclusively for tax exempt purposes?

**Facts:**

The EO was incorporated in the State of \_\_\_\_\_ (referred to as the "State") on September 21, 20XX. Per the Articles of Incorporation obtained from the State's website, the corporation was primarily organized to provide or contribute to the support of organizations or institutions organized and operated exclusively to provide medical and therapeutic services for people who are crippled, born with birth defects, or have any other mental or physical defect, especially people affected with primary pulmonary hypertension.

The EO provided its determination letter from the Internal Revenue Service (referred to as the "IRS") stating that the organization is exempt from federal income tax under section 501(a) of the Internal Revenue Code (referred to as the "IRC") as an organization described in section 501(c)(3) of the IRC. The letter also determined the organization foundation status to be that of an organization described in section 509(a)(2) of the IRC because it is reasonably expected to be publicly supported.

The EO is a closely held organization controlled by husband and wife DIR-1 and DIR-2. DIR-1 is the president and DIR-2 is the secretary. The EO does not maintain a formal office. The only activity conducted by the EO was Texas Hold'em held at the CO-1. The EO raised \$\$ in 20XX, of which, a check in the amount of \$\$ was given to the CO-4 Assistance Fund for the benefit of CO-2. The EO's net profit during the year from gaming was \$\$ . Much of the EO's gaming income was spent for the following expenses:

- Telephone: \$\$
- CO-3 Credit Card: \$\$
- Stamps: \$\$
- Hall Rental: \$\$
- Security: \$\$
- PA System: \$\$
- Advertisement: \$

Both officers had cell phones. The credit card was used for gas, stamps, and advertising.

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATIONS OF ITEMS</b>	Schedule number or exhibit  2 of 4
Name of taxpayer <b>ORG (formerly ORG)</b>	Tax Identification Number  <b>EIN</b>	Year/Period ended  20XX12

During the interview conducted with the officers, DIR-1 and DIR-2, on October 28, 20XX, the EO had not conducted any activities since 20XX and will terminate by the end of the year. The officers stated that the attendance at the tournaments was declining and hosting the tournaments were becoming troublesome. Contributions from the general public were not received or solicited. Gaming is the only activity conducted by the organization and is its only source of income.

On December 4, 20XX, the officer called the Internal Revenue Agent to state that the EO is not going to terminate. Per the State's website, the proper paperwork was filed and a quorum was present at the meeting held on May 6, 20XX. The EO is now located in City, State and renamed ORG. The EO will wind down and send the new officers the remaining cash in the bank. President is the current president.

**Law:**

Section 501(c)(3) of the Code 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.

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

Section 1.501(c)(3)-1(c)(1) of the 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.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized or operated exclusively for one of 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 interest 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 72-369 states, in part, that in order for an organization to pass the operational tests, the organization's resources must be devoted to purposes that qualify as exclusively charitable.

**Government's Position:**

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATIONS OF ITEMS</b>	Schedule number or exhibit  3 of 4
Name of taxpayer <b>ORG (formerly ORG)</b>	Tax Identification Number  <b>EIN</b>	Year/Period ended  20XX12

The IRS section 501(c)(3) tax exempt status of EO should be revoked, effective January 1, 20XX, because it is not operated exclusively for tax exempt purposes pursuant to the requirements set forth in section 1.5019c)(3)-1(c)(1) of the regulations.

Based on the facts of the examination, the organization does not qualify for exemption because its primary activity being gaming is not related to its 501(c)(3) exempt purpose of providing or contribute to the support of organization or institutions organized and operated exclusively to provide medical and therapeutic services for people who are crippled, born with birth defects, or have any other mental or physical defect, especially people affected with primary pulmonary hypertension.

The organization's primary source of gross revenue is from conducting the Texas Hold'em game at the CO-1. The net profit from conducting this gaming activity is supposed to be contributed to the medical and therapeutic service organizations. The only record maintained by the organization is the bank account statement. Reviewed of the disbursement sheet revealed that majority of the expenses were made out to cellular phone and credit card companies. Aside from the cell phone and credit card expenditures, there was only one check in the amount of \$\$ made payable to the CO-4 during the year under examination. In the year under examination, the net profit from conducting the Texas Hold'em game was \$\$.

Other than conducting the Texas Hold'em game, the organization is not involved in conducting any other exempt activities. During 20XX, the EO ceased conducting the gaming activity and no charitable donations were made during that year.

The EO does not pass the operational test as specified in section 1.501(c)(3)-1(c) of the regulations because (1) more than an insubstantial part of its activities is not in furtherance of exempt purposes in the year under examination and (2) lack of activities since the end of 20XX means they were not operated exclusively for one or more exempt purposes. To be considered as operating exclusively for exempt purposes, EO would have had to engage primarily in activities which accomplish one or more of such exempt purposes as specified in section 501(c)(3) of the Code.

**Taxpayer's Position:**

The officers of the organization currently agree with the proposed revocation effective January 1, 20XX.

**Conclusion:**

EO does not qualify for tax exempt status under IRC section 501(a) as described in section 501(c)(3) of the Code. The more than an insubstantial part of its activities is not in furtherance of exempt purposes in the year of examination and lack of activities since the

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATIONS OF ITEMS</b>	Schedule number or exhibit  4 of 4
Name of taxpayer <b>ORG (formerly ORG)</b>	Tax Identification Number  <b>EIN</b>	Year/Period ended  20XX12

end of 20XX means they were not operated exclusively for one or more exempt purposes. Revocation of the tax exempt status of EO is proposed effective January 1, 20XX.

The organization is required to file Form 1120, U.S. Corporation Income Tax Return, as required by IRC Section 6501(g), for the taxable period beginning January 1, 20XX and for each year thereafter.