



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

TE/GE: EO Mandatory Review

1100 Commerce Street, MC 4920-DAL

Dallas, Texas 75242

501.03-00

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

Date: April 19, 2011

LEGEND

ORG - Organization name

XX - Date Address - address

Number: 201128031

Release Date: 7/15/2011

Employer Identification Number:

Person to Contact/ID Number:

Contact Numbers:

Voice:

Fax:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear :

We have determined you have not operated in accordance with the provisions of section 501(c)(3) of the Internal Revenue Code. Accordingly, your exemption from Federal income tax is revoked effective January 1, 20XX. This is a final adverse determination letter with regard to your status under section 501(c)(3) of the Code.

You have agreed to this adverse action by signing Form 6018, Consent to Proposed Action – Section 7428.

Our adverse determination was made for the following reasons:

By providing lodging and recreational activities to the general public, the organization has engaged in more than an insubstantial amount of non-exempt activities. Such activities amounted to at least 36% of the organization's gross receipts in 2008, and appear to be ongoing.

With the exception of the Form 990-EZ filed for 20XX, the organization has not filed required annual returns since its formation.

Internal Revenue Code Section 6001 requires organizations exempt from tax to keep such records and render such statements as are required by such rules and regulations as the Secretary may prescribe. Treasury Regulations section 1.6033-2 (h)(2) requires organizations exempt from tax

to submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into the organization's exempt status.

Therefore, the organization no longer qualifies for exemption from Federal Income tax under section 501 (c)(3) of the Internal Revenue Code because it is not engaged exclusively in exempt activities and it has failed to observe the conditions for exemption by failing to file required annual returns.

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

You have filed Forms 1120 for the years ended December 31, 20XX through 20XX. You are required to file Federal income tax returns on Form 1120 for all subsequent years. Those returns should be filed with the appropriate Service Center.

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 of 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 91st day after the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for initiating suits for declaratory judgment. You may write to the Tax Court at the following address:

You also have the right to contact the office of the Taxpayer Advocate. You can call 1-877-777-4778 and ask for Taxpayer Advocate assistance. If you prefer, you may contact your local Taxpayer Advocate at:

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 or 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 in regards to this matter please contact the person whose name and telephone number are shown in the heading of this letter.

Thank you for your cooperation.

Sincerely yours,

Nanette M. Downing
Director, EO Examinations

Internal Revenue Service

Department of the Treasury

TE/GE Division
450 Golden Gate Avenue MS SF 7-4-01
San Francisco, California 94102-3412

Date: October 27, 2010

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, please sign and return the enclosed Form 6018, Consent to Proposed Adverse Action. We will send you a final modification or 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 886A (Rev. January 1994)	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG	Tax Identification Number EIN	Year/Period Ended 1/1/20XX to 12/31/20XX

LEGEND

ORG - Organization name XX - Date

Issue:

Is ORG exempt from tax under Internal Revenue Code Section 501(c)(3)?

Facts:

ORG received recognition of exemption as an organization described in Internal Revenue Code section 501(c)(3) in January 19XX. In its application for recognition of exemption it listed two activities: that it would run 12 week long summer sessions centering around worship and religiously-oriented seminars but also including nature study, environmental education, recreation, work experience and workshops in arts and crafts; and that in the winter season it would sponsor weekend workshops and conferences for adults in the areas of spiritual growth, environmental awareness, mediation, heal sin and current social problems and a second type of conference, tailored to the need as a specific church providing an atmosphere of spiritual reflection and programs to help that church define its goals and plan for the future.

Internal Revenue Service records show that the organization did not file an annual return, Form 990, until August 14, 20XX, when it filed a return for the year ending December 31, 20XX.

During an examination of this return, the Service found that the organization was offering its facilities for rent to the general public for lodging and recreational activities and that in the year 20XX, at least 36% of its income had come from such activities.

The service also requested that the organization file delinquent returns for the period from January 1, 20XX to December 31, 20XX, in accord with policy statement P-1-133, which provides for six year retroactive enforcement.

On August 24, 20XX, the Service sent a letter to the organization noting that the organization appeared to be operating for non-exempt purposes, that the organization had not filed returns in the past and included advertisements from its web site offering lodging and recreation to the general public. The letter stated that it appeared the organization had not been operated for exempt purposes, and asked the organization, if it believed otherwise, to file delinquent returns and provide evidence that it had been operating for exempt purposes in the past. The service did not receive a written response to this letter.

Law:

Internal Revenue Code section 501(c)(3) provides for exemption from tax for "Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which

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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 (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

§1.501(c)(3)-1(c)(1) of the Income Tax regulations 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.”

Internal Revenue Code section 6033(a)(1) provides that ‘...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;...’

§1.6033-2(i)(2) of the Income Tax Regulations provides that “Every organization which is exempt from tax, whether or not it is required to file an annual information return, shall submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into its exempt status and administering the provisions of subchapter F (section 501 and following), chapter 1 of subtitle A of the Code, section 6033, and chapter 42 of subtitle D of the Code.”

In *Better Business Bureau v. United States*, 326 U.S. 279, 283, the court stated that the presence of a single substantial nonexempt purpose precludes exempt status for an organization, regardless of the number or importance of the exempt purposes.

Revenue Ruling 59-95, 1959-1 CB 627, held that, 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.

Government’s Position:

To maintain exemption under section 501(c)(3) of the Internal Revenue Code, an organization must be operated exclusively for exempt purposes, and comply with the filing requirements and other provisions of section 6033 of the code. In this case, the organization had engaged in a more than unsubstantial non-exempt activity, that is provision of lodging and recreational activities to the general public. This

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amounted to at least 36% of its gross receipts in 20XX, and appears to have been an ongoing activity of the organization as shown in its advertisements on its web pages and in other advertising material.

The organization has failed to file required annual returns since its formation, with the exception of the return filed for 20XX. It has failed to file these returns even after being advised of the failure by the Internal Revenue Service.

Exempt status for the organization should be revoked, both because it is not engaged exclusively in exempt activities, and because it has failed to observe the conditions for exemption by failing to file required annual returns.

Taxpayer's Position:

The taxpayer's representative indicated that the taxpayer would agree to the government's position.

Conclusion:

Exemption under section 501(c)(3) of the Internal Revenue Code is revoked effective January 1, 20XX. The organization is required to file forms 1120, US Corporation Income Tax Returns, for 20XX and all subsequent years.