



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
TE/GE EO EXAMINATIONS  
1100 COMMERCE ST. MAIL STOP 4920 DAL  
DALLAS, TEXAS 75242

501.03-00

January 12, 2012

Number: 201218019  
Release Date: 5/4/2012

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

**CERTIFIED MAIL**

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 July 29, 19XX is hereby revoked and you are no longer exempt under section 501(a) of the Code effective September 1, 20XX.

The revocation of your exempt status was made for the following reasons:

Your organization fails to meet the operational test of Income Tax Regulation section 1.501(c)(3)-1(c)(1), starting in February of 20XX when your organization became inactive. Your organization also has potentially violated the prohibition against inurement contained in Code section 501(c)(3). Your key employee made expenditures and received reimbursements for which no documents were provided to substantiate the business purpose and relationship of the expenses. Your organization also failed to maintain adequate records to support the amounts reported on the Form 990-EZ, as required by Code section 6001.

Contributions to your organization are no longer deductible.

You are required to file income tax returns on Form 1120. If you have not already filed these returns and the examiner has not provided you instructions for converting your previously filed Form(s) 990 to Form(s) 1120, you should file these income tax returns with the appropriate Service Center for the tax years ending August 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, you may file an action for declaratory judgment under the provisions of section 7428 of the Code in one of the following three venues: United States Tax Court, the United States Court of Federal Claims, or the United States District Court for the District of Columbia. A petition or complaint in one of these three courts must be filed before the 91st day after the date this determination was mailed to you if you wish to seek review of our determination. Please contact the clerk of the respective court for rules and the

appropriate forms regarding filing petitions for declaratory judgment by referring to the enclosed Publication 892. Please note that the United States Tax Court is the only one of these courts where a declaratory judgment action can be pursued without the services of a lawyer. You may write to the courts at the following addresses:

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:

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

Sincerely yours,

Nanette M. Downing  
Director, EO Examinations

Enclosures:

Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*  
Form 6018, *Consent to Proposed Action - Section 7428*  
Return envelope



**DEPARTMENT OF THE TREASURY**

INTERNAL REVENUE SERVICE  
130 South Elmwood Avenue  
TE/GE:EO:7908:K. Foster  
Buffalo, NY 14202

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

**July 13, 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, 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.

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  
Director, EO Examinations

Enclosures:  
Publication 892  
Publication 3498  
Report of Examination, Form 886-A

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b> <b>ORG</b>		<b>Year/Period Ended</b> 20XX08

**LEGEND**

ORG - Organization name      XX - Date      Address - address      City - city  
State - state      Country - country      President - president      Vice  
President - vice president      CO-1, CO-2, CO-3 & CO-4 - 1<sup>ST</sup>, 2<sup>ND</sup>, 3<sup>RD</sup> & 4<sup>TH</sup>  
COMPANIES

**ISSUE:**

Whether ORG, continues to qualify for exemption as an organization described within Internal Revenue Code 501(c)(3) due to inactivity for several years including the year of examination.

**FACTS:**

ORG was incorporated under the laws of the State of State as a non-profit corporation. The organization incorporated on September 26, 19XX. ORG applied for exemption on January 3, 19XX. They were in their organizational phase until December 19XX and expected to begin their programs early in 19XX. The Organization was granted exemption under Section 501(c)(3) effective September 26, 19XX. It was also determined that the Organization's foundation classification was described under Section 509(a)(1) and 170(b)(1)(A)(vi), a publicly supported organization.

On the Form 1023, Application for Recognition of Exemption, ORG provided the following with regard to their prospective activities: the Organization will conduct lectures on issues affecting Country and the Country; place advertisements in national and local newspapers to broaden public knowledge of issues involving Country and the Country; establish an information center (to include a research library) in State City for the purpose of acquiring and dissemination of information; publish a newsletter to inform the public of the organization's activities and current developments concerning Country and the Country; and to occasionally contribute to other organizations and projects involved in activities such as education regarding Country and the Country, as well as, organizations and projects involved in immigrant absorption and community, and housing development. The Organization further outlined that grants would be awarded after due consideration by the directors of a written application for funds for a specific purpose.

Per ORG's Articles of Incorporation, as amended, dated November 14, 19XX: states its purpose as "... To educate the public by promoting a greater understanding of Country's history, its current situation and aspirations, its contribution to Western values and interests and its strategic importance to the United States of America; to provide the public with an accurate and comprehensive picture of the social, economic, political and cultural realities of the Country; to broaden the public's knowledge of issues involving Country by increasing public awareness of misinformation, distortion and bias in the media concerning Country; to provide charitable assistance to organizations and

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institutions engaged in or promoting settlement or development of the Land of Country or promoting a greater understanding of the Jewish homeland.”

During phone conversation on May 25, 20XX between Agent and Vice President, Vice President/Treasurer, Vice President stated that the Organization was essentially inactive and had been since February of 20XX.

In the correspondence dated July 19, 20XX to our letter dated June 18, 20XX, you provided a written summary of the organization’s activities which were as follow:

- o “Been engaged in an intensive effort to educate the public on Country’s history, its current situation, and aspirations, its contribution to western values and interests and its strategic importance to America. We have sought to broaden the public’s knowledge of the social, economic, political and cultural realities of the Country.”
- o “Worked to alert the public to the misinformation, distortion and bias in the media regarding Country.” “ORG has dedicated itself to provide charitable assistance to organizations and institutions engaged in or promoting settlement or development of the Land of Country, or promoting a greater understanding of the Jewish homeland.”
- o “Have accomplished our goals by a direct mail campaign, establishing a Speakers Bureau “to provide other organizations with highly qualified speakers to discuss Country and Country issues.”, and provided a resource center with numerous periodicals and research material.”
- o “Joined with CO-1, CO-1 in Country, Country and Country, and Professors for Strong Country, as well as, other groups in Country in support of our objectives.”
- o “A number of the groups have become our affiliates. “
- o “Financed a variety of projects, including the CO-2.”

In this same correspondence, you included copies of news articles, copies of letters relative to contributions made by the Organization, and the Organization’s newsletter/postcard solicitation for donations (reflecting address of Address, City, State). These items were all dated between February 19XX and July 19XX.

During our initial interview on August 3, 20XX with the President/Secretary and Vice President/Treasurer, the officers stated that ORG had ceased activities in February 20XX. Per the President and Vice President, the organization did not inform donors/potential donors that they were essentially inactive. But they did inform

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donors/potential donors that they were in the process of reorganizing. No written evidence of informing the donors was provided.

During the initial interview, we requested information to substantiate activities for the year under examination and subsequent years. The officers provided a poster for an event sponsored by ORG in October 19XX and copies of the articles and a newsletter/postcard solicitation for donations (reflecting address of Address, City, State) was provided by the officers.

During the initial interview, ORG President, President, indicated that he had given speeches at events. However President could not recall whether or not he had given any speeches in 20XX or 20XX. He did state that he had not given any since that time. He was unable to provide any substantiation of events that he had attended as a speaker during the year of examination or in any recent prior years or in any subsequent years.

During the initial interview the officers indicated that they are still (currently) sending out their newsletter/postcard solicitation for donations. They also stated that their mailing list at one point had 13,000 potential donors. The list has been pared down to 11,000. The agent requested the officers to provide their mailing list, but they refused. The officers also stated that they send out the newsletter/postcard solicitation for donations a few times a year as an appeal for funds along with letters and articles written by various individuals.

The Organization currently shows its address as: Address, City, State. The copies of the newsletter/postcard solicitation for donations that the organization mails out, does not reflect the same return address that the Organization is currently using.

In our letter dated October 21, 20XX we requested substantiation of activities from 1996 through February 20XX. Also it was requested for an explanation on how donations would reach them since they are no longer at the address shown on the solicitation, and why the pamphlets have not been updated. The Organization did not provide a response to the Information Document Request.

A second request dated December 6, 20XX was mailed, and the Organization provided a response on December 22, 20XX. The response did not address the question regarding current solicitations for donations. Copies of the newsletter/postcard solicitation for donations were provided for 20XX/20XX mailings. The newsletter/postcard reflects the address of Address, City, State. The Organization also included copies of articles which were dated in 20XX by various writers and which were published in the CO-3 and/or CO-4. The Organization did provide a copy of the lease agreement which showed that the Organization rented the property at Address from the

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period of February 01, 20XX through January 31, 20XX. After this time, they relocated and they began using Address, City, State as storage.

The current location of Address, City, State listed on ORG's Form 990-EZ, is a room located at the Organization's employee's apartment. The Organization does not pay rent for the room and uses the space to store the organization's property.

The Organization did provide minutes from meetings held on September 18, 20XX, September 9, 20XX and April 13, 20XX in which they discussed future possible activities, including use of the Internet. There has been no evidence provided to show what the Organization has done to expand their activities to include use of the internet.

From the By-Laws: Article Three: "The business of this Organization shall be managed by a Board of Directors, consisting of at least five members. At least one of the Directors elected shall be a resident of the State of State and a citizen of the United States." In the year of the Examination, there was one board member and the President/Secretary and the Vice President/Treasurer. Article Four: Officers: "The Directors shall choose, from among themselves, officers of the Organization who shall be as follows: President, Vice President, Secretary and Treasurer." The By-Laws do not detail whether individuals can hold more than one position as an officer.

In the year of examination, the Form 990-EZ indicates that there were two officers and a board member. The Organization currently has two officers who each hold two positions with ORG.

The return under examination is for the tax fiscal year ended August 31, 20XX. The return was filed late on September 12, 20XX. The balance sheet information on the return under examination rshows the liabilities over exceeded the assets and having negative net worth of \$. The balance sheet impact is a loan due to the President for the amount of \$.

The return that was submitted and processed reflects total revenue of \$ and total expenses of \$. The return filed is not accurate based on analysis of the Organization's General Ledger, Bank Statements and other financial documentation. Analysis of the Organization's books and records show that the total revenue for the period of September 1, 20XX through August 31, 20XX was actually \$. Analysis of the books and records show that the total expenses for the period of September 1, 20XX through August 31, 20XX was actually \$. The source of revenue was identified as contributions and a small amount of interest income. The Organization states that they were moving and didn't have complete record of bank account, so they prepared the return based on the records that they had.



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From analysis of prior year information, the majority of the financial support of ORG has been from the contributions and loans from the President of the Organization. The amounts received from the President as of the filing period ending August 31, 20XX total \$. Of this amount, \$ is characterized as loans. There is no formal loan document. The Organization has not made any payments to the President with regard to these loans.

During the initial interview, the President stated that he does not expect to be repaid or charge any interest on the amounts due to him. The remaining \$ are amounts that were contributed to ORG by the President over the period of December 18, 19XX through August 31, 19XX. The President identified himself in the earlier years as a disqualified person due to his substantial contributions. The amount of \$ which is characterized as loans given by the President of ORG was amassed over the period of September 1, 19XX though August 31, 20XX. The Organization did not provide documentation to substantiate the total amounts that the President has given to the Organization. The computerized documentation provided covers the period of September 1, 20XX to January 17, 20XX.

On October 21, 20XX and December 6, 20XX, the Organization was asked to provide a list of contributors. No list was provided as the Organization states that no one contributor gave more than 2% of the amount shown on Schedule A Part IV-A Support Schedule line 24.

The Organization did not provide any documentation to show that the amounts received were in fact from contributors.

Our letter dated June 1, 20XX requested supporting documentation for expenses incurred during the fiscal year ended August 31, 20XX. The organization did not respond to our request. We requested the same information again in our letters dated June 18, October 21 and December 6, 20XX. The Organization only provided its ledger, bank statements, and cancelled checks.

There were numerous ATM withdrawals from the bank account which the President identified as various business expenses. However, no other documentation was provided to establish business purpose or relationship of the expenses. No invoices or receipts were provided. No written contemporaneous record was provided. The Organization's response to the request receipts and invoices to substantiate the expenses indicates that they did not keep any record.

The Organization was unable to provide written job description for its employee. During the interview on August 3, 20XX, the officers stated that the employee performed secretarial duties – typing letters, deposits, writing checks, and other office operations including soliciting donations. Your correspondence dated December 22, 20XX states

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that she was the Director of Operations and managed all office operations. The correspondence also states that the employee was engaged in fundraising for the organization, which involved extensive travel and entertainment of prospective donors. The employee wrote and signed checks and used the Organization's ATM card to access the Organization's bank account. The employee wrote checks to herself but used one name as the payee and signed a different name as the payor. Total payments shown as salary were \$ plus \$ for health insurance. \$ was withdrawn from the business bank account through the use of the ATM card. Of this amount, \$ was withdrawn by the employee as salary. The President of the EO indicated that majority of the remaining \$ was used for business related expenses, including travel. No documentary evidence was provided to support his written statements.

The Bank Account balance was zero on May 8, 20XX and the Organization stated that the account was closed.

**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 of the purposes specified in that section.

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

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

Section 1.501(c)(3)-1(d)(2) of the regulations provides that the term "charitable" is used in section 501(c)(3) of the Code in its generally accepted legal sense, and includes the promotion of education.

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

Section 1.6001-1 of the regulations:

(a) In general. —Except as provided in paragraph (b) of this section, any person subject to tax under subtitle A of the Code (including a qualified State individual income tax which is treated pursuant to section 6361(a) as if it were imposed by chapter 1 of subtitle A), or any person required to file a return of information with respect to income, shall keep such permanent books of account or records, including inventories, as are sufficient to establish the amount of gross income, deductions, credits, or other matters required to be shown by such person in any return of such tax or information.

(e) Retention of records. —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 so long as the contents thereof may become material in the administration of any internal revenue law

Section 6033 of the code: RETURNS BY EXEMPT ORGANIZATIONS.

**6033(a) ORGANIZATIONS REQUIRED TO FILE. —**

**6033(a)(1) IN GENERAL.** —Except as provided in paragraph (3), every organization exempt from taxation under Link 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 Link 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.

Section 1.6033-2 of the Regulations,

**(a) In general**

(1) Except as provided in section 6033(a)(2) and paragraph (g) of this section, every organization exempt from taxation under section Link 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

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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.

**(2) (ii)** The information generally required to be furnished by an organization exempt under section Link 501(a) is:

- a. Its gross income for the year. For this purpose, gross income includes tax-exempt income, but does not include contributions, gifts, grants, and similar amounts received. Whether an item constitutes a contribution, gift, grant, or similar amount depends upon all the surrounding facts and circumstances. The computation of gross income shall be made by subtracting the cost of goods sold from all receipts other than gross contributions, gifts, grants and similar amounts received and nonincludible dues and assessments from members and affiliates.
- b. To the extent not included in gross income, its dues and assessments from members and affiliates for the year.
- c. Its expenses incurred within the year attributable to gross income.
- d. Its disbursements (including prior years' accumulations) made within the year for the purposes for which it is exempt.
- e. A balance sheet showing its assets, liabilities, and net worth as of the beginning and end of such year. Detailed information relating to the assets, liabilities, and net worth shall be furnished on the schedule provided for this purpose on the return required by this section. Such schedule shall be supplemented by attachments where appropriate. Section 1.6033-2(h)(2) of the regulations 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 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 exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the code and section 6033.

**GOVERNMENT'S POSITION AND CONCLUSION:**

In order for ORG to be considered an exempt organization under IRC 501(c)(3), it is

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required to be organized and operated for exempt purposes.

Evidence shows that ORG has failed to meet the operational test since February of 20XX, when it became inactive. The Organization does not operate for the educational purposes for which it originally received exemption. The Organization's substantiation of activity in the year of examination consisted of fundraising through the mailing that of the newsletter/postcard solicitation for donation with which they enclosed education information about Country and the Country. Fundraising donations for no operational activity in it self is not an exempt purpose activity. But only to accumulate funds for the use of the employee, and no supporting documents was provided to show that the expenditures were for its exempt purposes. Although, ORG has indicated that it is interested in reorganizing/resuming operations, the Organization has not provided any concrete evidence in support of its intentions. The Service position is that, the Organization has been essentially inactive for several years now and that there have been little, if any, operations or financial activities conducted. As such, ORG. fails to meet the operational requirements to continue its exemption status under IRC 501(c)(3).

Further, the Organization does not meet their organizational requirement with regard to the managing Board of Directors. There are not at least five members on the Board. The Organization is overseen by two officers.

Based on analysis of the source of funding for ORG, the organization is not publicly supported. By characterizing the amounts provided by the President as loans on the balance sheet, the Form 990-EZ does not reflect the true nature of the support that the organization actually receives. By not showing the amounts provided by the President on the Support Worksheet, the return gives the appearance that the organization receives at least one-third of its support from the general public. It is the Government's position that the majority of the support is provided by the President and is not provided by the general public.

It is the Government's position that there is a lack of internal controls with regard to the finances of the Organization. The Organization first stated that their employee performed secretarial type duties, which including the mailing of the newsletter/postcard solicitation for donations. The Organization later stated that the employee was engaged in fundraising for the organization, which involved extensive travel and entertainment of prospective donors.

The Organization allowed their employee to write herself checks and to make ATM withdrawals from the business bank account. There was no documentary evidence provided that the travel, transportation and entertainment expenses were valid business expenses. No part of an organization's net earnings may inure to the benefit of a private shareholder or individual. Prohibited inurement includes payment

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of unreasonable compensation to an officer, director or a key employee.

It is the Government's position that the Organization has failed to keep adequate records. The filed Form 990-EZ contained incorrect information with regards to income, expenses, and balance sheet information. The records provided by the EO do not clearly identify the sources from which they received income. The Form 990-EZ does not clearly explain the loan received from the officer. The instructions for Form 990-EZ specifies that a schedule should be attached showing: Borrowers name and title, original amount, balance due, date of note, maturity date, repayment terms, interest rate, security provided by borrower, description and fair market value of consideration furnished by the lender. In order to be allowed the deduction of business related expenses, the Organization must be able to establish the date, amount, business relationship and business purpose of the expense. While cancelled checks will substantiate the date and amount, other documentary evidence is necessary to support the relationship and purpose of expense. Many of the ATM withdrawals from the business bank account were identified by the President of the EO as travel/transportation and entertainment expenses. No documentation was provided as to who actually incurred the expense, who they met with, and what the purpose of the travel/transportation and entertainment expense was. The EO did indicate that their employee did incur travel and entertainment expenses. However, the EO failed to substantiate business purpose and relationship.

**If you agree to this conclusion please sign the attached Form 6018-A.**

**If you disagree please state your position.**