



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

1100 Commerce St.
Dallas, Texas 75242

501-03.00

Date: June 21, 2012

Release Number: **201245024**

Release Date: 11/9/2012

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 July 1st 20XX the following reason(s):

Organizations described in 1.R.C. section 501(c)(3) and exempt under section 501(a) must be organized and operated exclusively for an exempt purpose. You have not provided sufficient information regarding your, expenditures, distributions and exempt activities. You have not established that you have been organized and operated exclusively for an exempt purpose, or that you have been engaged primarily in activities that accomplish one or more exempt purposes. You have failed to establish that you meet the requirements of 1. R.C. section 501(c)(3) and Treasury Regulation section 1.501(c)(3)-1(d) in that you have failed to provide information to establish that you were operated exclusively for an exempt purpose.

Contributions to your organization are no longer deductible effective July 1st 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Since your exempt status has been revoked, you are required to file Form 1120, U.S. Corporation Income Tax Return, for all years beginning on or after July 1st 20XX.

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

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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 your 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
1100 Commerce St. M/C 4925DAL
Dallas, TX 75242

Date: 9/15/12

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 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 20XX/06

LEGEND

ORG - Organization name XX - Date City - city State - state Founder -
 Founder CO-1 -1st COMPANY

ISSUE:

Should the organization's exempt status be revoked as a result of inactivity since November 20XX?

FACTS:

- 1) The organization is named ORG (ORG) and is located in City, State. ORG is exempt under Internal Revenue Code (IRC) section 501(c)(3) and has operated as an independent, co-educational university preparatory day school, with 50-100 students enrolled in grades 9 through 12. ORG was founded in 19XX by the late Founder, a CO-1 educator.
- 2) The Form-990 Return of Organization Exempt From Income Tax for tax period ended June 20XX is open for audit.
- 3) ORG did not respond to any correspondence sent to it by the Service during this examination.
- 4) Agent unable to locate taxpayer by telephone or written correspondence.
- 5) Financial difficulties and disputes with its former director resulted in the organization filing for bankruptcy in November 20XX, and it has not conducted any exempt activities since that time.
- 6) The bankruptcy was concluded in November 20XX and all assets of the EO were used to pay the outstanding creditors of the EO.

LAW:

FINAL-REG, TAX-REGS, §1.501(a)-1(a)(2). Proof of Exemption

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.

Revenue Procedure 90-27 states that if the evidence clearly indicates that the organization will not resume operating for an exempt purpose, as required by Treas. Regs. Section 1.501(c)(3)-1(c)(1), the exempt status should be terminated.

IRC, 20XX-CODE-VOL, SEC. 7428. DECLARATORY JUDGMENTS RELATING TO STATUS AND CLASSIFICATION OF ORGANIZATIONS UNDER SECTION 501(c)(3) , ETC.

7428(a) CREATION OF REMEDY. —In a case of actual controversy involving —

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
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7428(a)(1) a determination by the Secretary —

7428(a)(1)(A) with respect to the initial qualification or continuing qualification of an organization as an organization described in section 501(c)(3) which is exempt from tax under section 501(a) or as an organization described in section 170(c)(2), upon the filing of an appropriate pleading, the United States Tax Court, the United States Court of Federal Claims, or the district court of the United States for the District of Columbia may make a declaration with respect to such initial qualification or continuing qualification or with respect to such initial classification or continuing classification. Any such declaration shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Court of Federal Claims, as the case may be, and shall be reviewable as such. For purposes of this section, a determination with respect to a continuing qualification or continuing classification includes any revocation of or other change in a qualification or classification.

TAXPAYER'S POSITION:

None, taxpayer cannot be located.

GOVERNMENT'S POSITION:

- 1) The taxpayer has not responded to the letter and Information Document Request (IDR) sent on 11/17/20XX.
- 2) The taxpayer has not responded to the follow up letter sent on 2/2/20XX.
- 3) The certified letter sent to taxpayer on 2/14/20XX was returned undeliverable.
- 4) Agent was not able to reach taxpayer via any known phone number.
- 5) Once the IRS recognizes an organization's tax-exempt status, an exempt organization must notify the IRS if it amends its organizing documents or by-laws, or materially changes its activities from those described in its exemption application. A material change should be communicated to the IRS as soon as possible after the change is made or becomes effective. Other changes, other than insubstantial ones, should be reflected in the due course in the organization's annual information return. A substantial change in an organization's character, purposes, or methods of operation may result in modification or revocation of the organization's tax-exempt status.
- 6) The organization has been inactive since filing for bankruptcy in November, 20XX, It is apparent that there is no intent to resume operations. Therefore, the exempt status must be revoked.
- 7) A voluntary termination requires a written statement of dissolution signed by two of the officers of the exempt organization. Since there were no officers of the organization remaining as of the date of the examination, this requires the use of the unagreed revocation procedures.
- 8) Since this is an organization exempt under IRC section 501(c)(3), this is considered an involuntary revocation subject to the guidelines of IRC section 7428.

CONCLUSION:

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As a result of the cessation of all exempt activity by the organization and the apparent lack of intent to resume its activities, the exempt status of ORG shall be revoked, effective July 1st, 20XX.