



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
1100 Commerce Street
Dallas, TX 75242

501.03-00

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

Date: November 19, 2013

Number: **201418054**
Release Date: 5/2/2014

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 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 December 1, 20XX for the following reasons:

You did not respond to our request for information about your finances and activities. You have not demonstrated that you are operated exclusively for exempt purposes within the meaning of Internal Revenue Code section 501(c)(3).

Contributions to your organization are no longer deductible.

If you are a private foundation as of the effective date of revocation, you are considered to be a taxable private foundation until you terminate your private foundation status under section 507 of the Code. In addition to your income tax return, you must also continue to file Form 990-PF by the 15th day of the fifth month after the end of your annual accounting period.

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 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 your 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 the Taxpayer Advocate assistance. If you prefer, you may contact your local Taxpayer Advocate at:

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
Tax Exempt and Government Entities Division
Exempt Organizations: Examinations
300 N. Los Angeles Street MS 7300
Los Angeles, CA 90012

Department of the Treasury

Date: July 26, 2013

Taxpayer Identification Number:
Form:
Tax Year(s) Ended:
Person to Contact/ID Number:

ORG
ADDRESS

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 501(a) 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 November 30, 20XX

LEGEND

ORG - Organization name EIN - EIN XX - Date Address - address City -
city State - state President - president POA - POA CO-1 & CO-2 - 1st &
2nd COMPANIES

ISSUE:

Should ORG's (ORG) Federal tax exempt status under section 501(c)(3) of the Internal Revenue Code be revoked for failure to provide information to the Internal Revenue Service to demonstrate that it is operating in accordance with its exempt purposes?

FACTS:

ORG was incorporated as a State and established for charitable giving. In July 20XX, ORG applied for Federal tax exempt status under section 501(a) of the Internal Revenue Code. On November 19, 20XX, ORG was recognized as an organization exempt from Federal income tax under section 501(a) of the Internal Revenue Code and was described in section 501(c)(3) of the Code.

ORG has a filing requirement for Form 990-PF, Return of Organization Exempt from Income Tax Private Foundation. However, ORG has not reported any activity nor had any activity since the initial and only property donation to a synagogue on June 26, 20XX. The Forms 990-PF for tax years 20XX through 20XX do not show any activity.

The *Certification of Election to Wind Up and Dissolve* and *Certificate of Dissolution* have not been filed with the State Secretary of State. The final Form 990 to terminate the organization and a written statement of the dissolution of assets has not been filed with the Internal Revenue Service. The Attorney General of the State of State shows the charity organization registration status is current. The agent is President, ORG President, whose address is Address, City, State.

The Service mailed ORG notification of the examination in a letter dated February 5, 20XX to the address shown on the 20XX Form 990-PF, which is Address, City, State. The letter explained the purpose of the examination and requested information needed for the examination.

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On February 20, 20XX, the agent spoke with ORG President, President who confirmed receipt of the letter sent on February 5, 20XX. President stated ORG had no activity. President wished to terminate ORG. President stated that no bank accounts were utilized and that all assets were donated to a public charity.

On February 20, 20XX the agent mailed Information Document Request Number 2 to ORG to request information to verify the disposition of all assets to a public charity.

On March 5, 20XX the agent received a fax from ORG's attorney, POA, of CO-1. (POA does not have a current Form 2848, Power of Attorney and Declaration of Representative on file.) The fax was in response to Information Document Request Number 2 and provided a grant deed that was recorded on July 7, 20XX. The grant deed showed that all assets had been donated to the CO-2. The faxed letter also stated that ORG did not retain any rights or interests in any of the property donated to the synagogue.

A Private Foundation can voluntarily terminate it if has transferred or donated all of its assets to a public charity that has been such for at least five years (60 months). The agent verified that the CO-2 has been a public charity for at least five years.

On March 7, 20XX the agent mailed Information Document Request Number 3 to request the final signed Form 990-PF Return of Private Foundation, a copy of Certificate of Dissolution, and a valid Form 2848, Power of Attorney and Declaration of Representative. The Information Document Request Number 3 due date was April 26, 20XX.

On March 15, 20XX, the agent received a hard copy of the fax received on March 7, 20XX by certified mail.

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On May 1, 20XX the agent attempted to call ORG President President. The voice mail did not state ORG or President's name so the agent did not leave a message.

On May 1, 20XX the agent resent Information Document Request Number 3 to ORG address at Address, City, State. The revised due date was May 10, 20XX.

On May 10, 20XX the agent attempted to call Foundation President President. The voice mail did not state ORG or President's name so the agent did not leave a message.

On May 23, 20XX the agent received a voice mail from ORG attorney, POA that stated that ORG changed its address, had just received Information Document Request No. 3, and would need more time to reply. The agent returned the call and left a voice mail requesting a valid Form 2848 and the new address.

On May 28, 20XX ORG attorney, POA left a voice mail for the agent stating that the Form 2848 was expired. She would have the taxpayer complete a new Form 2848 and fax the Form 2848 to the agent the following week. The attorney also supplied the new address as: Address, City, State.

May 28, 20XX was the last date the agent received contact regarding the taxpayer.

In the revocation notice letter dated July 1, 20XX, the Agent advised ORG that section 1.6033-2(i)(2) of the Regulation and Revenue Ruling 59-95, 1959-1 CB 627, requires every organization which is exempt from tax to submit additional information upon request by the Internal Revenue Service. Failure to comply with such request could result in ORG's Federal tax-exempt status being revoked because ORG has not established that it was observing the conditions required for the continuation of exempt status. In order to avoid such adverse action, ORG must provide the requested information or contact the Agent to resolve the issue. To date, ORG has failed to

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provide the Agent with the requested information knowing that such failure could result in loss of Federal tax-exempt status.

The Agent has made adequate attempts to contact ORG, and its President, President. The Agent has not received the requested information. To date, President has failed to respond to the Agent.

LAW:

Section 501(c)(3) of the Internal Revenue Code exempts from Federal income tax 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 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.

Section 1.6033-2(i)(2) of the Income Tax Regulations provides, in part, that every organization which is exempt from tax shall submit such additional information as may be required by the Internal Revenue Service for the purposes of inquiring into its exempt status.

Revenue Ruling 59-95, 1959-1 CB 627 provides that a failure to file required information return or 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.

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TAXPAYER'S POSITION:

ORG's position is not known at this time.

GOVERNMENT'S POSITION:

Treasury Regulation section 1.6033-2(i)(2) provides, in part, that every organization which is exempt from tax, whether or not it is required to file an annual information return, must submit additional information upon request by the Internal Revenue Service for the purpose of inquiring into its exempt status and administering the provisions of subchapter F, Chapter 1 or subtitle A of the Code, IRC section 6033, and Chapter 42 of subtitle D of the Code.

The information that the Service requested is material in establishing ORG's right to maintain its exempt status. An organization, to be qualified as an entity described in section 501(c)(3) of the Internal Revenue Code or in certain other categories of tax-exempt organization, must be organized and operated so that no part of its net earnings inures to the benefit of any private shareholder or individual. The essence of the concept is to ensure that a tax-exempt charitable organization is serving a public interest and not a private interest.

Section 1.6033-2(i)(2) of the Regulation and Revenue Ruling 59-95, 1959-1 CB 627 requires every organization which is exempt from tax to submit additional information upon request by the Internal Revenue Service. The Service has requested ORG to provide information for the purposes of inquiring into its exempt status. The requested information was material in determining whether ORG continues to qualify for Federal tax exempt status under IRC section 501(c)(3). The Service has given ORG adequate opportunities to provide the requested information and has advised ORG of the consequences for failing to provide the information. ORG failed to respond to the Service's request for information knowing that such refusals to provide the requested information may result in the loss of its tax-exempt status. By not providing the requested information, ORG has failed to demonstrate that it is observing the conditions for continued exemption. Therefore, ORG's Federal tax exempt status under IRC section 501(c)(3) should be revoked effective December 1, 20XX.

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CONCLUSION:

By not providing the requested information, ORG has failed to establish that it is observing the conditions for continued exemption. Therefore, ORG's Federal tax exempt status under IRC section 501(c)(3) should be revoked effective December 1, 20XX.