



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

Date: November 19, 2013

Number: **201418067**
Release Date: 5/2/2014

LEGEND

ORG – Organization name
XX – Date Address - address

Taxpayer Identification Number:
Person to Contact:
Employee Identification Number:
Contact Numbers:

ORG
ADDRESS

UIL: 509.01-00

CERTIFIED MAIL

Dear :

This letter supersedes our letter, dated July 19XX. This is a final determination with respect to your non-private foundation status under section 509(a) of the Internal Revenue Code.

In our letter dated, July 19XX, we classified you as other than a private foundation by being described under Code section 509(a)(1) and 170(b)(1)(A)(vi). We have determined, based on additional review, that your non-private foundation status should remain unchanged. Accordingly, this letter supersedes our prior letter and confirms your non-private foundation status as a public charity described under Code sections 509(a)(1) and 170(b)(1)(A)(vi), effective as of July 19XX.

Your exempt status under section 501(a) of the Internal Revenue Code as an organization described in section 501(c) (3) remains in effect.

Grantors and contributors may rely on this determination, unless the Internal Revenue Service publishes a notice to the contrary. Because this letter could help resolve any questions about your private foundation status, please keep it with your permanent records.

Processing of 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

Enclosure:

Signed Form 6018

Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*

Internal Revenue Service

Department of the Treasury

TE/GE: EO Examinations

625 Fulton Street

Brooklyn, NY 11201

Date: July 19, 2013

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 propose modifying your foundation status under section 509(a) of the Internal Revenue Code (Code).

Your exempt status under section 501(c)(3) of the Code is still in effect.

If you accept our findings, take no further action. We will issue a final letter modifying your foundation status.

If you do not agree with our proposed modification of your foundation status, you may provide additional information that you would like to have considered, or you may submit a written appeal. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organization 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.

If you request a conference with Appeals, you must submit a written protest within 30 days from the date of this letter. 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.

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 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 3498
Publication 892
Report of Examination

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended
ORG		20XX09

LEGEND

ORG – Organization name XX – Date

ISSUE

Whether ORG (ORG) is excluded from private foundation status because they are a publicly supported organization described in section 509(a)(2) of the Internal Revenue Code (the Code).

FACTS

ORG (ORG) was formed May 29, 19XX. The purpose for which ORG was founded is to conduct surveys and research relating to First Amendment issues and to disseminate conclusions to the general public. On July 22, 19XX they received tax exemption as a charitable organization within the meaning of section 501(c)(3) of the Code and were classified as a publicly supported organization under IRC section 509(a)(1) and 170(b)(1)(A)(vi). Our records (IDRS) show that at a later date ORG was reclassified to a publicly supported organization under IRC section 509(a)(2).

During the examination, the sources of financial support were reviewed. The organization receives financial support in the form of contributions and investment income.

For the 4-year period prior to the year under examination, the organization received the following support:

Gifts, Grants & Contributions	\$	%
Gross Receipts	\$ 0	%
Investment Income	\$	%
Unrelated Business Income	\$ 0	%
Total Support	\$	%

LAW

Section 509(a)(1) of the Code provides that the term “private foundation” means a domestic or foreign organization described in section 501(c)(3) other than an organization described in section 170(b)(1)(A) other than clauses (vii) or (viii). This includes organizations described in Section 170(b)(1)(A)(vi) of the Code that normally receive a substantial part of its support from a governmental unit or from direct or indirect contributions from the general public.

The Treasury Regulations (Treas. Regs.) section 1.170A-9(e)(2) further define an organization as publicly supported if it receives 33 1/3 percent of their total support from contributions made by the general public.

Sections 509(a)(1) & 170(b)(1)(A)(vi) of the Code describe an organization which normally receives a substantial part of its support from a governmental unit... or from direct or indirect contributions from the general public.

Income Tax Regulations section 1.170A-9(e)(6)(i) states, in part, that in order to meet the 1/3 support test, contributions from individuals and corporations are includable public support only to the extent that they do not exceed 2% of the total support.

Section 509(a)(2) of the Code describes an organization that normally receives more than one-third of its support in each taxable year from any combination of gifts, grants, contributions, or membership fees, and

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX09

gross receipts from admissions, sales of merchandise, performance of services that is related to the exempt function and does not received more than one-third of its support in each taxable year from the sum of gross investment income and unrelated business income.

TAXPAYER'S POSITION

The organization has indicated their agreement to the proposed reclassification by signing Form 6018.

GOVERNMENT'S POSITION

Of the \$ in total support, \$ (total contributions minus % donor excess contributions) or % constitutes support from contributions. Therefore, organization meets the 1/3 support test of 509(a)(1) & 170(b)(1)(A)(vi).

Of the \$ in total support, \$ or % constitutes support from contributions and \$ or % constitutes support from investment income. Therefore, organization meets the support test of 509(a)(2).

Since Income Tax Regulation section 1.509(a)-6 states, in part, that if an organization is described in section 509(a)(1) and also in another paragraph of section 509(a), it will be treated as described in section 509(a)(1).

Therefore, the organization's foundation status should be modified from an organization described in section 509(a)(2) to an organization described in section 509(a)(1) and 170(b)(1)(A)(vi) of the Code.

CONCLUSION

The organization's foundation status should be reclassified from a publicly supported organization described in section 509(a)(2) to an organization described in section 509(a)(1) and 170(b)(1)(A)(vi) of the Code.

The effective date of this modification will be October 1, 20XX.