



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE

Release Number: **201445013**
Release Date: 11/7/2014

Date: June 5, 2014

Taxpayer Identification Number:

Person to Contact:

Employee Identification Number:

Contact Numbers:

CERTIFIED MAIL

Dear :

This is a final determination regarding your foundation classification. This letter modifies our letter to you dated May 20XX, in which we determined that you were an organization described in sections 509(a)(1) and 170(b)(1)(A)(vi) of the Internal Revenue Code (Code).

Based on your sources of support, we have determined that you are not a private foundation within the meaning of section 509(a) of the Code because you are an organization of the type described in section 509(a)(2), effective January 1, 20XX. Your tax exempt status under section 501(c)(3) of the Internal Revenue Code is not affected.

The modification of your foundation status was made for the following reason:

The regulations under section 170 provide that an organization will be described in section 170(b)(1)(A)(vi) if it normally receives at least 33 1/3 percent of its support from governmental units or from the general public. Because your primary source of support is from marriage counseling fees, your organization is not considered a publicly supported organization under Code sections 509(a)(1) and 170(b)(1)(A)(vi). However, effective for all tax years beginning with the tax year ending December 31, 20XX, you are considered a publicly supported organization under Code section 509(a)(2) which includes organizations that normally receive more than one-third of their support from a combination of gifts, grants, contributions, membership fees, and gross receipts from performing exempt function activities and not more than one-third of their support from investment income and unrelated business taxable income.

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:

United States Tax Court
400 Second Street, NW
Washington, DC 20217

US Court of Federal Claims
717 Madison Place, NW
Washington, DC 20005

U. S. District Court for the District of Columbia
333 Constitution Ave., N.W.
Washington, DC 20001

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:

Taxpayer Advocate Service

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

Sincerely yours,

Mary A. Epps
Acting Director, EO Examinations

Enclosures:

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

**Internal Revenue Service
Tax Exempt and Government Entities Division**

Department of the Treasury

Date: January 7, 2014

Taxpayer Identification Number:

Form:

990

Tax Year(s) Ended:

December 31, 20XX

Person to Contact/ID Number:

Contact Numbers:

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:

Internal Revenue Service
Office of the Taxpayer Advocate

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 886-A	Department of the Treasury - Internal Revenue Service	
	Explanation of Items	
Name of Taxpayer		Year/Period Ended 20XX12

Issue 1: Counseling Fees

On the Form 886-A, you stated that the taxpayer provides biblical marriage counseling to couples and families based upon need instead of the ability to pay; however, the Income Analysis workpaper did not demonstrate that the organization served a charitable class and operated in a noncommercial manner.

- Organizations generally qualify under IRC section 509(a)(2) if the main source of their revenue is from exempt function income such as fees for services, admissions, or sales of materials supporting their exempt function. Contributions, gifts and grants are normally not substantial in nature.
- Reg. 1.501(c)(3)-1(d)(2) provide that the term "charitable" is used in IRC 501(c)(3) in its generally accepted legal sense and includes relief of the poor and distressed or of the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments, or works; lessening of the burdens of government; promotion of social welfare.
- Per IRM 7.25.3.5.1.1 - Rev. Rul. 69-441, 1969-2 C.B. 115, provides that an organization that assists low income individuals and families with individual financial counseling, and assists them in establishing budget plans where necessary, may be exempt.
- Per IRM 7.25.3.5.1.2 - Self-help programs are often used to ameliorate the problems of poverty. Supplying materials and services for use in these programs can also be a charitable activity. How the organization operates is usually a critical factor in determining whether it is charitable rather than a commercial venture. For example, in Rev. Rul. 68-16, 1968-1 C.B. 255, an organization created to market the cooking and needlework of needy women was held to be exempt even though it received a small commission on each sale. The organization served a charitable class, and operated in a noncommercial manner. The women it served could not otherwise find an outlet.

Action:

Analyze the fee structure to verify that the taxpayer serviced a charitable class and was operated in a noncommercial manner.

Issue 2: Incorrect TIN on Letter 3597

You included the incorrect TIN on Letter 3597.