



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

TE/GE: EO Examinations

1100 Commerce Street, MC 4920 DAL

Dallas, TX 75242

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

August 7, 2015

Number: 201544027

Release Date: 10/30/2015

UIL Code: 501.03-00

Taxpayer Identification Number:

Person to Contact:

Identification Number:

Contact Telephone Number:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

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 May 10, 20XX is hereby revoked and you are no longer exempt under section 501(a) of the Code effective January 1, 20XX.

The revocation of your exempt status was made for the following reason(s):

You have failed to demonstrate that you are operated exclusively for exempt purposes, and that no part of your net earnings inures to the benefit of your officers, directors, or other private shareholders and individuals, as required by section 501(c)(3) of the Code. In addition, your activities more than insubstantially further non-exempt purposes in that you operate primarily for the benefit of private rather than public interests, including private fundraising entities, a professional management company, and a for-profit vendor and coordinator of non-cash "gift-in-kind" services.

Contributions to your organization are no longer deductible under IRC §170 after January 1, 20XX.

You are required to file Form 1120 U. S. Corporation Income Tax Return. These returns should be filed with the appropriate Service Center for tax year ended December 31, 20XX and for all 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 under the declaratory judgment provisions of section 7428 of the Code, a petition to the United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia must be filed before the 91st Day after the date this determination was mailed to you. Please contact the clerk of the appropriate court for rules regarding filing petitions for declaratory judgments by referring to the enclosed Publication 892. You may write to these courts at the following addresses:

United States Tax Court
400 Second Street, NW
Washington, D.C. 20217

United States Court of Federal Claims
717 Madison Place, NW
Washington, D.C. 20005

United States District Court for the District of Columbia
333 Constitution Avenue, NW
Washington, D.C. 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:

Internal Revenue Service
Taxpayer Advocate

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

Sincerely,

Margaret Von Lienen
Director, EO Examinations

Enclosure:
Publication 892

Internal Revenue Service
Tax Exempt and Government Entities Division
Exempt Organizations: Examinations
7850 SW 6th Court
TEGE Group 7954
Plantation, FL 33324

Department of the Treasury

Date:

December 11, 2014

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Manager's name/ID number:

Manager's contact number:

Response due date:

Certified Mail – Return Receipt Requested

Dear _____ :

Why you are receiving this letter

We propose to revoke your status as an organization described in section 501(c)(3) of the Internal Revenue Code (Code). Enclosed is our report of examination explaining the proposed action.

What you need to do if you agree

If you agree with our proposal, please sign the enclosed Form 6018, *Consent to Proposed Action – Section 7428*, and return it to the contact person at the address listed above (unless you have already provided us a signed Form 6018). We'll issue a final revocation letter determining that you aren't an organization described in section 501(c)(3).

After we issue the final revocation letter, we'll announce that your organization is no longer eligible for contributions deductible under section 170 of the Code.

If we don't hear from you

If you don't respond to this proposal within 30 calendar days from the date of this letter, we'll issue a final revocation letter. Failing to respond to this proposal will adversely impact your legal standing to seek a declaratory judgment because you failed to exhaust your administrative remedies.

Effect of revocation status

If you receive a final revocation letter, you'll be required to file federal income tax returns for the tax year(s) shown above as well as for subsequent tax years.

What you need to do if you disagree with the proposed revocation

If you disagree with our proposed revocation, you may request a meeting or telephone conference with the supervisor of the IRS contact identified in the heading of this letter. You also may file a protest with the IRS Appeals office by submitting a written request to the contact person at the address listed above within 30 calendar days from the date of this letter. The Appeals office is independent of the Exempt Organizations division and resolves most disputes informally.

For your protest to be valid, it must contain certain specific information including a statement of the facts, the applicable law, and arguments in support of your position. For specific information needed for a valid protest, please refer to page one of the enclosed Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*, and page six of the enclosed Publication 3498, *The Examination Process*. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process. Please note that Fast Track Mediation referred to in Publication 3498 generally doesn't apply after we issue this letter.

You also may request that we refer this matter for technical advice as explained in Publication 892. Please contact the individual identified on the first page of this letter if you are considering requesting technical advice. If we issue a determination letter to you based on a technical advice memorandum issued by the Exempt Organizations Rulings and Agreements office, no further IRS administrative appeal will be available to you.

Contacting the Taxpayer Advocate Office is a taxpayer right

You have the right to contact the office of the Taxpayer Advocate. Their assistance isn't a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate can't reverse a legally correct tax determination or extend the time you have (fixed by law) to file a petition in a United States court. They can, however, see that a tax matter that hasn't 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

For additional information

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,

Stephen A. Martin
Acting Director, EO Examinations

Enclosures:
Report of Examination
Form 6018
Publication 892
Publication 3498

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended December 31, 20XX

ISSUES:

Whether _____ is operated exclusively for exempt purposes described within Internal Revenue Code section 501(c)(3)?

Whether _____ is engaged primarily in activities that accomplish an exempt purpose?

Whether _____ complied with record keeping requirements as required under Internal Revenue Code sections 6001 and 6003?

FACTS:

Background:

On February 28, 20XX, _____ filed original articles of incorporation with the _____ Secretary of State. The articles of incorporation provided that its purpose was to promote charity, education, and charitable causes by assisting United States Military Veterans in their education, training, employment placement and general assimilation into civilian life through any and all means consistent with its classification as an organization exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code. The articles also state the corporation may receive property by gift, devise or bequest, invest or reinvest the same, and apply the income and principal thereof, as the Board of the Directors may from time to time determine, either directly or through contributions to any charitable organizations, exclusively for charitable and educational purposes.

_____ filed several articles of amendment with the

Secretary of State for the following:

- November 26, 20XX – Name changed to _____
- May 28, 20XX – New assumed name changed to _____
- March 7, 20XX – Principal address changed from _____ to _____

On August 8, 20XX, _____ filed articles of incorporation with the _____ Secretary of State. The articles of incorporation provided that its purpose was to promote charity, education, and charitable causes by assisting United States Military Veterans in their education, training, employment placement and general assimilation into civilian life.

Form 1023 Application:

On March 5, 20XX, _____ filed a Form 1023, Application for Recognition of Exemption under Section 501(c)(3) of the Internal Revenue Code, with the Internal Revenue Service. As indicated above _____ would later become _____

_____ stated the following in its 1023:

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- **Primary activity-** Training classes will be provided directly and the organization further intends to develop in-home classes via videos primarily created and disseminated in DVD format; anticipated that activity will compromise 75% of the organization's overall time and program service expense. Organization will also provide services designed to assist veteran in obtaining job placement, either directly or in cooperation with other similar organization; anticipated that activity will compromise 25% of its overall time and program service expenditures.
- **Fundraising Programs-** Personal solicitation, foundation and government grant appeals, internet, and email

In a letter dated May 10, 20XX, _____ was recognized by the Service as exempt from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code.

Program Activities:

In a letter dated November 4, 20XX, _____ was notified that its Form 990 for the tax year ended December 31, 20XX had been selected for examination. The examination was conducted via office correspondence because _____, the president of _____, had recently relocated the organization from _____ to _____.

After several extension requests, I received responses to Information Document Requests #1-3 from the Power of Attorney at that time, _____, on February 18, 20XX. On June 2, 20XX, I conducted a telephone interview with _____, President of _____, to get an understanding of the organization's activities during the tax year ended December 31, 20XX. I transcribed the interview I conducted with _____ on Information Document Request #4 and mailed it to _____ and _____ on July 2, 20XX, for comments, clarification, or additional documentation. During the interview, there were several questions that _____ did not know the answers to and he referred me to the accountant, _____ submitted a new Form 2848 on July 18, 20XX, to take over as Power of Attorney for _____. In an email dated October 20, 20XX, _____ stated that there are many issues and determinations made by IRS that we dispute the factual basis. _____ has not provided any documentation to support his claim to date and has not responded to the numerous outstanding Information Document Requests issued.

There were several Information Document Requests issued to _____ during the course of the examination and to date _____ has not responded completely to the document requests.

Specifically the following requested information has not been furnished:

IDR 1 (Exhibit #1)	Identify and explain each of the programs, events and/or activities you conducted during the tax year ended December 31, 20XX. Please provide details and supporting documentation for the following Expense items: <ul style="list-style-type: none"> o Management Fees \$ o Legal \$ o Accounting \$ o Other \$ o Travel \$
IDR 3 (Exhibit #2)	Provide copies of inventories of gifts-in-kind you acquired or received, and inventories of gifts-in-kind that you donated or delivered to end users. Provide bills of lading or other shipping invoices to and from your facilities, facility rental contracts or other storage contracts / agreements, and other documents relating to the collections or transfer of these gifts-in-kind, both from donors to you and from you to other donees.
IDR 4	I conducted a telephone interview with _____ on June 2, 20XX and have attached the transcript below. There

EXPLANATIONS OF ITEMS

Schedule number or exhibit

Name of taxpayer

Tax Identification Number

Year/Period ended

December 31, 20XX

(Exhibit #3)	<p>were several questions that he did not know the answers and he referred me to the accountant, . I have attempted to contact several times and left several messages but have not received a return call to date.</p> <p>Please review the interview transcript and provide any comments, clarification, or additional documentation as you deem necessary.</p>									
IDR 5 (Exhibit #4)	<p>I am unable to make a determination on whether your organization continues to operate in accordance with 501(c)(3) qualifications based on the information received thus far and from conducting an interview with your president,</p> <p>I have attached your organization's determination application filed with on March 5, 20XX, for your records.</p> <p>Please thoroughly review the attached determination application and provide the following:</p> <ul style="list-style-type: none"> • A detailed written description of each program and activity your organization conducted during the examination year ended December 31, 20XX. • Provide documentation to support to each program and activity your organization conducting during the examination year ended December 31, 20XX. 									
IDR 6 (Exhibit #5)	<p>I obtained a promissory note between (borrower) and (lender) in the amount of \$ entered into on September 1, 20XX. Repayments to , without interest, were to be as follows:</p> <ul style="list-style-type: none"> • \$ on or before September 10, 20XX • \$ on or before December 10, 20XX • \$ on or before March 10, 20XX • \$ on or before June 10, 20XX. • The entire amount of principal shall be repaid by June 10, 20XX <ul style="list-style-type: none"> • What was the purpose of the loan from to ? • Provide a copy of the cancelled check, wire transfer, etc. to substantiate loan from to in 20XX. • Provide schedule of loan repayments from to • Please provide invoices, receipts, expense reports, etc. for the following expenses: <ul style="list-style-type: none"> ○ Travel expenses \$ ○ Meals \$ ○ Insurance \$ 									
IDR 7 (Exhibit #6)	<p>During the examination of your books and records for the year ended December 31, 20XX, I determined that you paid the following individuals and attorney fees in excess of \$ for services provided and did not issue Forms 1099-MISC as required:</p> <table border="1" style="width: 100%; border-collapse: collapse; margin: 10px 0;"> <thead> <tr> <th style="width: 60%;">Name</th><th style="width: 40%;">Amount</th></tr> </thead> <tbody> <tr><td> </td><td style="text-align: center;">\$</td></tr> <tr><td> </td><td style="text-align: center;">\$</td></tr> <tr><td> </td><td style="text-align: center;">\$</td></tr> </tbody> </table> <p>Please provide the following:</p> <ul style="list-style-type: none"> • Submit delinquent Forms 1099-MISC and Forms 1096 for the individuals and corporation you have obtained a valid TIN for payments made during 20XX. • Also submit a check in the amount of \$, payable to the United States Treasury for penalties under Section 6721(a)/(b) for Failure to File Correct Forms (\$100 for each 1099 for 2011) and Section 6722(a) for Failure to Furnish Correct Returns (\$100 for each 1099 for 2011). 	Name	Amount		\$		\$		\$	
Name	Amount									
	\$									
	\$									
	\$									
IDR 8 (Exhibit #7)	<p>On July 18, 20XX, submitted a Form 2848 to takeover Power of Attorney for I contacted on July 21, 20XX, and requested that he make minor changes to the Form 2848 in order for me to submit the form for processing. To date has not submitted the requested Form 2848. I have spoken to and left voicemails on several occasions to get the corrected Form 2848. I cannot discuss specific matters about your examination with until and valid Form 2848 is submitted.</p> <p>If your organization still wants to represent you, a new Form 2848 with new signatures and a current date must be submitted. I have included the suggested line items to include on new Form 2848 below:</p> <table border="1" style="width: 100%; border-collapse: collapse; margin: 10px 0;"> <thead> <tr> <th style="width: 50%;">Description of Matters</th><th style="width: 25%;">Tax Form Number</th><th style="width: 25%;">Years or Periods</th></tr> </thead> <tbody> <tr> <td> </td><td> </td><td style="text-align: center;">20XX-20XX</td></tr> <tr> <td> </td><td> </td><td style="text-align: center;">20XX-20XX</td></tr> </tbody> </table>	Description of Matters	Tax Form Number	Years or Periods			20XX-20XX			20XX-20XX
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Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
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	Your organization has not submitted requested documents for the following Form 4564, Information Document Requests:																	
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Information Document Request #</th> <th style="text-align: left;">Date Submitted</th> <th style="text-align: left;">Information Due Date</th> </tr> </thead> <tbody> <tr> <td>IDR #4</td> <td>July 2, 20XX</td> <td>July 22, 20XX</td> </tr> <tr> <td>IDR #5</td> <td>July 9, 20XX</td> <td>July 22, 20XX</td> </tr> <tr> <td>IDR #6</td> <td>July 9, 20XX</td> <td>August 8, 20XX</td> </tr> <tr> <td>IDR #7</td> <td>July 9, 20XX</td> <td>August 8, 20XX</td> </tr> </tbody> </table>	Information Document Request #	Date Submitted	Information Due Date	IDR #4	July 2, 20XX	July 22, 20XX	IDR #5	July 9, 20XX	July 22, 20XX	IDR #6	July 9, 20XX	August 8, 20XX	IDR #7	July 9, 20XX	August 8, 20XX		
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IDR #7	July 9, 20XX	August 8, 20XX																
	Your organization was granted a 60 day extension as requested by _____ on July 18, 20XX. <u>Please submit your responses to IDRs #4-7 no later than October 1, 20XX.</u>																	
	Failure to provide the requested documentation may result in the revocation of your organization's tax-exempt status.																	
IDR 9 (Exhibit #8)	On July 21, 20XX, I sent third party contact letters to all the organizations _____ either received or donated gifts in kind to during 20XX. I requested all documentation related to any gift in kind donations they made or received from _____ during 20XX including, but not limited to, inventory list of donated items, Fair Market Value of items donated, contracts, acknowledgement letters, emails, bills of lading or other shipping invoices, etc. I have enclosed copies of the responses received from your gifts in kind donors and recipients. Please thoroughly review the attached documents and submit any comments regarding the accuracy of the documents within 10 days from the date of this letter.																	
IDR 10 (Exhibit #9)	_____ has several Information Document Requests that are extremely past due. (Please see attached IDRs #4-9) Neither _____ nor your Power of Attorney, _____, has responded to any of my phone calls or letters. Please provide outstanding information as soon as possible. Failure to provide the requested documentation may result in the revocation of your organization's tax-exempt status.																	

On its Form 990 return for the tax year ended December 31, 20XX, _____ has described its primary purpose and program achievements as follows.

Organization's mission: Mission is to help motivate and offer assistance programs to disabled veterans in order to assist the service related disabled veterans in regaining their position back into society.	Program Service Expenses
Exempt Purpose Achievements: Support and help service related veterans facilitated donations of clothing, personal health and hygiene products to the _____ in addition provided medical supplies to homeless veterans promoted and provided to the public through its website a booklet designed to help veterans deal with Post-Traumatic Stress Disorder	\$

Gifts-in-Kind activities accounted for \$ _____ of the \$ _____ in program service expenses mentioned above.

Gifts-in-Kind:

_____ entered into a contract with _____ to handle gifts-in-kind services on their behalf. _____ acted as an in-house gifts-in-kind department which enabled _____ to receive donated good. _____ requested _____ to obtain donations of medicine, medical supplies, medical equipment, food and food supplements, clothing, shoes, shelters, and disaster relief items provided the following services:

- Find and process, at the request of _____, specified goods available for donation that are listed in _____ request for donation letter.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
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responses received from the third parties were also incomplete and inconsistent with records (See Exhibit # 8 for third party responses). was the only organization that provided the exact records as . The other responders provided incomplete, irrelevant, wrong information. On October 10, 20XX, Information Document Request #9 along with copies of third party responses was mailed to requesting comments regarding the accuracy of the documents. Neither nor its Power of Attorney has responded to date.

LAW:

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), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

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 6033(a)(1) of the Code provides, except as provided in section 6033(a)(2), every organization exempt from tax under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, as such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and 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.

Section 1.6001-1(a) of the regulations in conjunction with section 1.6001-1(c) provides that every organization exempt from tax under section 501(a) of the Code and subject to the tax imposed by section 511 on its unrelated business income must keep such permanent books or accounts or records, including inventories, as are sufficient to establish the amount of gross income, deduction, credits, or other matters required to be shown by such person in any return of such tax. Such organization shall also keep such books and records as are required to substantiate the information required by section 6033.

Section 1.6001-1(e) of the regulations states that 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 as long as the contents thereof may be material in the administration of any internal revenue law.

Section 1.6033-1(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 by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and section 6033.

Revenue Ruling 59-95, 1959-1 C.B. 627, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of section 6033 of the Code and the regulations which implement it, may result in the termination of the exempt status of an

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
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organization previously held exempt, on the grounds that the organization has not established that it is observing conditions required for the continuation of exempt status.

In accordance with the above cited provisions of the Code and regulations under sections 6001 and 6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax.

Revenue Procedure 80-25, 1980-1 CB 667, Section 12.02 states that a ruling or determination letter recognizing exemption may not be relied upon if there is a material change, inconsistent with exemption, in the character, the purpose, or the method of operation of the organization. Section 13.01 further states that where there is a material change, inconsistent with exemption, in the character, the purpose, or the method of operation of an organization, revocation or modification will ordinarily take effect as of the date of such material change.

GOVERNMENT'S POSITION:

In order for an organization to retain its exempt status it must demonstrate to the Service that it meets both the organizational and the operational tests. described what it had done on its Forms 990. However, the records did not support the existence of most of the activities

did not provide any documentation to justify its stated exempt purpose achievements of providing support and help service related veterans facilitated donations of clothing, personal health and hygiene products to the in addition provided medical supplies to homeless veterans promoted and provided to the public through its website a booklet designed to help veterans deal with Post-Traumatic Stress Disorder, as reported on the Form 990 for the tax year ended December 31, 20XX.

Gifts-in-kinds activities conducted by a paid for-profit organization appeared to be primary exempt activity. failed to appropriately disclose these activities by filing required Schedules B, I, and F. The fact that these schedules were not included renders the 990 incomplete. Additionally, was unwilling or unable to produce the records necessary to support and substantiate the gifts-in-kind activities. The gifts-in-kind records provided by , its accountant, and third-party sources were incomplete and inconsistent.

Revenue Ruling 59-95 states that the failure or inability to file the required information return or otherwise to 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.

TAXPAYER'S POSITION:

position has not been determined.

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CONCLUSION:

is not operated exclusively for 501(c)(3) exempt purposes. An organization cannot be recognized as exempt under section 501(c)(3) of the Code unless it shows that it is operated exclusively for charitable, education, or other exempt purposes. Among other things, activities must demonstrate conclusively that it meets the operational test of section 1.501(c)(3)-1(c) of the Regulations.

Based on the information secured during the examination, we conclude that did not meet the operational test. also failed to comply with the recording requirements specified under the Code sections 6011 and 6033 the Regulations thereunder. Therefore, the exempt status granted to should be revoked effective from January 1, 20XX.

If the revocation is sustained, is required to file Forms 1120 for the years ending December 31, 20XX and after.