



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
1100 Commerce Street, MC 4920
Dallas, TX 75242

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: July 29, 2015

Number: 201544029
Release Date: 10/30/2015

Person to Contact:

Identification Number:

Contact Telephone Number:

Telephone Number:

UIL Code: 501.03-00

Fax:

EIN:

CERTIFIED MAIL – Return Receipt Requested

Dear _____ :

This is a final 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 January 1, 20XX for the following reason(s):

You have not demonstrated that you are operated exclusively for charitable, educational, or other exempt purposes within the meaning of I.R.C. section 501(c)(3). Organizations that are described in I.R.C. section 501(c)(3) and section 501(a) must be organized and operated exclusively for an exempt purpose. You have not established that you have operated exclusively for an exempt purpose.

As such, you failed to meet the requirements of Internal Revenue Code section 501(c)(3) and Treasury Regulation Section 1.501(c)(3)-1(d), in that you failed to establish that you were operated exclusively for an exempt purpose.

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code, effective January 1, 20XX.

You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the year ending December 31, 20XX, and for all subsequent years.

Processing of income tax returns and assessment 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 in court, you must initiate a suit for declaratory judgment in the United States Tax Court, the United States Claim Court or the District Court of the United States for the District of Columbia before the 91st day after the date this determination was mailed to you. Contact the clerk of the appropriate court for the rules for initiating suits for declaratory judgment. 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. 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. Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations, nor extend the time fixed by law that you have to file a petition in the United States Tax 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 1-877-777-4778 and ask for Taxpayer Advocate assistance. If you prefer, you may contact your local Taxpayer Advocate at:

Internal Revenue Service
Local 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 yours,

Enclosures:
Publication 892
Envelope

Margaret Von Lienen
Director, EO Examinations

Department of the Treasury
Internal Revenue Service
IRS Tax Exempt and Government Entities Division
2525 Capitol Street #217
Fresno, CA 93721-2227

Date:
March 23, 2015
Taxpayer Identification Number:

Form:

Tax year(s) ended:

Person to contact /ID number:

Contact numbers:
Phone Number:
Fax Number:
Manager's name /ID number:

Manager's contact number:
Phone 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

Phone Number:

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,

Margaret Von Lienen
Director, EO Examinations

Enclosures:
Report of Examination
Form 6018
Publication 892
Publication 3498

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended 12/31/XX, 12/31/XX, & 12/31/XX

Issues

Issue 1 – Should tax exempt status under Code section 501(c)(3) be revoked on the grounds that inurement exists?

Issue 2 - Should tax exempt status under Code section 501(c)(3) be revoked on the grounds that it did not demonstrate that it is operated for a charitable purpose; providing low income housing?

Facts

History - () incorporated in on April 4, 20XX. The stated purpose provided in its Articles of Incorporation (Exhibit 1) is:
The specific purposes for which this corporation is organized are to provide charitable assistance to the general public by providing housing to students of any age.

The filed Form 1023, *Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, with the Internal Revenue Service (Service) in 20XX. The provided only page 11 of Form 1023, a complete copy was not located, and it shows August 10, 20XX in the Director's signature line.

The provided a copy of Letter 1045 dated August 10, 20XX. Letter 1045 recognizes the as an exempt organization under Code section 501(c)(3). Letter 1045 states the effective date of exemption is April 4, 20XX and the advance ruling ending date is December 31, 20XX.

A copy of the final determination letter was not located.

The 20XX Form 990EZ, *Short Form Return of Organization Exempt From Income Tax*, provides its primary exempt purpose as *Low Income / Student Housing*.

The 20XX Form 990EZ, *Short Form Return of Organization Exempt From Income Tax*, provides its primary exempt purpose as *Provide low Income for students and under privileged*.

Current Examination - During the initial interview , Chief Executive Officer (CEO), stated the primary exempt purpose is to provide low income housing on a temporary basis.

The operated a facility located at in . The field visit was conducted on December 16, 20XX and at that time the property was in foreclosure. According to the CEO, the property went into foreclose in April of 20XX and the premises had to be vacated by the end of the year. The two tenants of the upstairs

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended 12/31/XX, 12/31/XX, & 12/31/XX

apartments refused to vacate the premises and they destroyed the office space and filled it with garbage to the point where they were impassible. According to the CEO the facility consists two - two bedroom apartments, three garages, and three offices.

During the field visit the CEO was asked about a second property located at _____ that was found online and appeared to be operated by the _____. The CEO stated the property is owned by _____, the _____ Chief Financial Officer (CFO). She stated she lives in unit C, the property has nothing to do with the _____, and units or apartment are not rented at that location under the _____ name.

An examination of the _____ books and records for the period ending December 31, 20XX established the _____ received \$ _____ in income. Source documents to show the type of income the _____ received were requested but none were provided.

Financial records for the 20XX and 20XX years were requested, but the _____ did not provide any.

Website – The _____ has a web site (http://www._____) with six tabs; home page, educational travel, educational/income opps [sic], contact us, lodgings, and home page.

The first HOME PAGE tab consists of nine pages (Exhibit 2); pages seven and eight are blank. The pages do not mention anything about low income housing. Page three states the _____ provides *low cost accommodations* and *We endeavour [sic] to provide safe, clean, affordable accommodations for your stay in _____*.

The EDUCATIONAL TRAVEL tab consists of seven pages (Exhibit 3). The pages do not mention anything about low income housing and offer accommodations for individuals on educational trips and mention spring break, _____, and whale watching.

The EDUCATIONAL/INCOME OPPS tab consists of two pages (Exhibit 4). The pages do not mention anything about low income housing and do not provide details about education, career, or employment opportunities.

The CONTACT US tab consists of two pages (Exhibit 5) and do not mention anything about low income housing and provide the same telephone number as the _____ 20XX and 20XX Forms 990EZ.

The LODGINGS tab consists of three pages (Exhibit 6) and do not mention anything about low income housing. The tab states low cost lodging is available for all educational travel to the _____, _____, and _____. Page two provides _____

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended 12/31/XX, 12/31/XX, & 12/31/XX

the telephone number and a , address; the top right picture on the page is the property.

The second HOME PAGE tab consists of nine pages (Exhibit 7) and the pages are almost identical to the pages on the first HOME PAGE tab. The pages do not mention anything about low income housing and bottom picture of page six shows the property.

Hotels.com - An online search revealed a advertisement on Hotels.com (Exhibit 8). The second page contains a picture of the

Low Income Housing – The CEO provided several documents to demonstrate the charitable activity of providing low income housing. A letter dated May 25, 20XX (Exhibit 9) serves as verification that and her children live at the and will have to leave the on June 3, 20XX.

A , Non-profit Organization Resident(s) Application Form (Exhibit 10) is dated May 25, 20XX and references . Item 11 solicits employer information and NONE is entered. Item 16 indicates receives government assistance but does not provide any figures.

A Transitional Housing Residence Agreement (Exhibit 11) dated June 2, 20XX references and her children. Item 1 shows the monthly rent is \$. Item 5 requires the resident to attend an employment and housing workshops. Attachment A requires individuals to volunteer 15 hours a month dedicated to fundraising.

A memorandum dated February 1, 20XX (Exhibit 12) to interested parties regarding state income limits for 20XX. The information is used to determine applicant eligibility or to calculate housing cost levels for applicable housing assistance programs.

Housing Department – The CEO provided a letter dated February 9, 20XX from the referencing case to explain the events that led to the property foreclosure. Case file was secured from and it provided a chronological account in the Worklog section (Exhibit 13). The Worklog contains brief entries beginning on February 6, 20XX and ending on October 22, 20XX. The following entries are noteworthy:

Date	Entry
07/24/XX	Units are not rented. Units have been removed from the rental market...
08/29/XX	8/18/XX at site to verify if renters not on property. Owners have exemptions filed. I have verified that exemptions for this property are not valid...

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended 12/31/XX, 12/31/XX, & 12/31/XX

12/12/XX Called property owner , she started yelling the property is exempt, we have no jurisdiction, and the person living there pays not rent...

02/16/XX Code hearing held, and present, she said the property owner is a non-profit organization and she believes the property is exempt...

03/28/XX Call from , the tenant in unit move out, the owner moved into unit ...

05/02/XX argued the property is owned by a non-profit organization and should have never been inspected...

05/22/XX The property has been flipped and is now owned by the individual ...

06/19/XX stated she is the new owner of the property...

10/22/XX Processing case for possible referral to City Atty...

The case file contained a General Manager's Hearing Decision Code Violation dated February 29, 20XX (Exhibit 14). The hearing references the numerous code violations at the property. The second page provided the General Manager's determination; the case is to be referred to the City Attorney's office for prosecution.

The case file contained a copy of a Grant Deed dated June 3, 20XX (Exhibit 15). The Grant Deed transferred ownership of the property located at and in to the .

The case file contained a second Grant Deed dated March 22, 20XX (Exhibit 16). The Grant Deed transfers ownership of the property , the Grant Deed is signed by and .

Law

Internal Revenue Code (Code) section 501(c)(3) provides for exemption from income tax for 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.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended 12/31/XX, 12/31/1XX, & 12/31/XX

Federal Tax Regulations (Regulations) section 1.501(c)(3)-1(a) states in part that in order to be exempt as an organization described in Code section 501(c)(3), the 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. The term "exempt purpose or purposes", as used in this section, means any purpose or purposes specified in section 501(c)(3).

Regulations section 1.501(c)(3)-1(c)(1) provides that an organization will not be regarded as operated exclusively for exempt purposes if more than an insubstantial part of its activities is not in furtherance of exempt purposes.

Revenue Procedure 96-32 provides safe harbor under which organizations that provide low-income housing will be considered charitable because they relieve the poor and distressed.

Government's Position

Issue 1 – The tax exempt status under Code section 501(c)(3) should be revoked on the grounds that inurement exists. and , as CEO and CFO respectively, transferred ownership of the property to , as an individual, as a gift as indicated in exhibit 12. made the ownership assertion numerous times to officials, as provided in exhibit 9.

Inurement also exists in the form of free residential use of the facility by . On March 28, 20XX advised she moved into unit . did not disclose this fact during the current examination nor did she provide any support to show she paid rent.

Issue 2 – The tax exempt status under Code section 501(c)(3) should be revoked on the grounds that it did not demonstrate that it is operated for a charitable purpose and does not provide low income housing.

The did not provide any documentation to show it complies with any sections of Revenue Procedure 96-32 *Exempt organizations: Low-income housing: Charitable: Relief for the poor and distressed: Safe harbor.*

The did not comply with Revenue Procedure 96-32, Section 3 SAFE HARBOR FOR RELIEVING THE POOR AND DISTRESSED, subsection 02(1) to identify low-income and very low-income families. The documentation provided by the , Exhibit 9 – 12, does not provide any indication of a process to determine the applicants category; low-income or very low-income. The documentation does not provide any indication of a comparison of the applicant's income to local income limits for low-income qualification.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended 12/31/XX, 12/31/XX, & 12/31/XX

The [redacted] did not provide any documentation to demonstrate that it met the criteria of Revenue Procedure 96-32, Section 4 FACTS AND CIRCUMSTANCES TEST FOR RELIEVING THE POOR AND DISTRESSED. Exhibits 9 – 12 do not provide any indication of a facts or circumstances test to determine low-income qualification.

Revenue Procedure 96-32, Section 4, sub section 02(4) provides the possibility of meeting the facts and circumstances test if the [redacted] participated in a government housing program, however the examination established that the [redacted] did not participate in a government housing program. The examination showed the [redacted] relationship with [redacted] did not promote low income housing and led to a recommended prosecution by city officials.

Revenue Procedure 96-32, Section 5, provides examples of application of the safe harbor and facts and circumstances test. Although it is very possible the [redacted] was offering housing at minimal rates, which alone does not automatically translate to relieving the poor and distressed, as illustrated by example 5.

The CEO stated the [redacted] does not provide any other services described on the web site. Since the property was foreclosed and a new facility has been secured, the [redacted] can't provide any type of housing.

The [redacted] web site does not provide any mention of low income housing. The information indicates the [redacted] is operated as a hotel. The information also indicates the property on [redacted] is also advertised as a hotel.

Taxpayer's Position

The CEO did not provide a definitive position at the closing conference, but the CEO executed Form 6018, *Consent to Proposed Action – Section 7428*, sent to her with this report.

Conclusion

The CEO agrees with the proposed revocation as indicated by the executed Form 6018.