



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**

July 28, 2015

Number: **201544030**
Release Date: 10/30/2015

Taxpayer Identification Number:

Person to Contact:

UIL Code: 501.03-00

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 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 are not operating exclusively for any charitable purpose, educational purpose, or any other exempt purpose. Our examination reveals that you are not engaged primarily in activities which accomplish charitable, educational or other exempt purposes as required by Treas. Reg. 1.501(c)(3)-1(c)(1). Your activities, including your financial transactions, more than insubstantially furthered non-exempt purposes.

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 years beginning January 1, 20 . We have secured Form 1120 for years ended December 31, 20XX, December 31, 20XX and December 31, 20XX.

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

The Taxpayer Advocate Service (TSA) is an independent organization within the IRS that can help protect your taxpayer rights. We can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for our assistance, which is always free, we will do everything possible to help you. Visit taxpayeradvocate.irs.gov or call 1-877-777-4778.

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



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities Division
1111 Constitution Ave., NW, K, Suite 2400
Washington, DC 20224

Date:
April 2, 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: / Fax

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 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended 12/31/20XX

ISSUE:

Whether _____ known as _____, operated exclusively for exempt purposes within meaning of section 501(c)(3) of the Internal Revenue Code (Code)?

FACTS:

The _____ (_____), doing business as _____ of _____ was incorporated in the State of _____ on May 24, 20XX and received a group exemption from Federal organization income tax under section 501(a) of the Code as an organization described in section 501(c)(3) in a determination letter (L15820 E) dated July 18, 20XX. The organization is covered under group exemption number (GEN) is _____, effective with tax period ending December 31, 20XX. The organization will be described as a 501(c)(3) and its activities as follows:

The purpose of the subordinate organization is to educate youth on the negative social, psychological, moral and physical effects of drug and substance abuse through various programs, such as local advertising on public awareness, counseling, bulk mailing campaigns and funding other sources and events consistent with the organization's mission. Receipts will originate from tax deductible charitable donations and various fundraising events including bingo and tip jars. Expenditures will include costs associated with marketing, advertising, office expenses, postage, printing, professional fees, telephone, travel, children's activities and various charitable appeals.

_____ has operated a bingo hall (fundraising) four days a week with two sponsoring charitable organizations, _____ and _____. The sponsoring organizations maintain the gaming licenses (Super Bingo, Annual Bingo, and Annual Raffle). In 20XX, the organization's only source of income comes from the operation of Bingo games which totaled \$ _____. Two charitable organizations received sponsoring fees (grants) each night bingo was conducted in the amounts of \$ _____ for _____ and \$ _____ for _____; totaling \$ _____ for _____ and \$ _____ for _____. The sponsoring fees were listed on Form 990 as Grants.

_____ conducted bingo with the general public four days a week with the two sponsoring 501(c)(3) organizations. The _____ received 100 percent of its support from gaming activities in tax year 20XX. The organization's gross receipts were \$ _____ and they donated \$ _____. This amounts to less than .005 of donations made to the charitable organizations. The remaining funds were allocated to the gaming prizes and expenses.

The independent contractors, _____ and _____ is owned by one individual, however, a valid lease agreement was in place and along with a contract for the gaming activities. This individual benefited from the existence of _____ subordinate organization of _____. This individual was involved in the creation of _____. The only activity that was present in the year of examination was donations made to the two charitable organizations describe in 501(c)(3) listed on Form 990 and the use of the facility to other organizations to hold fundraising events.

_____ provided an educational coloring and activity pamphlet for children with the message "Say No to Drugs." They also provided copies of letters thanking the organization for assistance and/or support that were received from _____, _____, _____, and _____. The _____

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prepared a letter thanking _____ for helping in fixing their scoreboard, providing field maintenance and other needs such as using the building where Bingo is held. The _____ presented a letter thanking the organization for the use of their facility to raise funds for their traveling basketball team. Based on a review of the documents submitted it appears that some of those documents were created subsequent to the year under examination.

LAW:

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for, among other listed purposes, charitable or educational purposes, provided that no part of the net earnings of such corporations inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax 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 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that an organization operates exclusively for exempt purposes only if it engages primarily in activities that accomplish exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. The existence of a substantial nonexempt purpose, regardless of the number or importance of exempt purposes, will cause failure of the operational test. In Help the Children, Inc. v. Commissioner, 28 TC 1128 (1957): An organization engaged in operating bingo games. Its charitable function consisted of contributions to charitable institutions of amounts that were insubstantial (less than 1%) when compared to gross receipts from the bingo games. The court held that the organization did not qualify for exemption because it did not operate any charitable institutions and its principal activity was the profitable operation of bingo games on a commercial basis.

Section 1.501(c)(3)-1(d)(1)(i) provides that an organization may be exempt as an organization described in section 501(c)(3) if it is organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, educational, or prevention of cruelty to children or animals.

Section 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized or operated exclusively for exempt purposes unless it serves a public rather than a private interest. To meet this requirement, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests.

Section 1.501(c)(3)-1(d)(3)(i) provide, in part, that the term "educational" for section 501(c)(3) purposes includes the instruction of the public on subjects useful to the individual and beneficial to the community.

Section 1.501(c)(3)-1(d)(2) defines the term "charitable" for schedule 501(c)(3) purposes as including 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; and promotion of social welfare by organizations designed to accomplish any of the above purposes, or (i) to lessen neighborhood tensions; (ii) to eliminate prejudice and discrimination; (iii) to defend human and civil rights secured by law; or (iv) to combat community deterioration and juvenile delinquency.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
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Section 1.501(c)(3)-1(e) provides that an organization that operates a trade or business as a substantial part of its activities may meet the requirements of section 501(c)(3) if the trade or business furthers an exempt purpose, and if the organization's primary purpose does not consist of carrying on an unrelated trade or business.

Revenue Ruling 61-170, 1961-2 CB 112 ruled 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.

Revenue Ruling 70-4, 1970-1 CB 126 ruled that Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for educational purposes. Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that an organization will be regarded as "operated exclusively" for one or more of such exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

In Better Business Bureau of Washington D.C., Inc. v. United States, 326 U.S. 279 (1945), the Supreme Court held that the presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes. The Court found that the trade association had an "underlying commercial motive" that distinguished its educational program from that carried out by a university.

In Make A Joyful Noise vs. Commissioner, T.C.M. 1989-4, the court held: An organization whose only activity was operating regularly scheduled bingo games on behalf of other exempt organizations no longer qualified for exemption under section 501(c)(3) of the Internal Revenue Code because the exempt organization that had been conducting bingo games lost its state permit due to a change in state law. The organization began to lease its premises to other organizations and participated in the operation of the bingo games, receiving a portion of the gross receipts. Almost all of the organization's gross revenues were generated from bingo operations.

The organization did not prove that its participation in the bingo games was an insubstantial part of its activities. The organization could not demonstrate that it conducted any charitable activities, other than unfulfilled charitable objectives. Therefore, the court upheld the Service's revocation.

GOVERNMENT POSITION:

Our examination revealed that a substantial part of your activities was conducting Bingo, which is not in furtherance of your exempt purpose. Therefore, as a result of our examination of your Form 990 for the period ending December 31, 20XX, we have determined that your organization no longer qualifies as an exempt organization described in section 501(c)(3) of the Internal Revenue Code. Since, a substantial part of your activities was conducting BINGO which is not in furtherance of your exempt purpose. We propose that _____ be removed from the group exemption of _____, parent organization, under GEN _____ effective January 1, 20XX.

TAXPAYER'S POSITION:

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
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The _____ agrees with the removal from the group exemption and completed Form 1120 for tax years ending December 31, 20XX, December 31, 20XX, and December 31, 20XX. Agent sent Form 6018 for signature on April 2, 20XX.

CONCLUSION:

We determined that, _____ does not operate in a manner that exclusively furthers a charitable and/or educational purpose. The organization does an insubstantial amount of educating and charitable activities. The organization provided coloring paper pamphlets for kids in the community in a prior year and has donated small amounts to charitable organizations in the year under examination. The total source of income comes from BINGO which is a substantial part of your activity.

_____ does not continue to qualify for exemption as an organization described in section 501(c)(3) of the Internal Revenue Code. Consequently, _____ is being removed from the parent organization, _____ group exemption effective January 1, 20XX.

Should this group exemption removal be upheld you are required to file Form 1120 for all future periods, whether or not you have taxable income.