

Internal Revenue Service
Appeals Office

Department of the Treasury

Taxpayer Identification Number:

Number: **201544031**
Release Date: 10/30/2015

Person to Contact:

Date: August 6, 2015

ORG

Tax Period(s) Ended:

Certified Mail

UIL: 0150.01-04

Dear

This is a final adverse determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code (the "Code"). It is determined that you do not qualify as exempt from Federal income tax under section 501(c)(3) of the Code effective **January 1, 20XX**.

Our adverse determination is based on the following reasons: You have not demonstrated that you are operated exclusively for exempt purposes within the meaning of Internal Revenue Code section 501(c)(3) and Treasury Regulations section 1.501(c)(3)-1(d). You did not engage primarily in activities that accomplish one or more of the exempt purposes specified in section 501(c)(3). You are operated for a substantial non-exempt purpose, which is not an exempt purpose. You are operated for the benefit of private rather than public interests. Your activities constituted the conduct of a trade or business that is ordinarily carried on by commercial ventures organized for profit.

Contributions to your organization are not deductible under section 170 of the Code.

You are required to file Federal income tax returns on Forms 1120 for the tax periods stated in the heading of this letter and for all open tax years thereafter. File your return with the appropriate Internal Revenue Service Center per the instructions of the return. For further instructions, forms, and information please visit www.irs.gov.

If you were a private foundation as of the effective date of revocation, you are considered to be taxable private foundation until you terminate your private foundation status under section 507 of the Code. In addition to your income tax return, you must also continue to file Form 990-PF by the 15th Day of the fifth month after the end of your annual accounting period.

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 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: 1) United States Tax Court, 2) the United States Court of Federal Claims, or 3) the United States District Court for the District of Columbia. A petition or complaint in one of these three courts must be filed within 90 days from the date this determination letter was mailed to you. Please contact the clerk of the appropriate court for rules for filing petitions for declaratory judgment. To secure a petition form from the United States Tax Court, write to the United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217. See also Publication 892.

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 matters that may not have been resolved through normal channels get prompt and proper handling. If you want Taxpayer Advocate assistance, please contact the Taxpayer Advocate for the IRS office that issued this letter. You may call toll-free, 1-877-777-4778, for the Taxpayer Advocate or visit www.irs.gov/advocate for more information.

We will notify appropriate State officials of this action. You should contact your State officials if you have any questions about how this final determination may affect your State requirements.

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

Sincerely Yours,

Nan Shimizu
Appeals Team Manager

Enclosure: Publication 892

Internal Revenue Service

Department of the Treasury

UIL: 501.03-06

Date: August 21, 2013

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

ORG

Contact Numbers:

Phone:

Fax:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dear :

We propose to revoke our recognition of your exempt status as an organization described in section 501(c)(3) of the Internal Revenue Code (the Code). We enclose our report of examination explaining why we are proposing this action.

If you accept our proposal, please sign and return the enclosed Form 6018, *Consent to Proposed Action - Section 7428*, unless you have already provided us a signed Form 6018. We will issue a final revocation letter determining you are not an organization described in section 501(c)(3). After the issuance of the final revocation letter we will publish an announcement that you have been deleted from the cumulative list of organizations contributions to which are deductible under section 170 of the Code. If you do not respond to this proposal, we will similarly issue a final revocation letter. Failing to respond to this proposal may adversely impact your legal standing to seek a declaratory judgment because you may be deemed to have failed to exhaust administrative remedies.

If you do not agree with our proposed revocation and wish to protest our proposed

revocation to the Appeals Office of the Internal Revenue Service, then you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. This written request is called a protest. For your protest to be valid it needs to contain certain specific information which generally includes a statement of the facts, the applicable law, and arguments in support of your position. For the specific information needed for a valid protest, please refer to page 6 of the enclosed Publication 3498, *The Examination Process*, and page 1 of the enclosed Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*.

If you do submit a valid protest, then 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. The enclosed Publication 3498 and Publication 892 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. Please note that Fast Track Mediation Services referred to in Publication 3498, generally do not apply after issuance of this letter.

You may also request that we refer this matter for Technical Advice as explained in Publication 892 and an annual revenue procedure. 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 EO Rulings and Agreements function, then no further administrative appeal will be available to you within the IRS on the matter.

If you receive a final revocation letter, you will be required to file Federal income tax returns for the tax period(s) shown above as well as for subsequent years.

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

Enclosure:
Publication 892,
Publication 3498,
Form 6018,
Report of Examination

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit Form 990
Name of taxpayer ORG	Tax Identification Number	Year/Period ended December 31, 20XX December 31, 20XX

LEGEND

ORG - Organization name XX - Date City - city State - state
 County - county President - president Secretary - secretary
 Treasurer - treasurer Trainee-1 through 9 - Trainee-1 through 9
 Contractor-1 through 9 - Contractor-1 through 9

Issues

Is the organization operated primarily for exempt purposes, as required to qualify for exemption under Internal Revenue Code section 501(c)(3)?

Facts

Background

The organization currently under audit is ORG, a State nonprofit corporation, EIN . ORG is exempt under section 501(a) of the Internal Revenue Code (IRC) as an organization described in IRC section 501(c)(3). The current TE/GE examination is for the years ending December 31, 20XX and December 31, 20XX. All details below, unless otherwise noted, are based on facts learned concerning the year ending December 31, 20XX. The taxpayer indicated that subsequent years were not materially different.

ORG' articles of incorporation were filed with the State Secretary of State in September 20XX; the Secretary of State endorsed them in March 20XX. ORG received its final determination letter from the IRS in July 20XX. The final determination found the organization to be exempt under IRC section 501(c)(3) and excepted from private foundation classification under IRC section 509(a)(2). IRC section 509(a)(2) indicates that the organization expected to receive at least one third of its support from contributions and from activities related to its exempt function.

ORG' only filing requirement was for the Form 990. The 20XX Form 990 was received by the return due date on May 15, 20XX. The amended 20XX return provided during the audit gave the following information:

Income		
equipment rental	\$ 0	0%
contributions received	\$ 0	0%
lease refund	\$ 0	0%
loan	\$ 0	0%
	\$ 0	100%
Expense		
rent	\$ 0	0%
equipment purchase	\$ 0	0%
salaries	\$ 0	0%
consultants	\$ 0	0%
transportation	\$ 0	0%

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equipment rental	\$ 0	0%
legal fees	\$ 0	0%
office expenses	\$ 0	0%
other	\$ 0	0%
	\$ 0	100%
Net Income	\$ 0	

A few items were inappropriately recorded as income/expense items. The adjusted income statement showed:

Adjusted income and expenses		
Income		
equipment rental	\$ 0	0%
contributions received	\$ 0	0%
	\$ 0	100%
Expense		
rent	\$ 0	0%
equipment purchase	\$ 0	0%
salaries	\$ 0	0%
consultants	\$ 0	0%
transportation	\$ 0	0%
equipment rental	\$ 0	0%
legal fees	\$ 0	0%
office expenses	\$ 0	0%
other	\$ 0	0%
	\$ 0	100%

Board

The 20XX board was

- o President, President
- o Secretary, Secretary
- o Treasurer, Treasurer
- o Member, member

The Form 990 indicated that all volunteered 40 hours a week. However, in the interview, Treasurer stated that he volunteered Tuesday, Wednesday, and Thursday from about 5AM-11PM (54 hours) and the others volunteered approximately 10 hours weekly on the weekends. Member passed away in 20XX.

Purpose

The purpose noted in the articles of incorporation and bylaws was:

Empowering City Area performing artists to reach a broader audience in the community, and expanding access for the general public to free art events in the City area's public spaces.

The purpose noted on the Form 1023, Application for Recognition of Exemption was:

- 1) empower emerging, distressed, and displaced artists in the City area
- 2) expand public access to art events

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3) *provide employment opportunities to an economically disadvantaged labor pool*

Activities

Proposed activities

The proposed activities indicated on the exemption application were:

- 1) Community events and ORG concert series (75%)
 - a. To address the ongoing economic crisis of the City area performing arts community by providing performance opportunities to emerging artists and artists evicted from their arts spaces
 - b. To educate, involve, and entertain the public through free arts performances in public spaces
 - c. To build communities and support for public spaces by hosting free arts events in public spaces, including isolated neighborhoods
 - d. To work with business and agencies who hire the homeless and economically disadvantaged by providing employment opportunities through work as stage crew and as security "while receiving vocational training at their places of employment."
- 2) Fundraising (15%)
 - a. Grants
 - b. Sponsorships
 - c. Governmental grants
 - d. Special fundraising events
 - e. Raffles and auctions
 - f. Direct-mail
- 3) Arts Advocacy (10%) to expand public awareness and support of emerging artists and public spaces through:
 - a. Public performances
 - b. Working with other arts organizations
 - c. Hosting events
 - d. Outreach to ORG distribution list
 - e. Press releases
 - f. Speaking at public hearings

Actual activities

In the initial interview, Treasurer, ORG treasurer, described the following activities:

20XX

- o Event-1 - one free, public concert used to raise donations of school supplies
- o Event-2 - a giveaway program of two new band instruments procured from another giveaway program

20XX

- o Event-3 - one free, public broadcast of the Obama inauguration used to raise donations of "two cargo vans" of new socks and underwear
- o Donation of audio/visual service and equipment for a play at Elementary School

20XX

- o Donation of audio/visual service and equipment for a play at Elementary School

20XX

- o None

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20XX

- o Donation of audio/visual service and equipment for a play at Elementary School
- o Illumination of one church each on Easter weekend and Palm Sunday weekend in County County

All years

- o Rental of audio/visual service and equipment to the public, for-profit businesses, and non-profit entities
- o Production of e-mail newsletter
- o Stage Crew Training Program providing job skills training and an above minimum wage to transitional homeless individuals
- o Design and rental of new equipment including a non-flammable luminaria and a silent BatteryPak power system

The organization's website indicates that ORG collects

As

indicated above, each of these activities only happened once in 20XX and 20XX.

Audio/Visual Rentals

In the primary year under audit, ORG made about 360 rentals of audio/visual equipment and services, bringing in \$0 in income. The organization's website declares ORG as "Your City Area specialists in Event Planning, Management, and Equipment Rental." The website describes audio, visual, and lighting rental options. It also lists drapery, carpets, stages, tables, chairs, tents, and additional event production items available for rent. In the words of Treasurer, the organization rents "everything but the dishes." Customers must email the organization for a quote. The website also states, "ORG is a charity non-profit that uses the equipment we own to raise funds for our programming."

ORG does most of its advertising on Google. Treasurer stated that advertising on Google started in 20XX or 20XX when they got a grant for ads from Google. In 20XX, they hired a consultant to manage search engine optimization. Search engine optimization techniques include listing ORG services and events on blogs, FaceBook, and Twitter to ensure that their website comes out at the top of web searches.

Newsletters

ORG emails a short monthly newsletter to approximately 31,000 recipients. The newsletter promotes ORG's equipment rental and services as a means to raise funds to support the organization's programming. There is little substantial information in the newsletters. They list the companies the organization has worked with and tells brief anecdotes about interesting jobs the organization has worked.

Stage Crew Training Program

The purpose of the program was to hire transitional homeless workers on a part time basis and train them in employable and universal skills as they continued rehabilitation programs, education, or to seek full-time employment. The program was described as a hands-on immersion program in production technologies through practical exercise. Treasurer stated, "The purpose of the program is two-fold. To get the work we need done and to help the economically disadvantaged reintegrate into society and the workforce."

Initially, Treasurer stated that workers were selected from the Foundation free meal food line. They chose individuals who looked relatively responsible and respectable – wearing clean clothes and maybe reading a book. This indicated that the workers were making every effort to get out of homelessness. Eventually,

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ORG went through the formal Foundation's work placement program, but many of the workers provided were 'straight off the street' – unclean and poorly behaved, even going through the garbage at events. ORG switched to Church, where they got good workers. The placement specialist left Church and moved to the State of State Employment Development Department, but ORG stayed with her because of her good placements. In the years under audit, ORG trainees came via word of mouth. Because of the nature of the trainees selected, no event attendees or other independent contractors could recognize that they were homeless.

Treasurer explained that trainee work included setting up for events, moving equipment, monitoring trashcans, setting up loudspeakers, running cables (not hooking them up), setting up VIP areas, making food for the crew, getting supplies. Hours worked varied with need. Part of the intent of the program was to keep the homeless/workers busy during "high risk" times such as nights and weekends. Compensation was between \$0 and \$0 per hour.

Treasurer described in response to IDR #2 how very few of the potential workers actually entered the program. Placement was based on aptitude; willingness to work, learn, and conform; being on time; being cognizant of the surroundings; being well kempt; and having dexterity and good hand/eye coordination. Essentially, placement was based on good job skills and potential to succeed in the field. Treasurer stated that about 0% of people who worked stayed on for the program.

The structure of the "training" program was very loose. Treasurer said there was no "graduation" date set for participants. Participants moved on when they felt they were ready for a better job and wanted more money. In the past, participation lasted between three months and three years. Participants were welcome to use ORG' fax machines, computers, and printers in their job searches. Treasurer was the participants' "coach." He had degrees in physics and electrical engineering and he had taught at the high school and college levels. He worked with participants and noted their progress. The taxpayer stated that Treasurer's experience since founding ORG has strengthened his qualifications to successfully work with program participants. The program had no job counselors or social workers, no evaluation system, no benchmarks of progress, no classroom training, no unemployment placement services, no timeline for completion of the program, no schedule of participation, and no regularly enrolled body of trainees.

Stage Crew Training Program Participants

In the year under audit, Treasurer indicated eight trainees. These matched eight of the nine individuals indicated under the Stage Crew Training program on the organization's general ledger.

name	1099	# pmts	title
Trainee-1	\$ 0	8	Stage Crew Training Program
Trainee-2	\$ 0	1	Stage Crew Training Program
Trainee-3	\$ 0	1	Stage Crew Training Program
Trainee-4	\$ 0	1	Stage Crew Training Program
Trainee-5	\$ 0	1	Stage Crew Training Program
Trainee-6	\$ 0	1	Stage Crew Training Program
Trainee-7	\$ 0	1	Stage Crew Training Program
Trainee-8	\$ 0	1	Stage Crew Training Program
Trainee-9	\$ 0	1	Stage Crew Training Program*
total	\$ 0		*(as indicated on GL, not included in TP's list of participants)

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Eight of the nine trainees were only paid once. Only one appears to have actually been enrolled in the program, receiving compensation in seven months of the year. The trainee who received over \$0 in compensation received a Form 1099.

Contractors

The general ledger shows the following other regular workers of the organization:

name	GL/1099	# pmts	title	1099
Contractor-1	\$ 0	1	Stage Crew Training Program graduate	na
Contractor-2	\$ 0	2	Stage Crew Training Program graduate	delinquent
Contractor-3	\$ 0	48	Lead Technician	1099
Contractor-4	\$ 0	4	Technician	1099
Contractor-5	\$ 0	12	Lead Technician	1099
Contractor-6	\$ 0	38	Business Development Coach/Consultant	1099
Contractor-7	\$ 0	17	Search Engine Optimization and Business Development Consultant	1099
Contractor-8	\$ 0	10	Technician	1099
Contractor-9	\$ 0	3	Technician	1099
	\$ 0			

Volunteers

Treasurer stated in the interview that there were often many volunteers for big events and usually eight to ten on a regular basis. The organization's website and newsletter both make requests for volunteers. Treasurer stated that there are volunteers at the organization's facilities every day working on rental events.

The board members all work for no compensation.

All workers, paid or not, receive free meals.

Law

IRC section 501(c)(3) provides for Federal income tax exemption for:

Corporations, 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.

Treasury Regulation section 1.501(c)(3)-1(d)(2) says that the term "charitable" is used in its generally accepted legal sense, and it not to be construed as limited. "Charitable" includes the relief of the poor and

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distressed or of the under-privileged, the advancement of education or science, promotion of social welfare, lessening of neighborhood tensions, and other like purposes.

Treasury Regulation section 1.501(c)(3)-1(d)(3)(i)(a) of the regulations defines the term 'educational' as including the instruction or training of the individual for the purpose of improving or developing their capabilities.

Treasury Regulation section 1.501(c)(3)-(1)(a) says:

Organizational and operational tests. (1) 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.

Treasury Regulation section 1.501(c)(3)-(1)(c) says:

Operational test – (1) Primary activities. An organization will be regarded as operated exclusively for one or more 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.

Treasury Regulation section 53.4942(b)-1(a)(2)(ii) defines "primarily" as at least 50%. Treasury Regulation section 53.4942(b)-1(c) defines "substantially all" as 85% or more. Therefore "insubstantial" means less than 15%.

IRC section 511 imposes a tax on the unrelated business taxable income of an organization exempt under the provisions of section 501(c) of the Code. IRC section 512(a) defines "unrelated business taxable income" as the gross income derived by an organization from an unrelated trade or business regularly carried on by it, less the deductions allowed which are directly connected with the carrying on of such trade or business. IRC section 513(a) defines "unrelated trade or business" as any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its exempt purpose or function. Section 513(c) provides that an activity does not lose its identity as trade or business merely because it is carried on within a larger complex of other endeavors, which may be related to the exempt purposes of the organization. Treasury Regulation 1.513-1(e) says that unrelated trade or business does not include any trade or business in which substantially all the work is performed by volunteers; which is carried on for the convenience of its members, users, or employees; or which is the selling of substantially all donated merchandise.

Section 1.513-1(a) of the Treasury Regulations states that the gross income of an exempt organization subject to the tax imposed by section of the Code is includible in the computation of unrelated business taxable income if the following apply:

1. It is income from a trade or business. Section 1.513-1(b) of the Treasury Regulations provides that the term "trade or business" generally includes any activity carried on for the production of income.
2. Such trade or business is regularly carried on by the organization. Section 1.513-1(c) of the Treasury Regulations provides that specific business activities of an exempt organization will ordinarily be deemed to be "regularly carried on" if they manifest a frequency and continuity, and

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are pursued in a manner, generally similar to comparable commercial activities of non-exempt organizations.

- The conduct of such trade or business is not substantially related to the organization's performance of its exempt functions. Section 1.513-1(d)(2) of the regulations provides that trade or business is "related" to exempt purposes where the conduct of the business activities has a causal relationship to the achievement of exempt purposes; it is "substantially related" only if the causal relationship is a substantial one, and the conduct of the trade or business contributes importantly to the accomplishment of the organization's exempt purposes.

Treasury Regulation section 1.513-1(d)(2) states that a trade or business is 'related' to exempt purposes only where the conduct of the business activity has causal relationship to the achievement of an exempt purpose, and is 'substantially related' for purposes of IRC section 513 only if the causal relationship is a substantial one.

Treasury Regulation section 1.513-1(d)(3) states that in determining whether activities contribute importantly to the accomplishment of an exempt purpose, the size and extent of the activities involved must be considered in relation to the nature and extent of the exempt function which they purport to serve.

Treasury Regulation section 1.501(c)(3)-1(e)(1) states that an organization may meet the requirements of section 501(c)(3) although it operates a trade or business as a substantial part of its activities, if the operation of such trade or business is in furtherance of the organization's exempt purpose or purposes and if the organization is not organized or operated for the primary purpose of carrying on an unrelated trade or business, as defined in section 513. In determining the existence or nonexistence of such primary purpose, all the circumstances must be considered, including the size and extent of the trade or business and the size and extent of the activities which are in furtherance of one or more exempt purposes. An organization which is organized and operated for the primary purpose of carrying on an unrelated trade or business is not exempt under section 501(c)(3).

Revenue Ruling 72-369, 1972-2 CB 245 states that an organization formed to provide managerial and consulting services at cost to unrelated exempt organizations does not qualify for exemption under IRC section 510(c)(3). Providing managerial and consulting services on a regular basis for a fee is a trade or business ordinarily carried on for profit. Furnishing services at cost lacks the donative element necessary to establish this activity as charitable. As the organization is not operated for charitable purposes, the organization does not qualify for exemption from Federal income tax under IRC section 510(c)(3).

Treasury Regulation section 1.512(a)-1(b) states that expenses, depreciation, and similar items attributable solely to the conduct of unrelated business activities are proximately and primarily related to that business activity, and therefore are deductible in computing unrelated business activities. They are directly connected with the conduct of that activity. For example, depreciation of a building used entirely in the conduct of unrelated business activities would be an allowable deduction.

Treasury Regulation section 1.512(a)-1 (c) explains that where facilities are used both to carry on exempt activities and to conduct unrelated trade or business activities, expenses, depreciation and similar items attributable to such facilities must be allocated between the two uses on a reasonable basis. For example, where personnel are used both to carry on exempt activities and to conduct unrelated trade or business activities, expenses and similar items attributable to such personnel must also be allocated between the two uses on a reasonable basis. The portion of any such item so allocated to the unrelated trade or

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business activity must be proximately and primarily related to that business activity, and shall be allowable as a deduction in computing unrelated business taxable income.

Taxpayer Position

A draft report of preliminary findings and analysis of the case was sent to ORG's Executive Director and Treasurer, Treasurer, and to the organization's Power of Attorney, Attorney, on July 18, 2013. Attorney replied on August 8, 20XX that Treasurer did not want to respond to the draft and would provide additional documentation during the appeals process.

Government Position

Is the organization operated primarily for exempt purposes, as required to qualify for exemption under Internal Revenue Code section 501(c)(3)?

While the proposed activities would have furthered ORG' charitable purpose, the actual activities did not.

Public Arts Events

The organization hosted only one public art event since 20XX, according to the description of events given during the initial interview by Treasurer. ORG' proposed primary activity was using free public art events to give performance opportunities to artists, provide free arts events to the public, showcase public space, and offer employment opportunities to economically distressed individuals vetted by other agencies. In the years under audit, the organization has once provided free audio/visual equipment and serves to an elementary school play. These activities do not match the sort for which the organization was granted tax exempt status. In 20XX, Treasurer stated that they conducted no charitable activity.

Stage Crew Training Program

What the organization lacked in public arts events, it could make up with its vocational training program. However, there was little evidence that this program was anything more than a euphemism for cheap labor for the organization. There was no formal training program, no benchmarks, no formal counselor, and no formal review.

Even if the program did operate with the structure, intent, and formality that Treasurer implied, it was a very small portion of overall programming. Based on wages paid to trainees, the Stage Crew Training Program constituted an insubstantial expense and an insubstantial number of hours. Out of the nine trainees listed on the GL, only one was paid on a somewhat ongoing basis.

		% of total salaries and contractor fees	% total expense
stage crew training program compensation, per GL	\$ 0	0%	0%
single ongoing trainee, per GL	\$ 0	0%	0%
total salaries and contractor fees, excluding accounting and legal, per Form 990			\$ 0

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total expense, per Form 990			\$ 0

Stage crew training program compensation paid to all trainees, including the eight who only worked for one pay period, constituted 10% of total compensation and 2% of total expenses. Wages paid to the only regularly enrolled trainee constituted only 5% of all wages paid. Because wages are based on hours worked, this also indicates that little time was devoted to the program.

For Profit Business

ORG' primary activity, the rental of audio/visual equipment and services to the public, is not recognized as a charitable or educational purpose within the meaning of IRC section 501(c)(3) and Treasury Regulation section 1.501(c)(3)-1(d)(2) or -1(d)(3). Although the nature of a vocational, on-the-job training program would require an operational retail business, the actual purpose of the business is evidenced by the scale of retail operations. The scale is much larger than necessary to train the single long term trainee and the eight single pay period trainees.

In the primary year under audit, the organization made over 360 rentals. Equipment and event supplies rental and service brought in \$0, 0% of all the organization's income. The organization promotes itself to the public as "specialists in Event Planning, Management, and Equipment Rental." Over time, the organization has increased its rental stock to include other typical event items such as drapery, carpets, stages, tables, chairs, tents, and additional event production items. ORG hires search engine optimization specialists to ensure that their organization comes out at the top of Internet searches.

Conclusion

The organization's primary purpose, operation of a retail business, is not a recognized charitable purpose with in IRC section 501(c)(3). Accordingly, the organization does not qualify for recognition of exemption from Federal income tax under IRC section 501(c)(3). Revocation of the organization's tax exempt status should be effective January 1, 20XX, the earliest date audited to show that the organization was not operated primarily for exempt purposes.