



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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: September 23, 2015

Number: 201552031
Release Date: 12/24/2015

Person to Contact:

Identification Number:

Contact Telephone Number:

Telephone Number:

Fax:

EIN:

UIL: 501.03-00

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 December 27, 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 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
Office of the Taxpayer Advocate

Telephone:

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

Margaret Von Lienen
Director, EO Examinations

Internal Revenue Service
Tax Exempt and Government Entities Division
Exempt Organizations: Examinations
MS: 4900 PHX.JM
4041 N. Central Ave #112
Phoenix, AZ 85012

Department of the Treasury

Date:

May 13, 2015

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,

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	EIN:	Period Ending: December 31, 20XX

Issue

Should the exempt status under Internal Revenue Code (IRC) Section (Sec.) 501(c)(3) of the _____ be revoked effective January 1, 20XX because the Organization does not meet the operational test (operated exclusively for charitable purposes) requirements of Treasury (Treas.) Regulation (Reg.) Sec. 1.501(c)(3)-1(a)(1)?

Facts

Background Information

According to the _____ Secretary of State's website, _____ was incorporated in _____ on November 17, 20XX.

On December 27, 20XX, the Internal Revenue Service issued Letter 1045 notifying _____ of its exempt status under I.R.C. Sec. 501(c)(3). Per the current Internal Revenue Service records, _____ is recognized as tax exempt under IRC Sec. 501(c)(3) and its foundation status is a public charity under IRC Sec. 170(b)(1)(A)(vi).

On January 6, 20XX, the Agent spoke with _____ (President) the current President of _____, and explained _____ was selected for audit for the period ending December 31, 20XX. The President did not want to give any information without receive written confirmation of the audit. The Agent mailed the President Letter 3606 and Information Document Request #1.

_____, (Taxpayer's Representative) in letters dated January 12, 20XX and February 24, 20XX stated the following:

1. The President of _____ is _____
2. Our records indicate that the Organization has not conducted any business activity since the application was filed, other than filing the required 990-N (e-postcard) tax returns to keep the Organization current with the Internal Revenue Service.
3. Because the Organization is currently dormant, all items listed on your Form 4564-Information Document Request are not available because they have not yet been prepared.

Form 1023 – Application for exempt status

_____ provided a description of its activities when applying for exempts status, the activities below were provided with _____ Form 1023.

1. The purpose of _____ now and in the future is to provide funding for educational research and tutoring/seminars to help people become independent and self-sufficient.
2. We are specifically looking to help those who are capable or have the potential to achieve financial independence and emotional stability, again as set forth by the DSM-V.
3. Many homeless people are capable to work and have job skills right now. We will help them improve these skills for work in offices or with any job they wish to pursue.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
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4. Homeless people who also have on the job training in solicitation will be hired to work on the streets, getting donations from people who stop at traffic lights. The latter practice is commonly known as pan-handling. We intend to enable and to empower the homeless to continue this activity, for the benefit of themselves and for our programs.

5. To prevent diversion of funds we will charge the worker a minimal daily fee for being able to solicit funds. With the permission of districts in _____, we will charge from \$ - per shift and permit the worker to keep anything beyond their solicitations.

6. At the end of the Description of Activities is a section called "Members that receive benefits from you". The following is the paragraph from that section:

"Tutors and tutoring services will be contracted to provide services to eligible students. Low income or no income people or homeless people or office staff will be working for us and receiving wages. College students who demonstrate academic need for help for a particular subject will receive free or discounted tutoring as well as opportunities to perform research. Board Member relatives will not receive benefits."

Website

web address is www._____.com. A _____ search on the web address provided:

1. The registrant name, admin name, and tech name are all listed as "_____".
2. The registrant organization, admin organization, and tech organization are all listed as: "_____".

The following is a detailed description of the webpage:

1. First line of the web page:
2. Second line of the web page:
3. Third line of the webpage:
4. Forth line of the webpage:
5. Fifth line of the webpage:
6. Six line of the webpage: ().
7. Seventh Line is the start of a bulleted paragraph:

The goal of _____ is to provide the following benefits to its members:

-
-
-

8. The relevant parts of the first full paragraph are:
 - a.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
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b.

Archive.org (a historical archive of internet webpages) shows webpage, as described above, was in effect during the audit year and year subsequent to the audit year.

LAW

Internal Revenue Code

IRC Sec. 501(c)(3) - Organizations described in I.R.C. Sec. 501(c)(3) are exempt from income tax. These organizations include 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.

Treasury Regulations

Treas. Reg. Sec. 1.501(c)(3)-1(a)(1) - **Organizational and operational tests** - In order to be exempt as an organization described in I.R.C. Sec. 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.

Treas. Reg. Sec. 1.501(c)(3)-1(c)(1) - An organization will be regarded as “**operated exclusively**” for one or more exempt purposes only if it engages primarily in activities that accomplish one or more of such exempt purposes specified in the Internal Revenue Code.

Treas. Reg. Sec. 1.501(c)(3)-1(d)(1)(ii) - clarifies the meaning of the term exempt purpose. An organization is not organized or operated exclusively for one or more exempt purpose 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 such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Treas. Reg. Sec. 1.501(c)(3)-1(d)(2) - provides that the term “charitable” is used in section 501(c)(3) in its generally accepted legal sense. Such term includes: Relief of the poor and distressed or of the underprivileged; advancement of religion; advancement of education or science; lessening of the burdens of Government; and promotion of social welfare by organizations designed to accomplish any of the above purposes, or (1) to lessen neighborhood tensions; (2) to eliminate prejudice and discrimination; (3) to defend human and civil rights secured by law; or (4) to combat community deterioration and juvenile delinquency.

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Cases

Better Business Bureau of Washington, D.C. v. United States, 326 U.S. 279 (1945) -

The existence of a substantial nonexempt purpose, regardless of the number or importance of exempt purposes, will cause failure of the **operational test**.

Government's Position

It is the Government's position the exempt status of the
() should be revoked effective January 1, 20XX because the Organization does not meet the operational test (operated exclusively for charitable purposes).

application for exemption (From 1023) states will assist the homeless with employment and tutoring so they may be independent and self-sufficient. On webpage there is nothing related to assisting the homeless, how the homeless can get tutoring to become self-sufficient or how they can get jobs. The Organization was granted exempt status based on their planned assistance (tutoring) of a charitable class (the homeless), however, there is no indication this activity is being conducted. Additionally, per the Power of Attorney, further stated that nothing has been done with this Organization or activity.

Subsequent to the start of the audit, webpage was changed; removing the name from promoting the President's for-profit tutoring services. However, the domain www. .com is registered in the name of and is the property of and should only be used in the operation of exempt purpose. Even at the time of this writing, exempt purpose assets are in use for for-profit activities.

has not provided documents to support their exempt purpose and has not established they are meeting the requirements of the operational test. All activities of are for the promotion of a for-profit nonexempt purpose.

Organization's Position

The Taxpayer's Representative has stated is currently dormant and not operating.

Conclusion

sole purpose is to promote the President's for profit business does not meet the requirements of the operational test and its exempt status should be revoked effective January 1, 20XX. Form 1120, *U.S. Corporation Income Tax Return* should be filed for 20XX and each year thereafter as long as it remains subject to Federal Income Tax. If the proposed revocation becomes final, appropriate State officials will be notified of such actions in accordance with IRC Sec. 6104(c).