



**DEPARTMENT OF THE TREASURY**

Internal Revenue Service  
TE/GE EO Examinations  
1100 Commerce Street M/C 4920 DAL  
Dallas, TX 75242

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

Date: SEP 17 2015

Release Number: 201603035  
Release Date: 1/15/2016  
UIL Code: 501.03-00

Person to Contact:  
Identification Number:  
Telephone Number:  
In Reply Refer to: TE/GE Review Staff

LAST DATE FOR FILING A PETITION  
WITH THE TAX COURT: DEC 16 2015

CERTIFIED MAIL – Return Receipt Requested

Dear:

This is a Final Adverse Determination Letter that your organization was not exempt from taxation under section 501(a) as described under section 501(c)(3) of the Internal Revenue Code (IRC). The denial of your tax exempt status is effective January 1, 20XX.

Our adverse determination was made for the following reasons:

You have not established that you are operated exclusively for an exempt purpose or that you have been engaged primarily in activities that accomplish one or more exempt purposes.

You have not established that no part of your net earnings inure to the benefit of any private shareholder or individual.

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

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 years thereafter.

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 91<sup>st</sup> 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.

The Taxpayer Advocate Service (TAS) 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](http://taxpayeradvocate.irs.gov) or call 1-877-777-4778.

We will notify the appropriate State Officials of this action, as required by section 6104(c) of the Internal Revenue Code.

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

**Sincerely yours,**  
John A. Koskinen  
Commissioner  
By

Margaret Von Lienen  
Director  
EO Examinations

Enclosures:  
Publication 892

**Internal Revenue Service**  
**Tax Exempt and Government Entities Division**  
Exempt Organizations: Examinations  
1100 Commerce Street MS 4900 DAL  
Dallas, TX 75242-1100

**Department of the Treasury**

**Date:**

May 19, 2015

**Taxpayer Identification Number:**

**Form:**

990 Return

**Tax Year(s) Ended:**

Dec. 31, 20XX and Dec. 31, 20XX

**Person to Contact/ID Number:**

**Contact Numbers:**

Telephone:

Fax:

**Manager's name/ID number:**

**Manager's contact number:**

**Response due date:**

June 19, 2015

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

**ISSUE:**

Whether ( ) qualifies for exemption under Section 501(c)(3) of the Internal Revenue Code.

**FACTS:**

filed the Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the International Revenue Code, on September 6, 19XX, stating that the primary purpose and mission of , Inc. is a childcare organization which provides services to working parents. Internal Revenue Service granted exempt status to on July 10, 19XX.

The Form 990 for the year 20XX was filed by the vice president, , on November 29, 20XX. Part I of the Form 990 stated that its exempt activities were to operate day care centers for infants through school-aged children for working parents. The Form 990 for the year 20XX was not filed by the organization as of this date.

On August 19, 20XX, a letter was issued to the organization requesting documents for review during a field examination on September 8-10, 20XX. However, during a field examination on September 8 through September 10, 20XX, none of the requested information was provided. On October 2, 20XX, a second request was issued to the organization. On February 18, 20XX, after a request for an extension of time, a third request was issued. On March 17, 20XX, a fourth request was issued. On May 7, 20XX, a second field examination was conducted at the facility of . During the field examination, the organization provided some of the requested documents, such as the general ledger for the year 20XX, bank statements, and some requested documents. However, the organization still failed to provide substantial documentation, including cancelled checks, credit card statements, mortgages and notes payable, invoices, rental agreements for , and facilities, records for any food reimbursement payments, and receipts for office expenses, food, supplies, transportation, and other uncategorized expenses.

is a Licensed Child Care Center. In the year under examination, it operated full time daycare centers from Monday through Friday in three daycare facilities: , , and accepted child categories of: infant, toddler, preschooler, and school age. participated in the government subsidized child care program. It participated in the federally funded Child Care Food Program in its facility.

A question was asked of the president of , regarding how differs from other for-profit day care providers. provided explanation indicated that there was no difference in fees paid by the parents due to its not-for-profit status. There is a difference in fees paid if the family qualifies for government assistance through the state, but the fee determination has nothing to do with a for-profit or not-for-profit status. The fee is determined by family income, family size and the number of your children that will be in child care.

During the second field examination, provided documents to the examiner indicating that sold and transferred its two facilities in and to a for-profit entity, the . in 20XX. The sale price of the two facilities



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

Rev. Rul. 68-166, 1968-1 C.B. 255, provides that a nonprofit organization formed to operate a day care center for young children of needy working parents, who have no means to provide care for their children during the day, qualifies for exemption under IRC 501(c)(3). The organization charged a nominal fee and was largely dependent on contributions for support.

**GOVERNMENT'S POSITION:**

In order to claim tax-exempt status a corporation must keep records sufficient to show specifically its items of gross income, receipts and disbursements and show that it is entitled to the exemption, as specified under IRC §6001 and Treasury Regulation §1.6001-1(c).

The documents provided by the organization were not enough to demonstrate whether the funds used were for its exempt purpose. The records for the year 20XX were not complete and no other records for the year 20XX were provided except the bank statements.

has failed to keep and provide records adequate to determine the full nature of its operations and failed to show that its operations do not inure in part to the private benefit of its officers.

Further, the president of indicated in her response that there is no difference in fees paid by the parents due to its not-for-profit status. could not demonstrate how its operations differ from other compatible for-profit daycare providers.

Finally, could not demonstrate that the transfers of its and facilities to an insider were arm's length, failing to demonstrate that no part of the net earnings of which inured to the benefit of any private shareholder or individual.

has failed to demonstrate its operations meet the requirements under IRC 501(c)(3) as a charitable organization, and should be revoked effective the beginning of the examination period.

**TAXPAYER'S POSITION:**

The organization agreed to the revocation proposed by IRS. The effective date of the revocation is January 1, 20XX.

The organization signed the Form 6018 *Consent to Proposed Action – Section 7428* on May 7, 20XX.

**CONCLUSION:**

has failed to keep and provide adequate records as required by IRC §§ 6001 and 6033, and has failed to demonstrate its daycare operations meet the requirements under IRC 501(c)(3) of the Internal Revenue Code. Accordingly the organization's exempt status is revoked effective January 1, 20XX.