



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**

December 7, 2015

Release Number: **201615015**

Release Date: 4/8/2018

UIL Code: 501.03-00

Taxpayer Identification Number:

Person to Contact:

Identification Number:

Contact Telephone Number:

CERTIFIED MAIL

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 January 19XX is hereby revoked and you are no longer exempt under section 501(a) of the Code effective June 1, 20XX.

The revocation of your exempt status was made for the following reason(s):

As a result of our examination for the tax years ended May 31, 20XX, May 31, 20XX and May 31, 20XX, it was determined that either a) the organization has been inactive since 20XX and there have been no regular exempt financial activities or operations conducted or planned since that time, or b) the organization has been operating but in a manner and for a purpose significantly different from the manner of operation and purpose for which it was granted exempt status.

Contributions to your organization are no longer deductible under IRC §170 after June 1, 20XX.

You are required to file income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the tax year ending May 31, 20XX and for all tax years thereafter in accordance with the instructions of the return.

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 (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS 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 TAS assistance, which is always free, TAS 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

Internal Revenue Service
Tax Exempt and Government Entities Division
Exempt Organizations: Examinations
801 Tom Martin Drive
Room 263
Birmingham, AL 35211

Department of the Treasury

Date:
November 13, 2014
Taxpayer Identification Number:

Form:
990
Tax Year(s) Ended:
May 31, 20XX, 20XX & 20XX
Person to Contact/ID Number:

Contact Numbers:

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,

Acting Director, EO Examinations

Enclosures:
Report of Examination
Form 6018
Publication 892
Publication 3498

Form 886-A (Rev. January 1994)	EXPLANATION OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification number	Year Period ended May 31, 20XX, 20XX & 20XX

Issues

1. Whether the _____, continues to qualify for exemption under 501(c)(3) of the Internal Revenue Code.

Facts

The organization was formed on August 3, 19XX when the Articles of Incorporation (for Domestic Non-Profit Corporations) were filed with the State of _____. The purposes of the organization as stated in the Articles is as follows: "To improve and stimulate the economy of _____, particularly in low-to moderate-income neighborhoods, and Disadvantaged Small Businesses located therein by providing such private equity capital and loan funds as may be necessary or desirable for the sound financing and carrying on of the business operations of small businesses and for their growth, expansion and modernization."

The initial examination appointment was conducted with the Power of Attorney (POA). During the initial examination it was discovered that the organization had ceased to provide loans. The date of the last loan payment was on September 29, 20XX. It was also discovered that the organization maintains office space with another non-profit organization that is a 501(c)(4). The _____ and the

501(c)(4) organization would on a regular basis comingle funds. It was stated by the POA, "that the organizations would comingle funds to help pay expenses if one organization lacked funds." It was noted on the bank statements that large funds would come from the 501(c)(4) organization and would be deposited into the account of the _____. The funds would later be deposited back into the account of the 501(c)(4) organization. It was also stated by the POA, "that the _____ is providing technical assistance to the 501(c)(4) organization." The organization was asked in Information Document Request #2 for the year ended May 31, 20XX why they were stating on Form 990 that they were still providing loans to organization, and the response from the POA was, "that the organization stopped providing loans due to the economy and that they had intended on providing loan again."

Law

IRC 501(c)(3) exempts from federal income tax organizations which are 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, or no part of the net earnings of which inures to the benefit of any private shareholder or individuals, 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. Tax Reg. 1.501(c)(3)-1(d)(i) states that an organization may be exempt as an organization described in 501(c)(3) if it is organized and operated exclusively for one or more of the following purposes: religious, charitable, scientific, testing or public safety, literary, educational, or prevention of cruelty to children or animals.

Form 886-A (Rev. January 1994)	EXPLANATION OF ITEMS	Schedule number or exhibit
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Section 1.501(c)(3)-1(a)(1) of the Federal tax Regulations (regulations) provides that in order to be exempt as an organization described in section 501(c)(3) of the Internal Revenue Code, (IRC) the organization must be one that is both organized and operated exclusively for one or more purposes specified in that section. If an organization fails to meet either the organizational or operational test, it does not meet the requirement for tax exemption.

Section 1.501(c)(3)-1(c)(1) of the regulations specifies that with regard to the primary activities within the operational test, 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 such exempt purposes specified in IRC 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.

Revenue Procedure 90-27, 1990-1 CB 514, (Apr. 30, 1990) states that a ruling or determination letter recognizing exemption may be revoked or modified by (1) a notice to the taxpayer to whom the ruling or determination letter originally was issued, (2) enactment of legislation or ratification of a tax treaty, (3) a decision of the United States Supreme Court, (4) issuance of temporary or final regulations, or (5) issuance of a Revenue Bulletin. The revocation or modification may be retroactive if the organization omitted or misstated material fact, operated in a manner materially different from that originally represented, or in the case of organizations to which section 503 applies, engaged in a prohibited transaction with the purpose of diverting corpus or income of the organization from its exempt purpose and such transaction involved a substantial part of the corpus or income of such organization. Where there is a material change, inconsistent with exemption, in the charter, the purpose, of the method of operation of an organization, revocation or modification will ordinarily will take effect as of the date of such material change. In cases where a ruling or determination letter was issued in error or is no longer in accord with the holding of the Service, when section 7805(b) relief is granted (see sections 15 and 18 or Rev. Proc. 90-4), retroactivity of the revocation or modification ordinarily will be limited to a date not earlier than that on which the original ruling or determination letter is modified or revoked.

Tax Payer's Position:

The taxpayer's POA declared that the organization is not providing loans. The organization is agreeing that the organization's tax exempt status should be revoked because the organization is not operating for its exempt purpose.

Governments' Position:

The organization does not pass the operational test as specified in section 1.501(c)(3)-1(c) of the regulations because the lack of activities is evidence that they were not operated exclusively for one or more charitable purposes. To be considered as operating exclusively for charitable purposes, the Organization would have had to engage in activities which accomplish one or more of such exempt purposes as specified in section 501(c)(3) of the Code. An organization will not be regarded if more than an insubstantial part of its activities is not in furtherance or an exempt purpose.

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In addition to the lack of any charitable activity, the organization has not provided evidence of conducting meetings. The organization's funds have been comingled with those of a 501(c)(4) organization. The organization has clearly failed to conduct any exempt activities since 20XX. Additionally, the organization has failed to meet the reporting requirements under IRC 6001 and 6033 to be recognized as exempt from federal income tax under IRC 501(c)(3). Accordingly, it is the Government's position that the organization's exempt status should be revoked back to May 31, 20XX.

Conclusion:

The organization received exemption under 501(c)(3) of the Internal Revenue Code after providing information about their intended activities as described in their Articles of Incorporation, however, the organization has engaged in activities that are not for its exempt purpose that is stated under Internal Revenue Code Section 501(c)(3). The operational test concerns the organizations activities. An organization whose activities are not within the statute will not qualify for exemption by virtue of a well written charter.

The IRC section 501(c)(3) tax exempt status of the _____ should be revoked, effective May 31, 20XX, because it is not operating exclusively for tax exempt purposes pursuant to the requirements set forth in section 1.501(c)(3)-1(c)(1) of the regulations.