



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**

January 27, 2016

Number: **201620013**
Release Date: 5/13/2016

Taxpayer Identification Number:

Person to Contact:

Identification Number:

UIL Code: 501.03-00

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 June 20, 2003 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):

As a result of our examination for the tax year ended December 31, 20XX, it was determined that your organization has been inactive since 20XX and that there have been no operations or regular financial activities conducted or planned. As such, you failed to meet the operational requirements for continued exemption under IRC 501(c)(3).

Contributions to your organization are no longer deductible under IRC §170 after January 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 December 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,

Paul A. Marmolejo
Acting Director, EO Examinations

Enclosure:
Publication 892



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities Division
2525 Capitol Street #217
Fresno, CA 93721-2227

Date: October 27, 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

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.

Margaret Von Lienen
Director, EO Examinations

Enclosures:
Report of Examination
Form 6018
Publication 892
Publication 3498

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer:		Year/Period Ended: December 31, 20XX

Issues:

Does _____ continue to qualify for exemption from Federal income tax under Internal Revenue Code section 501(c)(3)?

Facts:

_____ incorporated on February 12, 20XX in XXXXX. Article 7 of the EO's Articles of Incorporation states the EO is organized for charitable, educational, and scientific purposes including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code (Code). _____ is listed as one of the two initial directors and signed the Articles of Incorporation.

The EO submitted Form 1023, *Application for Recognition of Exemption Under Section 501(c)(3)*, to the Internal Revenue Service (IRS) on May 12, 20XX. The narrative description in Part II, *Activities and Operational Information*, provides:

_____ empowers the _____ by developing and implementing Spanish language educational programs and resources that respond to the needs of child-care providers and enrich the lives of their families. _____ was founded in the summer of 20XX in cooperation with _____ and _____ to provide child-care provider training and education to the Spanish-speaking community of the metro _____ region.

Joint Ventures:

Fall 20XX- Spring 20XX: Introductory provider training. _____ pilot classes, funded classes. Counties: _____ students served.

Spring 20XX: Enhanced basic & basic _____ pilot class. County: _____ students served.

proposed ventures:

Summer 20XX – Fall 20XX: Introductory provider training, _____ funded classes, enhanced basic & basic _____ funded classes, _____ students served.

The IRS issued Letter 1045, dated June 20, 20XX recognizing the EO as an exempt organization under Code section 501(c)(3) and as a public charity under Code section 509(a)(1).

In the interview conducted with _____, Treasurer of the EO and a _____, on September 24, 20XX he provided the following information:

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The EO initially provided day care training to Spanish speaking individuals. The training was in Spanish and provided by _____ left the United States sometime in 20XX. The EO was unable to continue to provide the training in Spanish and began to provide faith enrichment services to families in _____. _____ stated is due to return to _____ in December 20XX and resume the Spanish speaking courses.

In 20XX the EO purchased approximately \$ _____ of Spanish-language _____ material. _____ provided five _____ documents in Spanish at the initial interview. The items mention _____, but none mention the EO. _____ meets with Spanish speaking families to discuss _____ and usually provides a copy of each of the materials to the families. He meets with families as needed, but not on a scheduled basis. He doesn't keep a written record of the families he meets with or issues discussed, but he estimates he met with at least 25 families in 20XX. It is unclear whether _____ meets with the individuals in his capacity of _____ or as a representative of EO.

The EO has not received donations and has not had a bank account since 20XX. The \$ _____ reported as net assets on the EO's 20XX Form 990EZ is _____ money pledged to the EO, but which has not been paid.

The EO did not provide documentation to show ownership of the \$ _____ in cash assets. _____ purchases a money order with his personal funds to pay the few bills the EO receives, such as state registration and other fees.

The EO has never received donations from the general public. The donations reported on the EO's 20XX, 20XX, and 20XX Forms 990 are amounts pledged by _____ and _____ not actual donations.

The Board of Director has always been composed of _____ (President), _____ (Secretary), and _____ (Treasurer); the same individuals listed on Form 1023.

_____ provided a document entitled _____ (Report) dated 02/22/20XX for review. The Report references _____; to educate 30 Spanish speaking persons as home child care providers in _____ and a \$ _____ grant. The Report provides the names of 32 students and a curriculum related to required items by the State to obtain a home care provider certificate.

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provided documentation entitled subsequent to the initial interview. The material is in Spanish and the title translates to

Law:

Code section 501(c)(3) exempts from federal income tax organizations organized and operated exclusively for charitable, educational, and other exempt purposes, provided that no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

Federal Tax Regulations:

Regulations section 1.501(c)(3)-1(a) states in part that in order to be exempt as an organization described in Code section 501(c)(3), the 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. The term "exempt purpose or purposes", as used in this section, means any purpose or purposes specified in section 501(c)(3).

Regulations section 1.501(c)(3)-1(c)(1) provides that an organization will not be regarded as operated exclusively for exempt purposes if more than an insubstantial part of its activities is not in furtherance of exempt purposes.

Regulations section 1.501(c)(3)-1(b)(4) states in part that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, for example, if, upon dissolution, such assets would, by reason of a provision in the organization's articles or by operation of law, be distributed for one or more exempt purposes, or to the Federal government, or to a State or local government, for a public purpose, or would be distributed by a court to another organization to be used in such manner as in the judgment of the court will best accomplish the general purposes for which the dissolved organization was organized. However, an organization does not meet the organizational test if its articles or the law of the State in which it was created provide that its assets would, upon dissolution, be distributed to its members or shareholders.

Regulations section 1.501(c)(3)-1(c)(1) provides that an organization will not be regarded as operated exclusively for exempt purposes if more than an insubstantial part of its activities is not in furtherance of exempt purposes.

Regulations section 1.501(c)(3)-1(d)(3) defines the term educational as the instruction or training of the individual for the purpose of improving or developing his capabilities; or the instruction of the public on subjects useful to the individual and beneficial to the

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community. Examples of educational organizations are primary or secondary school, a college, or a professional or trade school, which has a regularly scheduled curriculum, a regular faculty, and a regularly enrolled body of students in attendance at a place where the educational activities are regularly carried on.

Regulations section 1.6001-1 state in part except as provided in paragraph (b) of this section, any person subject to tax under subtitle A of the Code (including a qualified State individual income tax which is treated pursuant to section 6361(a) as if it were imposed by chapter 1 of subtitle A), or any person required to file a return of information with respect to income, shall keep such permanent books of account or records, including inventories, as are sufficient to establish the amount of gross income, deductions, credits, or other matters required to be shown by such person in any return of such tax or information. In addition to such permanent books and records as are required by paragraph (a) of this section with respect to the tax imposed by section 511 on unrelated business income of certain exempt organizations, every organization exempt from tax under section 501(a) shall keep such permanent books of account or records, including inventories, as are sufficient to show specifically the items of gross income, receipts and disbursements. Such organizations shall also keep such books and records as are required to substantiate the information required by section 6033. See section 6033 and Regulation section 1.6033-1 through 1.6033-3. The books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained so long as the contents thereof may become material in the administration of any internal revenue law.

Taxpayer's Position:

The EO has not provided a definitive position at this time.

Government's Position:

The EO does not continue to qualify for exemption under Code section 501(c)(3) because it did not demonstrate that it is operated exclusively for a charitable purpose. The EO was unable to demonstrate that it carries on any charitable activities.

The EO no longer carries on the activities it proposed on Form 1023 and stopped providing day care provider classes sometime in 20XX.

provided oral testimony of the activities he carries on, but he did not provide any supporting documentation to show the activities actually took place or that the activities were conducted on the EO's behalf. The documentation is not convincing evidence in itself to demonstrate a charitable activity on behalf of the EO. The Report presented only provides information on long-past activities.

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was afforded an opportunity to provide support to demonstrate the EO currently carries on a charitable but he did not provide any corroborating information.

Conclusion:

The EO does not continue to qualify for exemption under Code section 501(c)(3) because it did not demonstrate that it carries on a charitable activity.