



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: **JUN 28 2016**

Number: **201640025**
Release Date: 9/30/2016

Person to Contact:
Identification Number:
Telephone Number:
In Reply Refer to:

**LAST DATE FOR FILING A PETITION
WITH THE TAX COURT:**

UIL: 501.03-00

CERTIFIED MAIL - Return Receipt Requested

Dear _____ :

This is a Final Adverse Determination Letter that your exempt status under section 501(c)(3) of the Internal Revenue Code (IRC) is revoked. Recognition of your exemption under IRC section 501(c)(3) is revoked effective June 17, 20XX.

Our adverse determination was made for the following reason(s):

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 within the meaning of IRC section 50J(c)(3).

You have not established that no part of your net earnings inure to the benefit of any private shareholder or individual within the meaning of IRC section 50J(c)(3).

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 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.

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 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,



Margaret Von Lienen
Director, EO Examinations

Enclosure:
Publication 892

**Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
Exempt Organizations Examinations**

Date: April 7, 2016

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,

Paul A. Marmolejo
Acting 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	Tax Identification Number	Year/Period ended 20XX12

Issue:

Should _____ tax exempt status under section 501(c)(3) of the Internal Revenue Code (Code) be revoked because

1. it does not operate exclusively for charitable or educational purposes, and
2. its earnings inure to the private benefit of individuals?

Facts:

_____ incorporated in _____ on June 17, 20XX. _____ Articles of Incorporation state the corporation is

“
”

The Articles of Incorporation also provide that “
”

_____ filed Form 1023, *Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, with the Internal Revenue Service (Service) on August 5, 20XX and listed three main pursuits and objectives:

- a) Promoting the education and careers of _____, through training and awarding of grants in cases of exceptional talent
- b) Sponsoring the _____ for _____
- c) Advocate for _____ by educating firms in the value of a _____

_____ singular goal is “_____.” It will achieve this goal through the following activities:

- Community – Build the local community of _____ through social events, lectures, seminars and volunteer opportunities.
- Mentoring – Foster mentoring opportunities between _____ This provides essential networking opportunities for the mentees and reinvigorates the passion of the mentors.
- Advocate – Engage the management of _____ educating them on the value of a _____ and encouraging them to invest in their _____

The information submitted with the exemption application Form 1023 also stated that _____ will provide grants to qualifying individuals with exceptional talent _____. The sources of financial support will be from contributions from the _____ from other exempt organizations.

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expected annual revenues for its first three years of operation in the amounts of \$X,XXX, \$X,XXX, and \$XX,XXX, respectively.

The Service issued Letter 947 to _____ on August 29, 20XX with an effective date for exemption under Section 501(c)(3) of the Code of June 17, 20XX. This ruling also determined _____ met the public charity classification under Section 170(b)(1)(A)(vi) of the Code.

_____ filed the Form 990-N, *e-postcard*, for its first annual filing for the tax year ended December 31, 20XX. This is an information-only reporting that shows the current address for the organization and confirms its gross receipts are under \$XX,XXX. The Form 990-N filed also provides the organization's website as _____

_____ was selected for an audit for the tax year ended December 31, 20XX. The information requested for review during this audit was

- a. a detailed description of the activities conducting during the year under audit,
- b. a statement of revenues, expenses, assets, and liabilities for the year under audit, and
- c. copies of board of director's meeting minutes during the year under audit.

This information was provided via fax on November 9, 20XX. The purposes and activities for the first year of operation were to _____ through social and community events. The following provides a listing of its activities during the first year:

- o Held monthly board of director meetings to strategize, plan and organize events that built and supported the _____
- o Held meetings and presentations for its members that covered topics such as _____
- o Participated in a community event that was put on _____ at the local schools. put on a workshop for these middle school participants at this event.
- o Held social gatherings for the members and promoted collaboration on _____
- o Created a _____ of funds to be used to pay for _____. This lessens the cost barrier to _____, promotes the completion _____, and increases the number of _____

With regard to the _____ fund, _____ further described that the recipients' (\$XXX) comes with " _____ " other than the recipient must take one of the _____ required (_____) within a _____ period. The money can be used for the \$XXX _____, or for any associated expense such as _____, a _____, or whatever the recipient may need _____

With the information submitted on November 9, 20XX, _____ stated it had awarded (_____) to _____ website viewed on March 31, 20XX showed the number of _____ who had received _____ was XX.

During the tax year ending December 31, 20XX, _____ received gross revenue of \$X,XXX from _____. It expensed a total of \$XXX.XX of these funds conducting its activities. Of the \$XXX.XX spent, \$XXX was distributed to _____, \$XXX each.

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Law:

Internal Revenue Code (Code) Section 501(c)(3) provides, in part, exemption from federal income tax for organizations that are organized and operated exclusively for religious, charitable, scientific, literary, or educational 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)(1) provides that in order to be exempt as an organization described in section 501(c)(3) of the Code, the organization must be both organized and operated exclusively for one or more of the purposes specified in that section. If an organization fails to meet either the organizational or operational test, it is not exempt.

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 1.501(c)(3)-1(c)(2) further specifies that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Regulations Section 1.501(a)-1(c) defines private shareholder or individual within this section 501 as persons having a personal and private interest in the activities of the organization.

Regulations Section 1.501(c)(3)-1(d)(1)(ii) provides that that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, an organization must establish that it is not operated for the benefit of designated individuals or the persons who created it.

Regulations Section 1.501(c)(3)-1(d)(3)(i) defines education as:

- A. The instruction or training of the individual for the purpose of improving or developing his capabilities, or
- B. The instruction of the public on subjects useful to the individual and beneficial to the community.

Section 117(a) of the Code provides, in pertinent part, that gross income does not include any amount received as a qualified scholarship.

Section 117(b) of the Code defines a "qualified scholarship" as any amount received by an individual as a scholarship that, by the conditions of the scholarship, such amount is used for qualified tuition and related expenses.

Regulations 1.117-3(a) and (d) provides that a "scholarship" is an amount paid to, or for the benefit of, a student, whether an undergraduate or a graduate, to help him or her pursue studies. It includes the value of room, board, laundry, and other similar services furnished to a student, as well as tuition, matriculation costs, and other fees incurred in pursuit of studies.

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Regulations 1.117-6(c)(2) defines "qualified tuition and related expenses" as tuition and fees required for the enrollment or attendance of a student at an educational organization described in section 170(b)(1)(A)(ii) of the Code as well as fees, books, supplies, and equipment required for courses of instruction at such educational organization.

Regulations 1.117-6(c)(5) defines an educational organization in conjunction with the reference to Section 170(b)(1)(A)(ii) of the Code as one that has as its primary function the presentation of formal instruction and that normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance at the place where its educational activities are carried on.

Rev. Rul. 66-103, 1966-1 C.B. 134 holds that an organization whose primary activity is to provide awards and grants, including scholarship and fellowship grants, to needy individuals who would otherwise not be able to pursue their studies for lack of funds, qualifies for exemption under section 501(c)(3) of the Code. The organization is primarily engaged in a charitable activity of providing relief of the poor.

Rev. Rul. 69-257, 1969-1 C.B. 151 holds that an organization providing scholarships selected from a broad class of applicants on the basis of scholastic standing, qualifies for exemption under section 501(c)(3) of the Code. The organization is primarily engaged in the charitable activity of advancing education.

Rev. Rul. 71-504, 1971-2 C.B. 231 ruled that a medical society currently exempt under Section 501(c)(6) of the Code may not be reclassified as an educational or charitable organization under Section 501(c)(3) of the Code. The ruling listed all of the activities of the society and identified those that made up a substantial portion of the society's total activities. While some of the society's activities were charitable and/or educational, a substantial part of their activities were directed primarily at the promotion of the medical profession and thus furthered the common business purposes of its members, activities that are not considered educational or charitable. Therefore, the society may not be reclassified since it had substantial non-charitable and non-educational purposes and activities.

In *Better Business Bureau of Washington, D.C., Inc. v. United States*, 326 U.S. 279 (1945), the Court held that the presence of a single non-exempt purpose, if substantial in nature, will preclude exemption regardless of the number or importance of truly educational or charitable purposes.

Government's Position:

tax exempt status under Section 501(c)(3) of the Code should be revoked as of the effective date their exemption was granted, June 17, 20XX. has not engaged in activities that are exclusively educational, charitable, scientific, literary, or religious within the meaning of Section 501(c)(3) of the Code. While some aspects of its activities would be considered educational in its presentations for members and educational workshops for youth, a substantial number of its activities include social gatherings and events aimed at building and supporting the . The purposes for its , and organization's events are meant to enhance and . These latter activities serve to accomplish its goals of promoting the and and

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is similar to the organization in Rev. Rul. 71-504 because a substantial portion of its activities are directed primarily at the promotion of _____ and thus furthers the common business purpose of its members. While some of the activities of the organization in the ruling were charitable or educational, the presence of non-charitable and non-educational purposes prevented the exemption reclassification to Section 501(c)(3) of the Code. Similarly, _____ conducts activities that have some aspects of being educational. However, a substantial portion of its activities are social and collaborative gatherings aimed at developing good will or fellowship among its members. These activities help "_____." These activities are not considered charitable or educational as defined by the Code and Regulations.

situation is also similar to the decision described in the *Better Business Bureau of Washington, D.C., Inc. v. United States*. This ruling held that the presence of a single non-charitable or non-educational purpose, if substantial in nature, would preclude exemption under Section 501(c)(3) of the Code, regardless of the number or importance of truly charitable or educational purposes. _____ conducted an educational workshop for young students and held a presentation for members on design. These would meet the definitions for educational activities per the Regulations. However, _____ also conducted activities that are not considered charitable or educational, including its _____, and _____. These activities make up a large portion of its activities and they are meant to accomplish its main focus and goal:

With regard to the _____ of _____ to _____, these are not considered _____. The _____ are not _____ attending regular _____ within the meaning of Section 170(b)(1)(A)(ii) of the Code. Additionally, _____ does not require nor regulate that the _____ be used _____ identified under Section 117(b) of the Code and related Regulations. Therefore, _____ is not similar to the organization described in Rev. Rul. 69-257. Neither does _____ require or base the upon any _____. Thus, _____ is not similar to the organization described in Rev. Rul. 66-103. Consequently, the _____ are not considered _____ for educational or charitable purposes. Since the _____ do not further charitable or educational purposes; the _____ only serve the private interests of the recipients.

Section 501(c)(3) of the Code restricts the use of organizational funds for the private benefit of individuals. The private benefit restriction applies to benefits provided to any individual, whether or not the individual is in a position to control or influence the organization. The private benefit restriction operates against all parties who receive a benefit not accorded the public as a whole. A private benefit will not jeopardize tax-exempt status if it is incidental to the accomplishment of exempt purposes. However, an activity that primarily serves private interests will jeopardize exempt status if it is carried on to a degree that is more than an insubstantial part of the organization's activities.

During the first year of operation, _____ distributed \$XXX of its total \$XXX expenses for the _____ to interns. As part of the information submitted in November 20XX for its examination, _____ stated it had distributed _____ to a total of _____ website shows it has distributed funds for _____. These _____ serve only the private interests of the _____ who are required to _____. As discussed above, the _____ do not further charitable or educational purposes and the _____ do not serve a public benefit as a whole. Therefore, with the majority of its funds distributed for the lottery, _____ is not

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operated exclusively for exempt purposes and its funds inure to the benefit of private individuals. For these reasons, exemption under Section 501(c)(3) should be revoked.

Taxpayer's Position:

position is not known at this time. This is the first report issued to

Conclusion:

does not meet the requirements to be exempt under Code Section 501(c)(3) because it has not operated exclusively for charitable or educational purposes since its formation. Moreover, funds inure to the benefit of private individuals and do not further public purposes. Consequently, tax exempt status under Code Section 501(c)(3) should be revoked effective June 17, 20XX, the effective date exemption was originally granted.