



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: **MAR 28 2016**

Release Number: **201645016**
Release Date: 11/4/2016
UJL 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: *JUN 27 20XX*

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 May 26, 20XX, is hereby revoked and you are no longer exempt under section 501(a) of the Code, 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 as required by Treas. Reg. section 1.501(c)(3)-1(c)(1).

You failed to respond to repeated reasonable requests to allow the Internal Revenue Service to examine your receipts, expenditures, or activities as required by the Code sections 6001 and 6033(a)(1). As such, you fail to meet the operational requirements for continued exemption under section 501(c)(3) of the Code and Treas. Reg. section 1.501(c)(3)-1(a)(1).

Contributions to your organization are no longer deductible under section 170 of the 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. 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

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,

Paul A. Marmolejo
Acting 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:
September 30, 2015
Taxpayer Identification Number:

Form:

Tax Year(s) Ended:
December 31, 20XX
Person to Contact/ID Number:

Contact Numbers:

Manager's name/ID number:

Manager's contact number:

Response due date:
October 30, 20XX

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	Tax Identification Number	Year/Period ended 20XX12

Issue:

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

Facts:

_____ (herein after referred to as the
Organization) was granted tax-exempt status as a Section (§) 501(c)(3) organization on May
26, 20XX. According to its Articles of Incorporation dated June 25, 20XX, the Corporation is
organized for the

For the tax period ending December 31, 20XX, the organization filed Form 990-N (e-Postcard)
which was received November 15, 20XX.

On January 30, 20XX, the Internal Revenue Service (Service) initiated an examination of the
Organization's Form 990-N (e-Postcard), for the December 31, 20XX tax year. Letter 3611,
Initial Appointment Letter – no prior contact, dated January 30, 20XX was sent to the
Organization arranging an appointment to begin the examination process by reviewing the
Organization's books and records to substantiate its filing requirement. The letter indicated the
examination would take place on March 2, 20XX, at 11:00am at a location to be determined
once telephone contact was made. The letter also stated to contact the examining revenue
agent to confirm the appointment, and if the Organization had any questions. Included with the
letter were Form 4564, *Information Document Request (IDR)*, Publication 1, *Your Rights as a
Taxpayer*, and a partially completed Form 2848, *Power of Attorney and Declaration of
Representative*.

On February 10, 20XX, the agent contacted _____ (herein after referred to as
) which is a related for-profit entity at a telephone number obtained from internet research of
the _____ website. The address for this entity is the same as the address for
the exempt organization. The agent identified himself to the receptionist (_____) with title,
name and badge number. The agent asked to speak to _____, Principle
Officer listed on the Exempt Organizations Select Check for the Organization. The receptionist
stated she was not available at the moment. The agent left name and telephone contact
information for a call back.

Telephone contact to _____ was attempted on February 17, 20XX to confirm
receipt of the initial correspondence and the examination appointment date of March 2, 20XX.
A voice message was left to return the phone call.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
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Telephone contact to _____ was attempted on February 20, 20XX to confirm receipt of the initial correspondence and the examination appointment date of March 2, 20XX. A voice message was left to return the phone call.

Telephone contact to _____ was attempted on February 27, 20XX to confirm receipt of the initial correspondence and the examination appointment date of March 2, 20XX. A voice message was left to return the phone call.

On March 13, 20XX, the agent resent the original contents of the initial correspondence via certified mail to the address on file for the organization with a response due date of March 30, 20XX to schedule the examination. The agent also sent a postal tracer to the Postmaster in the city of _____, requesting the last known address for the organization.

Telephone contact to _____ was attempted on April 9, 20XX to confirm receipt of the correspondence dated March 13, 20XX. A voice message was left to return the phone call.

On April 20, 20XX, the correspondence mailed to the Organization on March 13, 20XX was returned to the agent as "Return to Sender Vacant Unable to Forward".

On May 5, 20XX the agent mailed via overnight mail Letter 3611, *Initial Appointment Letter – no prior contact*, to the Organization requesting contact is made with the agent by telephone as soon as possible to schedule an examination. Included with the letter were Form 4564, *Information Document Request (IDR)*, Publication 1, *Your Rights as a Taxpayer*, and a partially completed Form 2848, *Power of Attorney and Declaration of Representative*.

On May 18, 20XX the postal tracer was returned to the agent stating mail is delivered to address given suite # _____.

On May 19, 20XX the agent mailed via certified mail Letter 3611, *Initial Appointment Letter – no prior contact*, addressed to the principle officer at the Organization's address requesting contact is made with the agent by telephone as soon as possible to schedule an examination. Included with the letter were Form 4564, *Information Document Request (IDR)*, Publication 1, *Your Rights as a Taxpayer*, and a partially completed Form 2848, *Power of Attorney and Declaration of Representative*.

On May 22, 20XX _____ called the agent and left a message for call back.

On May 27, 20XX telephone contact was made with _____, the Organization's President. _____ indicated that she no longer lived in _____ full-time but agreed to an updated examination appointment of June 30, 20XX at 10:00 AM depending on the availability of the Organization's accountant and would call the agent back to confirm examination location.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
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On June 15, 20XX telephone contact was made with _____, the Organization's President to verify the examination location. _____ stated that she had given all the correspondence to the accountant and had not gotten a response from the accountant. _____ indicated that the examination could be conducted at the location where the Organization's receives mail. An updated appointment letter 3613, *Initial Appointment Letter after telephone contact*, was mailed to _____. Included with the letter were Form 4564, *Information Document Request (IDR)*, Publication 1, *Your Rights as a Taxpayer*.

Telephone contact was attempted to _____ on June 23, 20XX; June 24, 20XX and June 29, 20XX to confirm examination appointment and location. A telephone message was left after close of business for the agent confirming the examination appointment and location.

The agent visited the Organization at the address confirmed by _____ on June 30, 20XX. _____ was not available at the scheduled time of the examination. The agent met with _____, who stated she was a volunteer of the Organization for the period under examination. She also stated that _____ was unavailable due to a court appearance but would meet with the agent in the afternoon.

_____ provided the agent with copies of the Organization's articles of incorporation and determination letter dated May 26, 20XX. _____ stated that the Organization did not have any activities in the 20XX tax year due to insufficient funding and support. _____ failed to show up for the afternoon meeting with the agent but stated in a message left with _____ she would meet with the agent on July 1, 20XX at 10:00 AM.

The agent visited the Organization at the location confirmed by _____ on July 1, 20XX to conduct the examination. _____ was not present at the location at the scheduled time. The agent waited approximately 30 minutes after the scheduled time for _____ to arrive. _____ never showed up for the examination appointment. The agent also tried to contact _____ several times via telephone.

Telephone contact to _____ was attempted on July 2, 20XX and July 3, 20XX to get an update on the Organization's progress gathering documents identified on the IDR for examination. _____ was unavailable; a voice message was left to return the call.

_____ left a voice message for the agent after close of business on July 3, 20XX stating that all the documents were with the Organization's accountant and that she would contact the accountant to gather the documents. _____ also indicated the best way to contact her was via e-mail and provided the agent with an e-mail address.

The agent e-mailed _____ on July 13, 20XX to get an update on the Organization's progress gathering the documents identified on the IDR for examination.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
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stated in an e-mail response that she had dropped the IDR request off at the accountant's office. She also stated that the Organization did not have a bank account for the period under examination.

Telephone contact was attempted on July 15, 20XX to _____ to get an update on the Organization's progress gathering documents identified on the IDR for examination. _____ was not available; a voice message was left to return the call.

Telephone along with e-mail contact was attempted on July 29, 20XX to _____ to get an update on the Organization's progress gathering documents identified on the IDR for examination. _____ was not available; a voice message was left to return the call.

Telephone contact was attempted on August 5, 20XX to _____ and _____ to get an update on the Organization's progress gathering documents identified on the IDR for examination. _____ and _____ were not available; a voice message was left to return the call.

Telephone contact was attempted on August 17, 20XX to _____ and _____ to get an update on the Organization's progress gathering documents identified on the IDR for examination. _____ and _____ were not available; a voice message was left to return the call.

Law:

IRC § 501(c)(3) exempts from Federal income tax 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 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 and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

IRC § 6001 of the Code provides that every person liable for any tax imposed by the Code, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

IRC § 6033(a)(1) of the Code provides, except as provided in IRC § 6033(a)(2), every organization exempt from tax under § 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

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IRC § 1.6001-1(a) of the regulations in conjunction with IRC § 1.6001-1(c) provides that every organization exempt from tax under § 501(a) of the Code and subject to the tax imposed by IRC § 511 on its unrelated business income must keep such permanent books or accounts or records, including inventories, as are sufficient to establish the amount of gross income, deduction, credits, or other matters required to be shown by such person in any return of such tax. Such organization shall also keep such books and records as are required to substantiate the information required by IRC § 6033.

IRC § 1.6001-1(e) of the regulations states that 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 as long as the contents thereof may be material in the administration of any internal revenue law.

IRC § 1.6033-1(h)(2) of the regulations provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (§ 501 and the following), chapter 1 of the Code and IRC § 6033.

Rev. Rul. 59-95, 1959-1 C.B. 627, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of IRC § 6033 of the Code and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

In accordance with the above cited provisions of the Code and regulations under IRC § 6001 and IRC § 6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax.

Taxpayers Position:

has not responded to telephone calls, e-mails or certified mail. The Organization has not provided a position.

Government Position:

The Organization has failed to show that it meets the operational test for a § 501(c)(3) organization for the year under examination. In order to meet the operational test, they must

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
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show that they engage primarily in activities which accomplish one or more of such exempt purposes specified in 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. Further, an organization is not operated exclusively for one or more exempt purposes of its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

The exempt status of _____ should be revoked because it fails to meet the requirements of IRC §6033(a)(1) and Treasury Regulation §1.6033-2(i)(2). The Organization failed to provide the information required by the Internal Revenue Service for the purpose of inquiring into its tax exempt status.

Furthermore, as referenced by Revenue Ruling 59-95, an organization exempt from taxation under IRC §501(a) that fails to submit such additional information required by the Service for the purpose of inquiring into its exempt status may result in the termination of its exempt status.

The Service has repeatedly asked the Organization to submit necessary information to inquire into its tax exempt status. The Organization has failed to provide the requested information.

The agent attempted numerous times to contact the organization using its last known address. The agent also attempted to contact the Organization via telephone through a related for-profit entity with the same address as the Organization. Correspondence was sent via regular and certified mail to schedule the examination. The organization did not respond to any of the correspondence sent by the Service.

The Organization has failed to provide information about its exempt status, as required by the Code and Regulations. (IRC §6033(a)(1) and Treas. Reg. § 1.6033-1(h)(2)). By not complying with the Code and Regulations, the organization has jeopardized its exempt status.

The Organization failed to meet the record keeping requirements per the cited regulations that allow the Service to inquire into its tax exempt status. The lack of any meaning response to the Service's requests for information demonstrates that the Organization has not met its obligations and responsibilities to maintain the necessary records to satisfy the Service's request to substantiate its Form 990-N (e-Postcard).

Conclusion:

It is the IRS's position that the Organization failed to meet the reporting requirements under IRC § 6001 and IRC § 6033 to be recognized as exempt from federal income tax under § 501(c)(3) of the Internal Revenue Code. Accordingly, the organization's exempt status should be revoked effective January 1, 20XX.