



DEPARTMENT OF THE TREASURY

Internal Revenue Service
TE/GE EO Examinations

1100 Commerce Street MIC 4920 DAL
Dallas, TX 75242

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: **AUG 26 2016**

Number: **201648019**
Release Date: 11/25/2016

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

UIL: 501.03-00

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

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 November 5, 20XX.

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

You have not established that you are organized and 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 501(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 501(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 Division
324 25th St Rm 6025 Mail Stop 1112
Ogden, UT 84401

Date:
April 18, 2016
Taxpayer Identification Number:

Form:

Tax year(s) ended:

Person to contact/ ID number:

Contact numbers:
Phone Number: Toll Free
Long Distance

Fax Number:
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).

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 may also 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, Exempt Organizations Examinations

Enclosures:

Final Report of Examination
Form 6018 Consent to Proposed Action
Publication 892
Publication 3498
Form 4621 Proposed Tax Change

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit 3
Name of taxpayer	Tax Identification Number	Year/Period ended December 31, 20XX December 31, 20XX

Final Report: April 18, 20XX

Issues:

Should _____ be retroactively revoked to the date of creation?

Facts:

You were incorporated under the nonprofit laws of the State of _____ on November 5, 20XX. Per your Articles of Incorporation, you stated you were formed for the following purposes:

Exclusively for charitable, religious, 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.

The Corporation is formed to meet the substantial requirements of _____ who requires medical care for his battle with _____ and other related medical needs now or in the future related to his cancer. Need is defined as therapy, transportation, all medical costs not covered by insurance, hospice, home care and special requirements.

No officers or directors are being elected. The trustee will be the father of the beneficiary of the organization. No compensation will be paid to the trustee.

_____ is the only recipient of the funds raised by this organization.

Organization received funds through personal appeals made by parents and siblings to friends, co-workers, and employers and other known individuals and entities where relationships have been developed. _____ story will be told through conversation and brochures developed solely for the purpose to raise funds.

Your organization received recognition of exemption on November 5, 20XX under section 501(c)(3) of the Internal Revenue Code. Your organization was selected for examination as a part of the Service's post determination compliance program.

Law:

Section 501(c)(3) of the Code provides, in relevant part, exemption from federal income tax for corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, no part of the net earnings inure to the benefit of any private shareholder or individual.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit 3
Name of taxpayer	Tax Identification Number	Year/Period ended December 31, 20XX December 31, 20XX

Section 1.501(c)(3)-1(b)(1)(i) of the Regulations provides that an organization is organized exclusively for one or more exempt purposes only if its articles of organization:

- (a) Limit the purposes of such organization to one or more exempt purposes; and
- (b) Do not expressly empower the organization engage, otherwise than as an insubstantial part of its activities, in activities that in themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(c)(1) of the Regulations explains that 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 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.

Section 1.501(c)(3)-1(c)(2) of Regulations explains the prohibition against private inurement as follows: 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 individuals.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations states that an organization is not organized or operated exclusively for exempt purposes unless it serves a public rather than a private interest. It is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

In *Better Business Bureau of Washington, D.C., Inc. v. United States*, 325 U.S. 844, the Court held that the presence of a single non-exempt purpose, if substantial in nature, will destroy a claim for exemption regardless of the number or importance of truly exempt purpose.

In *Wendy L. Parker Rehabilitation Foundation, Inc., v. Commissioner*, T.C. Memo. 1986-348, the Tax Court upheld the Service's position that a foundation formed to aid coma victims, including a family member of the founders, was not entitled to recognition of exemption. Approximately 30% of the organization's net income was expected to be distributed to aid the family coma victim. The court found that the family coma victim was a substantial beneficiary of the foundation's activities.

In *Easter House v. United States*, 12 Cl.Ct. 476, 487 (1987), citing section 1.501(c)(3)-1(d)(1)(ii) of the regulations, *aff'd without opinion*, 846 F.2d 78 (Fed.Cir.1988), that an organization is not operated exclusively for exempt purposes if it serves a private rather than a public interest.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit 3
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APPLICATION OF LAW

Section 501(c)(3) of the Code sets forth two main tests for qualification for exempt status. An organization must be both organized and operated exclusively for purposes described in section 501(c)(3). The Articles of Incorporation you provided states that you were formed for the benefit of a private individual. As a result, you have not satisfied the organizational test required by sections Section 1.501(c)(3)-1(b)(1)(i) of the Regulations.

In addition, you do not meet the requirements of section 1.501(c)(3)-1(c)(1) of the Regulations, which requires you to operate exclusively in activities which accomplish one or more exempt purposes. Your financial records show that substantially all your funds are paid out for the benefit of . Thus, you provide a substantial private benefit to , and you are not operated exclusively for one or more exempt purposes "as set forth in sections 1.501(c)(3) – 1(c)(2) and 1.501(c)(3)-1(d)(1)(ii) of the Regulations because your net earnings inure in whole or in part to the benefit of private individuals.

Your organization is similar to the organizations listed in Revenue Ruling 67-367 and Wendy L. Parker Rehabilitation Foundation, Inc., because your organization is serving the private interests rather the public charitable interests as contemplated under section 501 (C)(3) of the Code.

CONCLUSION

Based on the facts presented above, you have failed both the operational test and the organizational test required of 501(c)(3) organizations. Your organizational document shows you were created for the substantial private benefit of . Your operations show that you have operated for the benefit of private individuals since formation, rather than for public purposes. Therefore, you have not established that you were operated exclusively for one or more exempt purposes.

Your organization's exempt status will be revoked from the effective date of exemption of November 5, 20XX. No Chapter 42 taxes will be assessed.

Organization has signed the Form 6018 agreeing to Revocation of exemption, effective November 5, 20XX.

Final Report is being sent with Form 4621. In previous correspondence of Draft Report dated January 26, 20XX the Form 4621 was not included in our report. I am sending out the Final Report with the Form 4621 and asking for you to please resign the Form 6018.
Thank you.