

**Internal Revenue Service  
Appeals**

Number: **201731019**  
Release Date: 8/4/2017

Date: May 9, 2017

A = Name  
B = Address

**Department of the Treasury**

**Address any reply to:**  
Appeals Office  
Royal Palm One, Suite 350  
1000 South Pine Island Road  
Plantation, FL 33324  
**Employer Identification Number:**

**Person to Contact:**

**Contact Telephone Number:**

**Fax Number:**

UIL: 7428.00-00

**Certified Mail**

Name = A  
Address = B  
EIN = C  
POA = D

Dear :

This is our final adverse determination with respect to your exempt status under section 501(a) of the Internal Revenue Code ("Code"). Recognition of your exemption under Code section 501(c)(3) is revoked beginning January 1, 20XX.

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

is not operated exclusively for exempt purposes. Under Treasury Reg. § 1.501(c)(3)-1(c)(1), 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 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.

Contributions to your organization are no longer deductible under IRC §170.

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 91<sup>st</sup> 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 judgment. To secure a petition from the United States Tax Court, write to the following address:

United States Tax Court  
400 Second Street, NW  
Washington, DC 20217

You also have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal Appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have 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:

Taxpayer Advocate Service  
Dallas Area Office  
4050 Alpha Road, Room 924  
MS 3000 NDAL  
Dallas, TX 75244  
(469) 801-0830

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

Appeals Team Manager

cc:



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

Date:

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,

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	Schedule No. or Exhibit
<b>Explanation of Items</b>		
Name of Taxpayer		Year/Period Ended <b>20XX</b>

**Issue 1**

Whether            conducted and verified activities in furtherance of the exempt purpose of the private foundation or should the foundation be revoked for failing to carrying out the exempt purpose.

**Facts**

                  is a 501(c)(3) organization that received exemption as a private foundation under section 509(a) of the Internal Revenue Code based on the activities to be conducted as the exempt purpose submitted on the application for exemption.            is currently a 501(c)(3) private foundation established and incorporated in May 14, 19XX. The foundation applied for exemption in April 27, 19XX. The exempt purpose per the application for exemption: To present exposition of objects belonging to the corporation. To negotiate contracts with museums and other organizations to organize expositions. To promote            by exhibits through the corporation itself or through museums. The organization stated their fundraising program is private exposition open to the public, sales for the benefit of other organizations with the same objective, publications of articles as well as textbooks and films.

On August 31, 19XX the organization submitted an additional letter stating the organization plans to have exhibits of the art. This will be treated as any other type of museum exhibit. Tickets will be sold to view the exhibition. Application also stated, T-shirts, knick knacks and books about artifacts and the history of the artifacts in the exhibition will be sold. Proceeds will be used to finance the exhibition itself and then used exclusively to fund other exhibitions and to acquire artifacts to further the purpose of the organization. Therefore no private benefit will result in these transactions as all of the proceeds after expenses will be used for the purpose of the organization.

The organization exempt purpose is stated in the application conducting Art Exhibits and providing Art for exhibits in the U.S. and Europe, Art that is property of the corporation.

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer		Year/Period Ended <b>20XX</b>

received a letter from the Internal Revenue Service dated September 08, 19XX, which stated Based on the information you supplied and assuming your operation will be as stated in your application for recognition of exemption, we have determined you are exempt from federal income tax under section 501(a) of the Internal Revenue code as an organization described in section 501(c) (3).

On December 17, 20XX, the organization sent a letter to the Internal Revenue Service stating there has been no activity for the organization for the past years since the application for exemption. The letter further stated the organization was set up to provide to various museums throughout the United States and possibly Europe. A significant amount of \_\_\_\_\_ has been purchased over the years and is in the possession of \_\_\_\_\_. The total cost of the purchases is well over \$0. The letter also stated that \_\_\_\_\_ has not purchased any art because they did not have the funds to purchase Art.

operations from 19XX to present in the U.S. included one exhibit in \_\_\_\_\_, duration stated in a letter from \_\_\_\_\_ as 2 to 3 years. This was the only exhibit stated as held in the United States. Documents were requested to verify the operation of the exhibit, the cost, the duration of the exhibit, and the items included in the exhibit, the shipping and return shipping documents to help verify duration of the exhibit. \_\_\_\_\_ provided copies of programs stating the exhibit would start on August 9, 19XX. \_\_\_\_\_ provided statements of other attempts to hold exhibits but stated the hosts declined due to foundation inability to authenticate the \_\_\_\_\_. The organization has been in operation from 19XX to present a total of 0 years.

The \_\_\_\_\_ submitted statement and letters as verification of the purchase of the \$0 listed on Form 990-PF return line 25.

Several Document request were submitted to the \_\_\_\_\_ to provide an opportunity for the organization to verify and prove operations in keeping with the exempt purpose of the organization. In lieu of

Form 886A	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended <b>20XX</b>

cancelled checks, cashier check, loan agreements, repayment schedules, check register, deposit slips, invoices, billing statements, or customs documents, the organization provided written statements and a list of Artifacts which stated they were passed through customs with no customs certification, stamps or signatures. The statements and copies of emails were provided as verification of furtherance of foundation exempt purpose activities.

### **Law and Argument**

1.501(c)(3)-1 Organizations, organized and operated for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals.

(a) Organizational and Operational tests.

(1) In order to be exempt as an organization described in section 501(c)(3), an 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 or operational test, it is not exempt.

(2) The term exempt purpose or purposes, as used in this section, means any purpose or purposes specified in section 501(c)(3).

(b) Organizational Test. (1) In general, (i) 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 to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.



Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer		Year/Period Ended <b>20XX</b>

(c) Operational Test. (1) Primary activities. An organization will be regarded as 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.

ii) An organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (i) of this subparagraph unless it serves a public rather a private interest. Thus, to meet the requirement of this subdivision, 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 interest.

The exempt purpose of \_\_\_\_\_ as stated in the articles of incorporation, exhibiting art as museums and providing art to other museums would be classified as educational as a 501(c)(3) foundations.

(3) Educational defined--(i) In general. The term educational, as used in section 501(c)(3) [26 USCS § 501(c)(3)], relates to:

(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.

(ii) Examples of educational organizations. The following are examples of organizations which, if they otherwise meet the requirements of this section, are educational:

Example 1. An organization, such as a 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.

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
<b>Explanation of Items</b>		
Name of Taxpayer		Year/Period Ended <b>20XX</b>

Example 2. An organization whose activities consist of presenting public discussion groups, forums, panels, lectures, or other similar programs. Such programs may be on radio or television.

Example 3. An organization which presents a course of instruction by means of correspondence or through the utilization of television or radio.

Example 4. Museums, zoos, planetariums, symphony orchestras, and other similar organizations.

In *Christian Manner International Inc. V. Commissioner*, 71. T.C. 661, exemption denied because principle activity not verified as in furtherance of exempt purpose. Principle activity not an education purpose activity.

#### **Taxpayer's Position**

The requested records were lost in the 0 years of the organizations operations. The statements and letters provided explained the operation of the organization where in furtherance of the exempt purpose.

#### **Government's Position**

was granted exemption for the exempt purpose of exhibiting and providing to Museums for exhibition in the U.S. and possibly Europe. In excess of 0 years of operation the foundation claims to have had one exhibition with 2 to 3 year duration in the U.S., . The exhibition in , duration was not verified. One exhibit of 2 to 3 years does not qualify as carrying out an exempt purpose for 0 plus years of operations. The foundation stated they are paying several expenses for

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
<b>Explanation of Items</b>		
Name of Taxpayer		Year/Period Ended <b>20XX</b>

Archaeologists for carbon dusting in \_\_\_\_\_, and the living expenses of the archaeologist, but the exempt purpose is supplying \_\_\_\_\_ to museums in the U.S. and possibly Europe.

**Conclusion:** \_\_\_\_\_ did not verify the conduct of substantial activities in furtherance of the foundation exempt purpose and therefore should be revoked.