

**Internal Revenue Service**  
Appeals Office  
4330 Watt Avenue SA7890  
Sacramento CA 95821-7012

**Department of the Treasury**

**Employer Identification Number:**

Release Number: **201734010**

Release Date: 8/25/2017

Release Date: June 2, 2017

UIL Code: 501.03-30

**Person to Contact:**

Name

Employee ID Number:

Tel:

Fax:

**Certified Mail**

Dear :

This is a final adverse determination that you do not qualify for exemption from Federal income tax under Internal Revenue Code (the "Code") section 501(a) as an organization described in section 501(c)(3).

The favorable determination letter to you dated is hereby revoked and you are no longer exempt under section 501(a) of the Code effective .

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

You are not operated exclusively for charitable or other exempt purposes, as required under section 501(c)(3) of the Code. Your net earnings inured to the benefit of private shareholders or individuals. In addition, you operated for substantial non-exempt commercial purposes of operating a dental practice, and for substantial benefit of private individuals rather than public interests. .

Contributions to your organization are not deductible under section 170 of the Code.

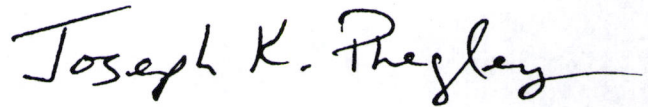
You are required to file Federal income tax returns on Forms 1120. File your return with the appropriate Internal Revenue Service Center per the instructions of the return. For further instructions, forms, and information please visit [www.irs.gov](http://www.irs.gov).

You have agreed to waive your right to contest this determination under the declaratory judgment provisions of Section 7428 of the Code.

We will make this letter and the proposed adverse determination letter available for public inspection under Code section 6110 after deleting certain identifying information. We have provided to you, in a separate mailing, Notice 437, *Notice of Intention to Disclose*. Please review the Notice 437 and the documents attached that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437.

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

Sincerely Yours,

A handwritten signature in black ink that reads "Joseph K. Phegley". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Joseph K. Phegley  
Appeals Team Manager

Enclosure: Publication 892



Internal Revenue Service  
Tax Exempt and Government Entities Division  
Exempt Organizations: Examinations  
1555 Poydras Street, Stop 17  
New Orleans, LA 70112

Department of the Treasury

Date:

April 15, 2015

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  
401 W. Peachtree St., NW, Stop 202-D,  
Room 510  
Atlanta, GA 30308-8099  
Phone: (404) 338-8099

**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,

A handwritten signature in black ink, appearing to read 'Margaret Von Lienen', with a long horizontal flourish extending to the right.

/for/

Margaret Von Lienen  
Director, EO Examinations

Enclosures:  
Report of Examination  
Form 6018  
Publication 892  
Publication 3498

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

**Issue:**

Whether \_\_\_\_\_ qualifies for exemption under Section 501(c)(3) of the Internal Revenue Code.

Whether \_\_\_\_\_ operates in a substantially commercial manner which would preclude exemption.

Whether payments to \_\_\_\_\_ credit cards in the amount of \$ 0 for 20XX; \$ 0 for 20XX; and \$ 0 for 20XX constitutes inurement within the meaning of I.R.C. section 501(c)(3).

Whether payments to \_\_\_\_\_ credit cards without business substantiation in the amount of \$ 0 for 20XX; \$ 0 for 20XX; and \$ 0 for 20XX that appear personal in nature constitutes inurement within the meaning of I.R.C. section 501(c)(3).

Whether payments to \_\_\_\_\_ with no business substantiation in the amount of \$ 0 for 20XX; \$ 0 for 20XX; and \$ 0 for 20XX constitutes inurement within the meaning of I.R.C. section 501(c)(3).

Whether purchases on \_\_\_\_\_ credit cards in the amount of \$ 0 for 20XX; \$ 0 for 20XX; and \$ 0 for 20XX that appear personal in nature constitutes inurement within the meaning of I.R.C. section 501(c)(3).

Whether payments to other financial institutions with no business substantiation in the amount of \$ 0 for 20XX; \$ 0 for 20XX; and \$ 0 for 20XX constitutes inurement within the meaning of I.R.C. section 501(c)(3).

Whether payment to \_\_\_\_\_ of \_\_\_\_\_ in the amount of \$ 0 for 20XX and \$ 0 for 20XX that appear personal in nature constitutes inurement within the meaning of I.R.C. section 501(c)(3).

Whether direct payments to \_\_\_\_\_ in the amount of \$ 0 for 20XX; \$ 0 for 20XX; and \$ 0 for 20XX were unreported compensation and constitutes inurement within the meaning of I.R.C. section 501(c)(3).

Whether direct payments to \_\_\_\_\_ in the amount of \$ 0 for 20XX; \$ 0 for 20XX; and \$ 0 for 20XX were unreported compensation and constitutes inurement within the meaning of I.R.C. section 501(c)(3).



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Whether directs payments to / in the amount of \$ 0 for 20XX; and \$ 0 for 20XX were unreported compensation that constitutes inurement within the meaning of I.R.C. section 501(c)(3).

Whether payments to in the amount of \$ 0 for 20XX; \$ 0 for 20XX; and \$ 0 for 20XX were unreported compensation that constitutes inurement within the meaning of I.R.C. section 501(c)(3).

Whether payments to in the amount of \$ 0 for 20XX; \$ 0 for 20XX; and \$ 0 for 20XX were unreported compensation that constitutes inurement within the meaning of I.R.C. section 501(c)(3).

Whether purchases by check or debit card in the amount of \$ 0 for 20XX; \$ 0 for 20XX; and \$ 0 for 20XX were personal in nature and constitutes inurement within the meaning of I.R.C. section 501(c)(3).

**Facts:**

was duly incorporated under the laws of the State of pursuant to the Nonprofit Corporation Code on July 19, 20XX.

On August 14, 20XX applied for exemption with the Internal Revenue Service.

On October 1, 20XX was granted exemption by the Internal Revenue Service.

According to the Articles of Incorporation, the name and address of the incorporator is

owned and operated and until it was sold to in March 15, 20XX with the sale being final as of April 2, 20XX.

When was asked for a fee schedule, provided "*FEE SCHEDULE*" received on August 21, 20XX and "*Attachment C-1 Schedule of Allowable Fees STATE HEALTH PLAN*" received on August 23, 20XX by Agent .

- filed the Form 990 for 20XX, 20XX, and 20XX.
- Form 990 for year ending December 31, 20XX:
    - Part IV Checklist of Required Schedules.
      - **Line 25a (Section 501(c)(3) and 501(c)(4) organizations.**
        - Did the organization engage in an excess benefit transaction with a disqualified person during the year?
          - stated "No".



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- Line 25b (Is the organization aware that it engaged in an excess benefit transaction.....).
  - stated "No".
- Line 26 (Was a loan to or by a current or former officer, director, trustee, key employee, highly compensated employee, or disqualified person outstanding as of the end of the organization's tax year? *If "Yes," complete Schedule L' Part II*).
  - stated "No".
  - didn't file a Schedule L.
- Part VI Section A (Governing Body and Management)
  - Line 1A (Enter the number of voting members of the governing body at the end of the tax year), stated "1".
- Part VII Section A (Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees.
  - included ( ) as an Officer and Key Employee, but reported zero (\$0) compensation.
  - didn't report or her compensation.
  - didn't include compensation from related organizations.
- Part IIIIV Statement of Revenue.
  - Line 1a – 1f (Contributions, gifts, grants, and similar amounts) is blank.
    - reported zero (\$0) donations.
- Part IX Statement of Functional Expenses.
  - Line 2 (Grants and other assistance to individuals in the US) is blank.
  - Line 5 (Compensation of current officers, directors, trustees, and key employees) is blank.
- Schedule A Public Charity Status and Public Support.
  - Part I Reason for Public Charity Status.
    - Line 3 (A hospital or a cooperative hospital service organization described in **section 170(b)(1)(A)(iii)**) was unchecked.
    - Line 7 (An organization that normally receives a substantial part of its support from a governmental unit or from the general public described in **section 170(b)(1)(A)(vi)** (Complete Part II)) was checked.
  - Part II Support Schedule for Organizations Described in Sections 170(b)(1)(A)(iv) and 170(b)(1)(A)(vi).
    - didn't complete Part II.
    - Line 18 (Private Foundation) was the only line completed and checked.
    - didn't file the Form 990-PF.
- Schedule D Supplemental Financial Statements.
  - Part VI Investments – Land, Buildings, and Equipment.
    - Line 1c (Leasehold improvements) was filed in.
    - Line 1d (Equipment) was filed in.



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- Schedule H Hospitals.
  - didn't file Schedule H.
- Form 4562 Depreciation and Amortization
  - filed Form 4562, but didn't include a list of assets that were being depreciated.
- Form 990 for the year ending December 31, 20XX.
  - filed the Form 990 and two amended Form 990.
    - The last amended return received is considered the return of record.
  - The same fact that apply to the 20XX Form 990 also apply to the 20XX Form 990 except for the following:
    - Part IV Line 26 was reported as "Yes".
    - filed the Schedule L disclosing the "Loan" to and
    - Form 4562 Depreciation and Amortization.
      - provided a list of assets, but no vehicles were reported.
- Form 990 for the year ending December 31, 20XX.
  - The same facts that apply to the 20XX Form 990 also apply to the 20XX Form 990 except for the following:
    - Part VI Section A.
      - Line 1a (number of board members), stated "5".
      - Line 1b (independent board members), stated "4".
      - didn't provide a list of the board members.
    - Part VII
      - stated received \$ 0.
      - didn't provide the Form W-2 or Form 1099-misc.
    - Schedule N (Liquidation, Termination, Dissolution, or Significant Disposition of Assets).
      - filed the Schedule N stating that the " building was abandoned".
  - Form 4562.
    - filed the Form 4562 with an attached list of assets.
      - This list of assets didn't include any vehicles.
      - This list of assets didn't include any new computers after June 9, 20XX.

According to the Form 1023 application (see Schedule 1) is an outreach program dedicated to health and welfare of men and women and children. The program offers cost free dental and medical services to rural residents of . The Program also offers community prevention services, nutrition, crises intervention services along with other services that provide holistic approach to health.



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- However, during the touring of the facility the examiner noticed that the organization was a \_\_\_\_\_ office.
- When asked about patients, the office manager explained that the organization determines what co-pay to charge.
  - She stated that they check online for insurance the day the appointment is made or at least the day before the appointment to see what insurance will cover and for co-pay.
  - If no insurance or the patient is out of insurance then the patient has to pay full price.
  - If the patient can't pay the cost the organization would create a payment plan, but full payment is required before receiving treatment unless the patient is in pain.
  - If the patient can't afford the treatment then the organization would "refer" the patient to agencies so the patients can get insurance or a local organization provides some free services.
  - If a patient should have two different insurances, the dentist office is required to bill the "primary" insurance first (non-Medicaid) then secondary insurance.

According to the Form 1023 application \_\_\_\_\_ specifically targets "at risk" individuals, the indigent, the drop-out, welfare mothers, and those individuals who have been recently released from incarceration. Clients who are referred to first undergo an extensive assessment to evaluate their current needs and potential. The next step, if indicated by the assessment is to offer them access to extensive prevention services, with an emphasis on heart disease, gum disease, and nutrition. Recognizing that poor educational skills exist for a variety of factors, also offers support services, such as social skills, that are designed to help clients function at their maximum potential; these services include (but are not limited to) individual and group counseling, daily living skills, classes in positive behavior modification; recreational therapy and conflict resolution.

- However, when the examiner toured the facility:
  - No classrooms were viewed
  - \_\_\_\_\_ regularly and routinely provide \_\_\_\_\_ education to their patients as did
  - \_\_\_\_\_ provided pamphlets that they didn't create but pass out to their patients.
    - The pamphlets that they provided were
      - " \_\_\_\_\_ " created by the State of \_\_\_\_\_
      - "Temporary Assistance for Needy Families" created by \_\_\_\_\_ Department of Human Services
      - " \_\_\_\_\_ County Health Department" (2)



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- "For Medicaid & for Kids" created by the State of
- " "

According to the Form 1023 application the primary goal of is to provide dental, medical, and prevention services to low-income individuals particularly those whose economical status prevents them from otherwise receiving adequate and much needed care to extend their lives. We will provide information and prevention services to youth, their parents and the public. Other goals of the program include and educating and training individuals on nutrition, life skills, health, oral hygiene, and drug abuse prevention.

- When the patients' insurance was at its limit then makes the patients pay cash for the services before the services are rendered except in the case that a patients presents themselves as in pain or on an emergencies basis.
- didn't provide any documentations showing any medical services were provided to their patients beyond services.

According to the Form 1023 application the:

#### Planned Activity:

"Since the best way to aid the community is to be responsive to its changing needs, we developed an ongoing survey program in place to monitor the success of the program among its clients and to provide viable feedback with which to institute changes in the operation of the program—such as the addition or deletion of particular programs or other modifications in their application. offers a single point-of-entry to social services. We plan on (as an adjunct to our health program) developing a program which encourages young parents to become nutritionally aware and how to prevent disease and health problems related to hygiene. Since we began this program the regular staff has volunteered time to assist parents with referral services, tutoring youth, assisting youth and parents on writing a resume, dressing for success, and how to budget money.

We also plan on developing a program that will assist homeless individuals with dental/medical care and provide services to women that has been victims of domestic violence and require care."

- However, didn't provide any documentation to show that they provided any educational or outreach activities other than that a for-profit would provide.



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According to the Form 1023 application the primary funding sources will come from the State of \_\_\_\_\_ Department of Health, \_\_\_\_\_, Human Services, the Medical and Dental Society, and the United Way of \_\_\_\_\_ (includes \_\_\_\_\_ County), donations and fundraiser, additional funding sources are attached to the two year proposed budget.

The Form 1023 application also states that \_\_\_\_\_ plan to pursue several avenues of fundraising, including seeking grants and obtaining sponsorships from the community and the state.

The Form 1023 application states that the Revenues-Projected Incomes for the first year will consist of the following:

- However, according to the \_\_\_\_\_ statements and general ledger, the \_\_\_\_\_ received income from patients and patients' insurance only.
- No donations were viewed.

According to the \_\_\_\_\_ statements and general ledger, made payments to \_\_\_\_\_ from January 7, 20XX through December 27, 20XX (see Schedule A). \_\_\_\_\_ provided \_\_\_\_\_ credit card statements with the name of \_\_\_\_\_ and a balance. The statements didn't show any business purchases and no substantiation was provide for these payments.

- \_\_\_\_\_ provided a copy of check stub # \_\_\_\_\_ dated December 14, 20XX showing the description for these payment to \_\_\_\_\_ as COS – \_\_\_\_\_ Supplies, Penalties & Fines, and Interest – Other.

According to \_\_\_\_\_ statements and general ledger, \_\_\_\_\_ made payments to \_\_\_\_\_ from January 18, 20XX through December 27, 20XX, but didn't provide any substantiation showing business purpose for these payments or that these payments were to a business credit card (see Schedule B).

- \_\_\_\_\_ provided statements for three (3) different \_\_\_\_\_ credit cards accounts from 20XX to 20XX in the name of the organization but none of these payments are represented on those credit card statements that they presented.
- When the checks were summons and viewed some of them had the memo line included. The checks that were written to \_\_\_\_\_ that didn't appear on the



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credit card statements had other credit card account numbers on them (see Schedule B memo column).

According to the \_\_\_\_\_ statements and general ledger, made payments to \_\_\_\_\_ credit card from January 11, 20XX through December 6, 20XX (see Schedule C).

- \_\_\_\_\_ provided one (1) page of one (1) statement for the credit card in the name of \_\_\_\_\_ that stated the account was closed but didn't provide substantiation that the rest of the payments were to this credit card.
- The \_\_\_\_\_ have stated that they used the organization's \_\_\_\_\_ credit cards for personal use (see Schedule D1).
- \_\_\_\_\_ didn't provide supporting documentation showing that the purchases on the \_\_\_\_\_ credit card had a business purpose.

According to \_\_\_\_\_ statements; credit card statements; and general ledger,

\_\_\_\_\_ and \_\_\_\_\_ made purchases on \_\_\_\_\_ three (3) credit cards from January 10, 20XX through December 28, 20XX (see Schedule D).

- \_\_\_\_\_ provided some receipts or documentation but the still lacked a business purpose for these purchases.
- \_\_\_\_\_ provided receipts for \_\_\_\_\_ (0 miles from \_\_\_\_\_, and 0 miles from \_\_\_\_\_) purchased on November 23, 20XX at 9:44 am (Black Friday) for an \_\_\_\_\_ and December 15, 20XX at 3:58 pm for an \_\_\_\_\_. However, when the examiner toured the facility no \_\_\_\_\_ or \_\_\_\_\_ were viewed.
  - These purchases appear personal in nature due to the fact that \_\_\_\_\_ was using \_\_\_\_\_ take different software and licensing agreements to run with none being viewed.
  - No assets were added to the organization's depreciation schedule after December 31, 20XX to include these computers.
- \_\_\_\_\_ provided emails as business substantiation for travel to \_\_\_\_\_, where \_\_\_\_\_ (the company that purchased \_\_\_\_\_ and \_\_\_\_\_) is located.
  - These emails were to \_\_\_\_\_.
  - No receipts were provided.
  - These purchases appear for the benefit of \_\_\_\_\_ and not a business purpose of \_\_\_\_\_.
- \_\_\_\_\_ provided an email for a flight to \_\_\_\_\_ as a "\_\_\_\_\_",
  - \_\_\_\_\_ didn't provide any other documentation showing the business purpose of the trip.
  - \_\_\_\_\_ didn't show that this trip wasn't a personal trip like the trips to: \_\_\_\_\_.



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- -
- provided an email from for travel to , .
    - These purchases appear personal as the travel wasn't for business.
    - But
    - Travel for business.
  - stated that some of the purchases on the credit card were personal purchases in their response to Information Documentation Request # 27 and # 28 dated February 25, 20XX (see Schedule D1) with these purchases being included in Schedule D.
    - The trips to , and , were part of those that they stated were personal.
  - provided an email as receipt for the expenses of :
    - The email was to .
    - There is no business substantiation that these expenses were for
  - made payments to
    - In 20XX, made two (2) payments to each month.
    - Only provided one (1) receipt showing one (1) payment was made.
    - Provided a copy of website as a receipt as well.
    - owned and operated two (2) offices that could have used this service.
    - Didn't provide documentation to show that the second monthly payment had a business purpose (see Schedule D2);
    - Is included in Schedule D.
  - Payments were made to credit cards that didn't originate from the accounts that were viewed.
    - and made partial correction to under I.R.C. section 4958 by making payments to credit card (see Schedule D3).

According to statements and general ledger, made payments to additional financial institutions. Those institutions were , , , and (see Schedule E).

- However, provided a receipt showing payment for , , and but didn't provide the contracts or leases to show what was purchased or where the purchased materials were used.
  - These material could have been used by or and considered dual usage.
- provided credit card statements.
  - They show the amount owed.



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- Didn't provide any receipts showing:
    - What was purchased.
    - How these purchases were used.
  - provided a statement for
    - The name on the bill was to
    - Didn't provide any other documentation showing that these payments had a business purpose.
- According to \_\_\_\_\_ statements and general ledger, \_\_\_\_\_ made payments to \_\_\_\_\_ from May 10, 20XX through December 2, 20XX (see Schedule F).
- \_\_\_\_\_ hasn't provided receipts for payments to \_\_\_\_\_
  - \_\_\_\_\_ hasn't provided documentation showing a business purpose of these payments.
  - \_\_\_\_\_ didn't provide lease documents or proof of registration showing that the vehicle was purchases by \_\_\_\_\_

- According to \_\_\_\_\_ statements and general ledger, the \_\_\_\_\_ made direct payments to \_\_\_\_\_ from January 15, 20XX through December 31, 20XX (see Schedule G).
- According to the general ledger check # \_\_\_\_\_ was written to \_\_\_\_\_, but was in fact it was written to \_\_\_\_\_
  - Check # \_\_\_\_\_ was deposited into the \_\_\_\_\_ personal \_\_\_\_\_ account (see Schedule L5).
  - \_\_\_\_\_ stated that they leased employees from \_\_\_\_\_
    - Didn't provide documentation showing the payments to \_\_\_\_\_ were for business purposes.
    - Provided a leasing contract that had " \_\_\_\_\_ " name strikethrough and " \_\_\_\_\_ " was handwritten in its place.
    - The contract was unsigned.
  - \_\_\_\_\_ hasn't filed the Form 941 since the December 31, 20XX for employees.
  - \_\_\_\_\_ hasn't provided receipts for the payments to \_\_\_\_\_

- According to the \_\_\_\_\_ statements and general ledger, the \_\_\_\_\_ made payments to \_\_\_\_\_ from January 21, 20XX through November 29, 20XX (see Schedule H).
- According to the general ledger check # \_\_\_\_\_ for \$ 0 was written to \_\_\_\_\_, but was in fact check # \_\_\_\_\_ for \$ 0 was written to \_\_\_\_\_
  - Check # \_\_\_\_\_ was deposited into the \_\_\_\_\_ personal \_\_\_\_\_ account (see Schedule L6).
  - \_\_\_\_\_ stated that they leased employees from \_\_\_\_\_
    - Didn't provide documentation showing the payments to \_\_\_\_\_ were for business purposes.



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- Provided a leasing contract that had " " name strikethrough and " " was handwritten in its place.
- The contract was unsigned.
- hasn't filed the Form 941 since the December 31, 20XX for employees.
- hasn't provided receipts for the payments to

According to the statements and general ledger, the made payments to / from July 19, 20XX through November 17, 20XX (see Schedule I).

didn't provide documentation showing the payments to were for business purposes because provided a leasing contract that had name was strikethrough and was handwritten in its place and the contract was unsigned.

- stated that they leased employees from
  - Didn't provide documentation showing the payments to were for business purposes.
  - Provided a leasing contract that had " " name strikethrough and " " was handwritten in its place.
  - The contract was unsigned.
- hasn't filed the Form 941 since the December 31, 20XX for employees.
- hasn't provided receipts for the payments to and .
- and made partial correction under I.R.C. section 4958 with payments to from March 2, 20XX through November 20, 20XX (see Schedule I1).
  - These payments came from and .

According to the statements and general ledger, made payments to . from March 5, 20XX through March 7, 20XX (see Schedule J).

- provided a signed copy of a Promissory Note with signing for "Borrower" and signing for "Lender" with no witnesses or Notary showing the date executed.
  - Date on the Promissory Note was February 16, 20XX.
- hasn't provided:
  - Payment schedule.
  - Interest paid.
  - And didn't have the ability to repay the loan.
    - Per fax received December 6, 20XX from CPA and Power of Attorney; " has shut down and all monies owed to it are not expected to be paid. All monies it owes to creditors are with a trustee and



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- being negotiated." provided documentation showing that ,  
was Administratively Dissolved on September 4, 20XX.
- and made partial correction under I.R.C. section 4958 with payments to from February 16, 20XX through June 17, 20XX (see Schedule J1).
    - These payments came from .

According to the statements and general ledger, the "Lender" made payments to "Borrower" from January 26, 20XX through March 21, 20XX (see Schedule K).

- provided a copy of the first page of a Promissory Note without signatures, witnesses, or Notary showing the date executed.
- hasn't provided:
  - Payment schedule.
  - Interest paid.
  - And didn't have the ability to repay the loan.
    - Per fax received December 6, 20XX from CPA and Power of Attorney; "The notes started as amounts loaned to the entities similar to a Line of Credit. All of the monies were not collected prior to the companies shutting down. closed its doors and all monies secured went to a trustee to negotiate with all creditors owed. is on the creditor list but not priority. was a for-profit C corporation." provided documentation showing that , was Administratively Dissolved on September 3, 20XX.
- and made partial correction under I.R.C. section 4958 with payments to from January 14, 20XX through June 17, 20XX (see Schedule K1).
  - These payments came from .

According to the statements and general ledger, the made check and debit card purchases that appear personal in nature from January 1, 20XX through December 31, 20XX (see Schedule L).

- hasn't provided receipts for the purchases shown on Schedule L.
- provided some documentation showing a business purpose for some of the expenses, but they didn't provide documentation for most of the expenses that made from January 1, 20XX through December 31, 20XX.
- Some of the documentation was insufficient to show business purpose of the expenses paid.
- made payments to United States Treasury from August 22, 20XX through June 29, 20XX (see Schedule L1).
  - The Internal Revenue Service didn't receive any payment for Employer Identification Number .



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- The Internal Revenue Service's systems don't show any payments being made by or owed from \_\_\_\_\_ account.
- \_\_\_\_\_ didn't file the Form 941 for Employment Taxes for 20XX, 20XX, or 20XX.
- \_\_\_\_\_ didn't file the Form 990-T for Unrelated Business Income Taxes for 20XX, 20XX, or 20XX.
- \_\_\_\_\_ made payments to \_\_\_\_\_ and \_\_\_\_\_ monthly (see Schedule L2).
  - Two (2) or three (3) payments were made to \_\_\_\_\_ each month.
  - Sometimes payments to \_\_\_\_\_ were paid the same months as \_\_\_\_\_
    - \_\_\_\_\_ stated that they provided a bill for \_\_\_\_\_, but no receipt was received.
  - \_\_\_\_\_ didn't provide any documentation showing that these payments had a business purpose.
  - \_\_\_\_\_ didn't provide any documentation showing \_\_\_\_\_ owned these cellphone accounts.
- \_\_\_\_\_ made payments to insurance companies (see Schedule L3).
  - \_\_\_\_\_ provided documentation for payments to:
    - One (1), \_\_\_\_\_ monthly bill, but the account was for \_\_\_\_\_.
    - One (1), \_\_\_\_\_ annual business insurance (building).
    - One (1), \_\_\_\_\_ Insurance annual medical liability insurance for employee dentist ( \_\_\_\_\_, \_\_\_\_\_).
    - One (1), \_\_\_\_\_ paid but is only a copy of the debit withdraw on the statement.
  - \_\_\_\_\_ didn't provide documentation for the rest of insurance paid.
  - These payments are included in Schedule L.
- \_\_\_\_\_ made payments to Utilities from January 5, 20XX through December 5, 20XX (see Schedule L4).
  - The Internal Revenue Service received a fax on November 29, 20XX from CPA (Power of Attorney (POA)).
    - Fax stated "During 20XX, there were 4 different organizations providing \_\_\_\_\_ that were controlled by the \_\_\_\_\_. A combination of the economy, job losses, and therefore less insurance, freezing of state funds, etc from 20XX through 20XX caused the various companies to begin declining. In 20XX one office closed. By March 20XX, only \_\_\_\_\_ Center (the second location \_\_\_\_\_) remained. After that, \_\_\_\_\_ have caused even further demise."



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- office closed their office in 20XX.
- office was still operating in 20XX and 20XX at
- ( ) doesn't service
- provided one (1) bill for dated October 26, 20XX for service at
- didn't provide any bills for 20XX payments.
- provided one (1) bill for Utilities for service to #
- didn't provide any bills for 20XX payments.
- The Internal Revenue Service received a fax from CPA and POA on January 31, 20XX stating:
  - *"The technology company has restored some of the files lost on the computer that crashed. We are now compiling what they have on a flash drive. The files are the closed files, but do include 0%+ transactions. It's all we have been able to get from the corrupted data.*

*All files were restored to our system, which is Sage 50 20XX.*

*The 20XX return was completed bases upon the information the client had on file. As mentioned, the files were corrupt. We are still in efforts to re-construct files...."*
- According to the general ledger check # for \$0 dated December 20, 20XX was written to but was in fact it was written to and deposited into the personal account (see Schedule L5).
- According to the general ledger check # for \$ 0 dated November 14, 20XX was written to but was in fact check # for \$ 0 dated November 16, 20XX was written to and deposited into the personal account (see Schedule L6).
- Due to the facts that corrupt computer files, and General Ledger proven inaccurate; all expenses need substantiation.
  - didn't provide documentation substantiating the business purpose for the expenses listed in Schedule L.
- made direct payments to employees (see Schedule M).
- stated that they leased employees from
  - Didn't provide documentation showing the payments to were for leasing employees for work provided to
  - Provided a leasing contract that had " name strikethrough and " " was handwritten in its place.
  - The contract states that any additional payments to employees not reported to



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, FICA and Federal Income Tax Withholdings (FIT) are the responsibility of the payer.

- The contract was unsigned.
- hasn't filed the Form 941 since the December 31, 20XX for employees.
- filed the Form 1099-misc for some employees (see Schedule M1).
- didn't pay employment taxes (FICA) or Federal Income Tax Withholdings (FIT) to the Internal Revenue Service.
- appears to have withheld FIT from employees checks by the uneven amounts directly paid to the employees.

stated "Other documents included which will account for some of the expenses listed as personal are reimbursements made by the taxpayer." In their response to Information Document Request # 27 and 28 dated February 5, 20XX.

- However, didn't provide documentation showing that these expenses meet the reimbursement requirements.

## **LAW**

Section 1.501(c)(3)-1(a) of the regulations states that 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 test or the operational test, it is not exempt.

Income Tax Regulation ("Regulation") section 1.501(c)(3)-1(c)(2) provides 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.

Regulation section 1.501(c)(3)-1(d)(1)(ii) provides that 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 than 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 interests.

In Revenue Ruling 69-266, 1969-1 C.B. 151, an organization formed and controlled by a doctor of medicine, "hired" to conduct research programs consisting of examining and treating patients who are charged the prevailing fees for services rendered, is not exempt under section 501(c)(3) of the Code. Under the facts described the operation of the dental practice by the organization does not differ



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significantly from the private practice of dental for profit organizations. The organization's primary function is to serve the private interest of its creator rather than a public interest.

In Revenue Ruling 69-545, 1969-2 C.B. 117, to qualify for exemption from Federal income tax under section 501(c)(3) of the Code, a nonprofit hospital must be organized and operated exclusively in furtherance of some purpose considered 'charitable' in the general accepted legal sense of the term, and the hospital may not be operated, directly or indirectly, for the benefit of private interests.

In Revenue Ruling 69-632, 1969-2 C.B. 120, a nonprofit organization composed of members of a particular industry to develop new and improved uses for existing products of the industry is not exempt under section 501(c)(3) of the Code. The association's members select research projects in order to increase their sales by creating new uses and markets for their product. The primary purpose of the association's research is to serve the private interests of its creators, rather than the public interest.

In *Better Business Bureau of Washington D.C., Inc. v. United States*, 326 U.S. 279 (1945), the Supreme Court held that the presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes. The Court found that the trade association had an "underlying commercial motive" that distinguished its educational program from that carried out by a university.

In *B.S.W. Group, Inc. v. Commissioner*, 70 T.C. 352 (1978), the court found that a corporation organized to provide counseling services was not exempt under section 501(c)(3) because its activities constituted the conduct of a trade or business that is ordinarily carried on as a commercial venture organized for profit. The corporation's primary purpose was not charitable, educational or scientific, but rather commercial in nature. Further, the court found that the organization's financing did not resemble that of a typical 501(c)(3) organization as it had not solicited, nor had it received voluntary contributions from the public. Its only source of income was from the fees for services that it collected. Those fees were set high enough to recover all projected costs and produce a profit. Moreover, it did not appear that the corporation ever planned to charge a fee less than "cost."

In *Airlie Foundation v. Commissioner*, 283 F. Supp. 2d 58 (D.D.C., 2003), the court relied on the "commerciality" doctrine in applying the operational test under section 501(c)(3). Because of the commercial manner in which the organization conducted its activities, the court found that it was operated for a nonexempt commercial purpose, rather than for a tax exempt purpose. The case noted that among the major factors



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that courts have considered in assessing commerciality are competition with for-profit entities, pricing policies, the extent and degree of below cost services provided and the reasonableness of financial reserves. Additional factors include whether the organization uses commercial promotional methods (such as advertising) and the extent to which the organization receives charitable donations.

Revenue Procedure 2007-52, Section 12.01(1) states that where there is a material change, inconsistent with exemption, in the character, the purpose, or the method of operation of an organization, revocation or modification will ordinarily take effect as of the date of such material change.

Section 3121(a) of the Code, states that for purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration (including benefits) paid in any medium other than cash; except that such term shall not include.

Section 3121(a)(1) of the Code, states that in the case of the taxes imposed by sections 3101(a) and 3111(a) that part of the remuneration which, after remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) with respect to employment has been paid to an individual by an employer during the calendar year with respect to which such contribution and benefit base is effective, is paid to such individual by such employer during such calendar year. If an employer (hereinafter referred to as successor employer) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and immediately after the acquisition employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessor, then, for the purpose of determining whether the successor employer has paid remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) to such individual during such calendar year, any remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment paid (or considered under this paragraph as having been paid) to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor employer;

Section 3121(d)(2) of Code defines the term *employee* as any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee.



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Section 31.3121(d)-1(c)(2) of the regulations provide in general that the relationship of employer-employee exists when the person for whom the services are performed has the right to direct and control the individual who performs the services not only as to the result to be accomplished by the work, but also as to the details and means by which that result is accomplished. It is not necessary that the employer actually direct or control the manner in which the services are performed, it is sufficient if he or she has the right to do so.

Section 31.3121(d)-1(a)(3) of the regulations provides that, if the relationship of an employer and employee exists, the designation or description of the parties as anything other than that of employer and employee is immaterial. Thus, if such relationship exists, it is of no consequence that the employee is designated as a partner, coadventurer, agent, independent contractor, or the like. Similar language is found in sections 31.3306(i)-1(d) and 31.3401(c)-1(c) of the regulations.

Section 4958(c)(1)(A) of the Code, states the term "excess benefit transaction" means any transaction in which an economic benefit is provided by an applicable tax-exempt organization directly or indirectly to or for the use of any disqualified person if the value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing such benefit. For purposes of the preceding sentence, an economic benefit shall not be treated as consideration for the performance of services unless such organization clearly indicated its intent to so treat such benefit.

Section 4958(f)(1)(A) of the Code, states the term "disqualified person" means, with respect to any transaction— any person who was, at any time during the 5-year period ending on the date of such transaction, in a position to exercise substantial influence over the affairs of the organization.

Section 4958(f)(1)(B) of the Code states the term "disqualified person" means, with respect to any transaction— a member of the family of an individual described in subparagraph (A).

Section 4958(f)(6) of the Code states that, the terms "correction" and "correct" mean, with respect to any excess benefit transaction, undoing the excess benefit to the extent possible, and taking any additional measures necessary to place the organization in a financial position not worse than that in which it would be if the disqualified person were dealing under the highest fiduciary standards, except that in the case of any correction of an excess benefit transaction described in subsection (c)(2), no amount repaid in a manner prescribed by the Secretary may be held in any donor advised fund.



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Section 1.62-2(c)(1) of the Code states for purposes of sections 1.62-1, 1.62-1T, and 1.62-2, the phrase "reimbursement or other expense allowance arrangement" means an arrangement that meets the requirements of paragraphs (d) (business connection), (e) (substantiation), and (f) (returning amounts in excess of expenses) of this section. A payor may have more than one arrangement with respect to a particular employee, depending on the facts and circumstances. See paragraph (d)(2) of this section (payor treated as having two arrangements under certain circumstances).

Section 1.62-2(d)(1) of the Code states in part, except as provided in paragraphs (d)(2) and (d)(3) of this section, an arrangement meets the requirements of this paragraph (d) if it provides advances, allowances (including per diem allowances, allowances only for meals and incidental expenses, and mileage allowances), or reimbursements only for business expenses that are allowable as deductions by part VI (section 161 and the following), subchapter B, chapter 1 of the Code, and that are paid or incurred by the employee in connection with the performance of services as an employee of the employer. The payment may be actually received from the employer, its agent, or a third party for whom the employee performs a service as an employee of the employer, and may include amounts charged directly or indirectly to the payor through credit card systems or otherwise.

Section 1.62-2(e)(1) of the Code states, an arrangement meets the requirements of this paragraph (e) if it requires each business expense to be substantiated to the payor in accordance with paragraph (e)(2) or (e)(3) of this section, whichever is applicable, within a reasonable period of time. See section 1.274-5T or section 1.162-17.

Section 1.62-2(e)(2) of the Code states, an arrangement that reimburses travel, entertainment, use of a passenger automobile or other listed property, or other business expenses governed by section 274(d) meets the requirements of this paragraph (e)(2) if information sufficient to satisfy the substantiation requirements of section 274(d) and the regulations thereunder is submitted to the payor. See section 1.274-5. Under section 274(d), information sufficient to substantiate the requisite elements of each expenditure or use must be submitted to the payor. For example, with respect to travel away from home, section 1.274-5(b)(2) requires that information sufficient to substantiate the amount, time, place, and business purpose of the expense must be submitted to the payor. Similarly, with respect to use of a passenger automobile or other listed property, section 1.274-5(b)(6) requires that information sufficient to substantiate the amount, time, use, and business purpose of the expense must be submitted to the payor. See sections 1.274-5(g) and 1.275-(j), which grant the Commissioner the authority to establish optional methods of substantiating certain expenses. Substantiation of the amount of a business expense in accordance with rules prescribed pursuant to the authority granted by sections 1.274-5(g) or 1.274-5(j) will be treated as substantiation of the amount of such expense for purposes of this section.



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Section 1.274-5(f)(4)(i) of the Code states, in general. For purposes of this paragraph (f) an adequate accounting means the submission to the employer of an account book, diary, log, statement of expense, trip sheet, or similar record maintained by the employee in which the information as to each element of an expenditure or use (described in paragraph (b) of this section) is recorded at or near the time of the expenditure or use, together with supporting documentary evidence, in a manner that conforms to all the adequate records requirements of paragraph (c)(2) of this section. An adequate accounting requires that the employee account for all amounts received from the employer during the taxable year as advances, reimbursements, or allowances (including those charged directly or indirectly to the employer through credit cards or otherwise) for travel, entertainment, gifts, and the use of listed property. The methods of substantiation allowed under paragraph (c)(4) or (c)(5) of this section also will be considered to be an adequate accounting if the employer accepts an employee's substantiation and establishes that such substantiation meets the requirements of paragraph (c)(4) or (c)(5). For purposes of an adequate accounting, the method of substantiation allowed under paragraph (c)(3) of this section will not be permitted.

Section 6001 of the Code state that, every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title. The only records which an employer shall be required to keep under this section in connection with charged tips shall be charge receipts, records necessary to comply with section 6053(c), and copies of statements furnished by employees under section 6053(a).

Section 1.6001-1(a) of the Regulations state, 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.

Section 1.6001-1(c) of the Regulations state, 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



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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 sections 1.6033-1 through 1.6033-3.

### **Current Activities:**

- was incorporated by ( ).
  - At the time of incorporation also owned and operated offices called:
    - “ ”
    - “ ”
  - The majority of the decisions made for were done by and his wife
    - Per the Form 990 for years ended December 31, 20XX and December 31, 20XX
      - There was one (1) officer.
    - Per the Form 990 for years ended December 31, 20XX
      - There were five (5) officers.
      - No officers were listed besides .

During the initial interview stated that the provides services for individuals, majority kids, with low income families. also stated that the majority of the payments received are from individuals on Medicare and Medicaid. stated that the organization originated in . The organization later set up an office in , . The organization received the most of their income from the state for Medicare and Medicaid patients.

During the interview with office manager , the office manager stated that they check online for insurance the day of making the appointment or at least the day before the appointment to see what insurance will cover and for co-pay. If no insurance or the patient is out of insurance then the patient has to pay full price. If the patient can't pay the cost the organization would create a payment plan, but full payment is required before receiving treatment unless the patient is in pain. If the patient can't afford the treatment then the organization would "refer" the patient to agencies so the patients can get insurance or a local organization provides some free services. If a patient should have two different insurances, the office is required to bill the "primary" insurance first (non-Medicaid) then secondary insurance. The office manager stated that the organization accepts all insurances and all patients.



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During the examination it was discussed that the organization had a relationship between the \_\_\_\_\_ for- profit organizations which were owned by the President and founder of \_\_\_\_\_.

During the examination a question was asked about the relationship between \_\_\_\_\_ and the \_\_\_\_\_ for profit organizations and how it relates to the exempt purpose of the organization.

- A letter dated December 3, 20XX received from the organization's representative stated that \_\_\_\_\_ formed \_\_\_\_\_ on or around March 24, 19XX. His experience with the practice was that many calls came to the office requesting emergency \_\_\_\_\_ work for children on Public insurance (Medicare and Care). He inquired about the possibility of opening a separate office to service this population and \_\_\_\_\_ was the result of this effort. \_\_\_\_\_ was formed July 20XX. An attorney was found to assist with the incorporation and tax exempt application status and the purpose of the corporation was to provide \_\_\_\_\_ to low income youth. \_\_\_\_\_ feels that as many as 0% of the patients seen at \_\_\_\_\_ were children. \_\_\_\_\_ and other specialist were hired to efficiently manage the patient load.
- The letter also stated that the for-profit and not-for-profit corporation had relationships that were limited to the use of Practice management and professional, \_\_\_\_\_ on occasion.
- The letter also stated that in 20XX substantially all the organizations revenue were paid by \_\_\_\_\_, Third Party Administrator for the Medicaid program in \_\_\_\_\_ and \_\_\_\_\_ Third Party Administrator for the \_\_\_\_\_ Medicaid program and State for kids in \_\_\_\_\_.
- The letter also stated that the organization's determination of a patient's low income status was based on their enrollment in either Medicaid or \_\_\_\_\_. If a new patient with a nonemergency condition sought \_\_\_\_\_ without public insurance, the office would refer them to \_\_\_\_\_ for eligibility and enrollment.

Form 990 for tax years ending December 31, 20XX; December 31, 20XX; and December 31, 20XX show the following income received:

	12/31/20XX	12/31/20XX	12/31/20XX
Gross Receipts			
Medicare Pmts	0	0	0
Dental:			

After reviewing \_\_\_\_\_ statements and cancelled checks for the years ended December 31, 20XX and December 31, 20XX it appears that the following entities also made payments to \_\_\_\_\_



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There were also payments made by individuals for \_\_\_\_\_ services provided by \_\_\_\_\_ didn't provide a list of charitable care or forgiveness of debt to a charitable class.

During the initial interview, the question was asked how the activities provided by \_\_\_\_\_ differ from services provided by "\_\_\_\_\_" and "\_\_\_\_\_", which were owned and operated by \_\_\_\_\_. \_\_\_\_\_ stated that the difference is \_\_\_\_\_ only provide service for Medicare and Medicaid patients and the other two for-profits provides services for individuals that has insurance or can afford to pay for the services.

No documentation was provided to the Internal Revenue Service showing how distinguish between the individuals that are considered a charitable class. No documentation was provided showing what type of documentation the individuals had to provide to show they were low income or a charitable class of individuals.

A document request was issued to \_\_\_\_\_ requesting detailed explanation as to how the services provided for payment from the entities listed above relates to the exempt purposes. The document request also requested supporting documents such as invoices and receipts showing what services the organization provided for the funds received and provides explanation as to what other funds are received by the organization besides Medicaid and Medicare.

No documentation was provided for this request.

Another document request was sent to \_\_\_\_\_ requesting the following: "The program offers cost free dental and medical services to rural residents of \_\_\_\_\_. The Program also offers community prevention services, nutrition, crises intervention services along with other services that provide holistic approach to health. These activities were explained in detail in the 1023 application.



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After reviewing the expense items and the cancelled checks, it appears that the aforementioned activities were not provided by the organization during the years of examination. "Please provide supporting documentation showing the organization did provide these activities. The documentation could be but not limited to invoices, receipts, newsletters, advertising etc."

No documentation was provided showing any of these activities were provided by the organization.

**Taxpayer's Position:**

stated that they believe that they meet the requirements of charitable care and therefore are exempt under I.R.C. section 501(c)(3).

believes that payments to credit card and to  
itself by and are reimbursements for their personal use of  
assets.

hasn't responded about inurement and has thirty (30) days to respond.

**Government's Position:**

isn't operated exclusively for charitable, educational, or religious purposes consistent with I.R.C. section 501(c)(3) of the Code nor section 1.501(c)(3)-1(a) of the Income Tax Regulations and therefore fails to meet the operational test. Specifically, the facts above indicate that they didn't operate exclusively for exempt purposes but were operating in a commercial manner and assets were used to inure to the benefit of and .

isn't distinguishable from any other commercial operation in that charged similar fees for all of their products, marketed these products to the general public through advertising, and are carrying on similar operations as a for-profit entity. In fact provided the "FEE SCHEDULE" when ask for a fee schedule.

isn't a hospital and their claim of 'charitable care' wasn't documented to show that this charitable care was provided.

However, before 'charitable care' can be considered, has to meet the operational test to show that no part of their earnings inure in whole or in part to the benefit of private shareholders or individuals.

In fact, stated that the organization's credit cards were used for personal use by and and therefor inurement occurred.







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is a office that is operating like any other Personal Service  
 Corporation office and is grounds for revocation of exempt status under I.R.C.  
 section 504(c)(3).