



**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service  
TE/GE EO Examinations**

1100 Commerce Street, MC 4920DAL  
Dallas, TX 75242

**TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION**

Date: March 29, 2017

Release Number: **201738013**

Release Date: 9/22/2017

UIL Code: 501.03-00

Taxpayer Identification Number:

Person to Contact:

Employee Identification Number:

Employee Telephone Number:  
(Phone)  
(Fax)

**CERTIFIED MAIL – Return Receipt Requested**

Dear \_\_\_\_\_ :

This is a Final Adverse Determination Letter as to your exempt status under section 501(c)(3) of the Internal Revenue Code (the Code). Our favorable determination letter to you dated June 10, 20XX is hereby revoked and you are no longer exempt under section 501(a) of the Code effective January 1, 20XX.

Organizations described in section 501(c)(3) of the Code and exempt from tax under section 501(a) of the Code must be both organized and operated exclusively for exempt purposes. You have failed to produce documents or otherwise establish that you are operated exclusively for exempt purposes and that no part of your net earnings inures to the benefit of private shareholders or individuals. You failed to respond to repeated reasonable requests to allow the Internal Revenue Service to examine your records regarding your receipts, expenditures, or activities as required by sections 6001 and 6033(a)(1) of the Code, Treasury Regulation 1.6033-2(i)(2), and Rev. Rul. 59-95, 1959-1 C.B. 627.

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

You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the 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, you may file an action for declaratory judgment under the provisions of section 7428 of the Code in one of the following three



venues: United States Tax Court, the United States Court of Federal Claims, or the United States District Court for the District of Columbia. A petition or complaint in one of these three courts must be filed before the 91st day after the date this determination was mailed to you if you wish to seek review of our determination. Please contact the clerk of the respective court for rules and the appropriate forms regarding filing petitions for declaratory judgment by referring to the enclosed Publication 892. Please note that the United States Tax Court is the only one of these courts where a declaratory judgment action can be pursued without the services of a lawyer. You may write to the courts at the following addresses:

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

US Court of Federal Claims  
717 Madison Place, NW  
Washington, DC 20005

U. S. District Court for the District of Columbia  
333 Constitution Ave., N.W.  
Washington, DC 20001

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS 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 TAS assistance, which is always free, TAS will do everything possible to help you. Visit [taxpayeradvocate.irs.gov](http://taxpayeradvocate.irs.gov) or call 1-877-777-4778.

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

Sincerely yours,

for

Maria Hooke  
Director, Exempt Organizations Examinations

Enclosures:  
Publication 892





Department of the Treasury  
Internal Revenue Service  
Tax Exempt and Government Entities Division  
Exempt Organizations Examinations  
324 25th St Rm 6025 Mail Stop 1112  
Ogden, UT 84401

Date:  
July 11, 2016  
Taxpayer Identification Number:

Form:  
990  
Tax year(s) ended:  
December 31, 20XX  
Person to contact/ ID number:

Contact numbers:  
Toll Free  
Long Distance  
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 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

Phone Number:

**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, Exempt Organizations Examinations

Enclosures:  
Report of Examination  
Form 6018  
Publication 892  
Publication 3498



Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended December 31, 20xx

**Date of Notice: July 11, 2016**

**Issues:**

Whether the organization continues to qualify for exemption from Federal income tax under Section 501(c)(3) of the Internal Revenue Code.

**Facts:**

( ) applied for tax-exempt status by filing the Form 1023 on April 22, 20xx, and was granted tax-exempt status as a 501(c)(3) on June 10, 20xx, with an effective date of April 02, 20xx.

An organization exempt under 501(c)(3) needs to be organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes and to foster national and amateur sports competition.

was selected for audit to ensure that the activities and operations align with their approved exempt status.

failed to respond to the Internal Revenue Service attempts to obtain information to perform an audit of Form 990 for the tax year December 31, 20xx.

has not filed a Form 990 series return for the tax years December 31, 20xx through December 31, 20xx tax year.

The Form 1023 application list the phone number of xxx-xxx-xxxx for the president of

Per the State of web-site, lists the organization as not in good standing, copy attached from state web-site.

- Correspondence for the audit was as follows:
  - Letter 3606 (Rev. 6-2012) with attachments, was mailed to the organization on January 05, 20xx, with a response date of February 08, 20xx. This letter was not return by the post office as being undeliverable.
  - Letter 3844-A (12-2015) with attachments, was mailed certified to the organization/president on February 22, 20xx, with a response date of March 16, 20xx, Article Number . Per the United States Postal Service (USPS) tracking, this was returned on March 30, 20xx at 1:08 pm as unclaimed/max hold time expired. This letter was received back at the Internal Revenue Service on April 06, 20xx.



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- Letter 3844-A (12-2015), with attachments, was mailed certified to the Secretary ( ), per Form 1023 application, on April 06, 20x, with a respond date of May 06, 20xx. Article Number . Per USPS tracking this was unclaimed/max hold time expired and returned to the Internal Revenue Service on May 11, 20xx at 10:35 am. This letter was received back at the Internal Revenue Service on May 19, 20xx.
- Letter 3844-A (12-2015), with attachments, was mailed to the organization/President, on May 25, 20xx, with a respond date of June 22, 20xx. This letter was not return by the post office as being undeliverable.
- Telephone contact for the audit was as follows:
  - **March 22, 20xx**, 2:33 PM MST, called the phone number listed on the Form 1023 application for the President of xxx-xxx-xxxx and received VMS. I left a message for an officer of the organization to return my phone call.
  - **May 25, 20xx**, through external research located a different phone number for the president of xxx-xxx-xxxx, when calling this phone number it is for a fax machine.
  - **June 29, 20xx**, 3:21 PM MST, called the phone number listed on the Form 1023 application for the President of xxx-xxx-xxx and received VMS. I left a message for the president to return my phone call
  - **July 7, 20xx**, 12:24 PM MST, tried calling xxx-xxx-xxxx, instead of the fax machine answering the phone rang ten times without it answering.

**Law:**

**Internal Revenue Code (IRC) §501(c)(3)** of the Code provides that an organization organized and operated exclusively for charitable or educational purposes is exempt from Federal income tax, provided no part of its net earnings inures to the benefit of any private shareholder or individual.

**IRC §511** of the Internal Revenue Code imposes a tax at corporate rates under section 11 on the unrelated business taxable income of certain tax-exempt organizations.

**IRC §6001** of the Code provides 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



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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.

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

**Treasury Regulations (Regulation) 1.501(c)(3)-1** In order to be exempt under §501(c)(3) the organization must be both organized and operated exclusively for one or more of the purposes specified in the section. (religious, charitable, scientific, testing for public safety, literary or educational).

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

**Regulation 1.501(c)(3)-1(c)(1)** of the regulations provides that an organization will not be regarded as "operated exclusively" for one or more exempt purposes described in section 501(c)(3) of the Code if more than an insubstantial part of its activities is not in furtherance of a 501(c)(3) purpose. Accordingly, the organization does not qualify for exemption under section 501(c)(3) of the Code.

**Regulation §1.6001-1(c)** of the Code provides that 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 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 §§ 1.6033-1 through 1.6033-3.

**Regulation §1.6001-1(e)** of the Code provides that the books or records required by this section shall be kept at all time available for inspection by authorized internal revenue officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.



Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
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Name of Taxpayer		Year/Period Ended December 31, 20xx

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

**Regulation §1.61-1** of the regulations provides that Gross income means all income from whatever source derived, unless excluded by law. Gross income includes income realized in any form, whether in money, property, or services. Income may be realized, therefore, in the form of services, meals, accommodations, stock, or other property, as well as in cash.

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

### Organizations Position

The organization has failed to respond to all attempts to contact them

### Governments Position

Based on the above facts, the organization did not respond to verify that they are organized and operated exclusively for one or more of the purposes specified in IRC Section 501(c)(3). If an organization fails to meet either the organizational test or the operational test, it is not exempt.

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

Section 1.6033-1(h)(2) of the regulations specifically state that exempt organizations shall submit additional information for the purpose on enabling the Internal Revenue



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Service to inquire further into its exempt status.

Using the rationale that was developed in Revenue Ruling 59-95, the Organization's failure to provide requested information should result in the termination of exempt status.

**Conclusion:**

Based on the foregoing reasons, the organization does not qualify for exemption under section 501(c)(3) and its tax exempt status should be revoked.

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

Form 1120 returns should be filed for the tax periods after January 1, 20xx.