

Internal Revenue Service
TE/GE Appeals Office

Department of the Treasury

Employer Identification Number:

Release Number: **201742027**
Release Date: 10/20/2017
UIL Code: 501.03-00

Person to Contact:

Tax Period(s) Ended:
December 31, 20xx
December 31, 20xx

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 previously issued to you, dated August 28, 19xx, is hereby revoked and you are no longer exempt under section 501(a) of the Code effective January 1, 20xx.

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

The primary activity of the _____, is the rental of a facility as apartment housing to the general public. Renting apartments to members of the general public who are not of a charitable class is not an exempt activity. Thus, the organization is not operated exclusively for one or more exempt purposes as set forth in section 501(c)(3) of the Code.

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

You are required to file Federal income tax returns on Form 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.

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,

Joseph Phegley
Appeals Team Manager

Enclosure: Publication 892

Internal Revenue Service
Tax Exempt and Government Entities Division
Exempt Organizations: Examinations

Department of the Treasury

Date:

October 6, 2015

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

December 31, 20xx

December 31, 20xx

Person to Contact/ID Number:

Contact Numbers:

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

ISSUE

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

FACTS

_____ was granted exemption from Federal income tax under Internal Revenue Code section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3). According to its organizational documents, its primary purpose is to "promote democracy in the _____ and the _____. To foster and promote education among our young people To assist those who are in need. To promote brotherhood among all people."

_____ only activity observed from the audit years (12/31/20xx and 12/31/20xx) forward has been the renting of its facility as an apartment house to the general public and paying the related mortgage expense. The tenants were not and are not of a charitable class.

LAW

IRC Section 501(c)(3) provides tax exemption for corporations and foundations that are operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Treasury Regulation Section 1.501(c)(3)-1(a)(1) states that in order to be exempt as an organization described in § 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.

Treasury Regulation Section 1.501(c)(3)-1(c)(1) states that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in § 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.

Treasury Regulation Section 1.501(c)(3)-1(d)(1)(ii) assigns the burden of proof to an applicant organization to show that it serves a public rather than a private interest and specifically 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.

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

Treasury Regulation Section 1.501(c)(3)-1(d)(2) provides that the term "charitable" is used in section 501(c)(3) of the Code in its generally accepted legal sense and includes the relief of the poor and distressed or of the under privileged as well as the advancement of education.

Revenue Ruling 77-366, 1977-2, C.B. 192 provides that a nonprofit organization that arranges and conducts winter-time ocean cruises during which activities to further religious and education purposes are provided in addition to extensive social and recreational activities is not operated exclusively for exempt purposes and does not qualify for exemption under section 501(c)(3).

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 purposes, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes.

TAXPAYER'S POSITION

The taxpayer expressed intended near future programs in a letter dated May 12, 20xx. Near future programs include:

- producing a newspaper and creating an internet website connecting all members, contributors and people at large,
- teaching traditional dancing,
- establishing a tutoring program,
- establishing philanthropic programs,
- donating to different Not-for-profit agencies, and
- having lectures.

GOVERNMENT'S POSITION

As stated in Treasury Regulation Section 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 of such exempt purposes specified in Section 501(c)(3)." Renting apartments to members of the general public who are not of a charitable class is not an exempt activity.

In Revenue Ruling 77-366 the organization accomplished both charitable and noncharitable purposes but lost its exemption because it was not operating exclusively

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
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for exempt purposes. In this case, _____ does not accomplish any exempt purposes and therefore is found not operating exclusively for exempt purposes.

Further, in Better Business Bureau of Washington D.C., Inc. v. United States, 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. Again, _____ does not accomplish any exempt purposes and therefore is not operating exclusively for exempt purposes.

CONCLUSION

Based on our review of all facts and circumstances and the legislative support referenced above, we have concluded that

_____ is not an organization described in *section 501(c)(3) of the Code* because it is not operated exclusively for one or more exempt purposes set forth in *section 501(c)(3) of the Code*.

Accordingly, the organization's exempt status is revoked effective January 1, 20xx.

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