



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

**Date:** JUN 21, 2017

**Number:** 201751015  
**Release Date:** 12/22/2017

**Person to Contact:**  
**Identification Number:**  
**Contact Telephone Number:**  
**Telephone Number:**  
**Fax:**  
**EIN:**

**UIL: 501.03-00**

**CERTIFIED MAIL - Return Receipt Requested**

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

This is a final determination that your exempt status under section 501(c)(3) of the Internal Revenue Code is revoked. Recognition of your exemption under Internal Revenue Code section 501(c)(3) is revoked effective \_\_\_\_\_ for the following reason(s):

You have not demonstrated that you are operated exclusively for charitable, educational, or other exempt purposes within the meaning of I.R.C. section 501(c)(3). Organizations that are described in I.R.C. section 501(c)(3) and section 501(a) must be organized and operated exclusively for an exempt purpose. You have not established that you have operated exclusively for an exempt purpose.

As such, you failed to meet the requirements of Internal Revenue Code section 501(c)(3) and Treasury Regulation Section 1.501(c)(3)-1(d), in that you failed to establish that you were operated exclusively for an exempt purpose.

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code, effective \_\_\_\_\_.

You are required to file Federal income tax returns on Form 1120. These returns should be filed with \_\_\_\_\_, and for all subsequent years.

**processing of income tax returns and assessment of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.**

**If you decide to contest this determination in court, you must initiate a suit for declaratory judgment in the United States Tax Court, the United States Claim Court or the District Court of the United States for the District of Columbia before the 91<sup>st</sup> day after the date this determination was mailed to you. Contact the clerk of the appropriate court for the rules for initiating suits for declaratory judgment. 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

You may call the IRS telephone number listed in your local directory. An IRS employee there may be able to help you, but the contact person at the address shown on this letter is most familiar with your case. You may also call the Internal Revenue Service Taxpayer Advocate.

The Taxpayer Advocate Service (LAS) is an independent organization within the IRS that can help protect your taxpayer rights. We can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for our assistance, which is always free, we will do everything possible to help you. Visit [taxpayeradvocate.irs.gov](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,

Enclosures:  
Publication 892

Director, EO Examinations

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

Date:  
9/13/2016  
Taxpayer Identification Number:  
Form:  
Tax Year(s) Ended:  
Person to Contact/ID Number:  
Contact Numbers:  
Telephone:  
Fax:  
Manager's Name/ID Number:

**Certified Mail - Return Receipt Requested**

Manager's Contact Number:

Dear

Response due date:

**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:

**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,

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

**EXPLANATION FOR PROPOSED REVOCATION OF EXEMPT STATUS**

The purpose of this attachment is to provide you with our preliminary examination findings, which indicate that we should propose revocation of the 501(c)(3) exempt status.

**PRIMARY BASIS FOR REVOCATION:**

We intend to propose revocation of the \_\_\_\_\_'s exempt status because our examination revealed that the Organization appears to be a foreign conduit without control or discretion over charitable funds solicited in the United States, and distributed to a foreign entity, i.e., \_\_\_\_\_. In addition, the Organization appears to have permitted its income to inure to the benefit of a Disqualified Person.

**FACTS:**

We are proposing revocation of the Organization's exempt status based on the following facts:

- Certain persons in this country, desirous of furthering the work of a foreign organization, located in \_\_\_\_\_, formed a charitable organization within the United States. The domestic organization, \_\_\_\_\_ located in \_\_\_\_\_, receives contributions and makes payments by check, at convenient intervals, to \_\_\_\_\_. The organization, previously received a ruling that contributions to it are deductible under section 170 of the Code. In conducting its fundraising activities, the \_\_\_\_\_ organization represents to prospective contributors that funds raised will go to \_\_\_\_\_. According to IRC § 170(c), the Service holds that contributions to domestic organizations that operate under the circumstances described above are not deductible.
- The Representative for the Organization confirmed that the \_\_\_\_\_ organization does not provide grants to the foreign organization on a proposal basis, but raises funds to support known activities in which the foreign organization consistently engages. The Organization has provided no documentation to show how funds contributed by the domestic organization were utilized for charitable purposes. According to Rev. Rul. 68-489, 1998-2 C.B. 210, an organization will not jeopardize its exemption under § 501(c)(3) of the Code, even though it distributes funds to nonexempt organizations, provided it retains control and discretion over use of the funds and maintains records establishing that the funds were used for § 501(c)(3) purposes. Expenditure responsibility is required as IRC § 170(c)(2) states that a contribution or gift by a corporation to a trust, chest, fund, or foundation shall be deductible by reason of paragraph 170(c)(2) only if it is to be used within the United States or any of its possessions exclusively for purposes specified in subparagraph 170(c)(2)(B). Contributions made directly to foreign organizations are not deductible, and our examination revealed that the \_\_\_\_\_ organization appears to have no control or discretion over how the foreign organization utilizes its contributed funds.

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATIONS OF ITEMS</b>	Schedule number or exhibit
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- While \_\_\_\_\_ may be the equivalent of a 501(c)(3) organization in \_\_\_\_\_, organization has provided no documentation to show how the domestic organization maintained expenditure responsibility, or to show how the foreign organization utilized any of the funds contributed.. From the little information secured over the course of the examination, the Organization is considered to generally fund the activities of \_\_\_\_\_ across-the-board, to potentially include non 501(c)(3) expenditures as well as an unknown percentage of administrative costs. According to IRC § 170(c), if an organization is required for other reasons, such as a specific provision in its charter, to turn contributions, or any particular contribution it receives, over to another organization, then in determining whether such contributions are deductible, it is appropriate to determine whether the ultimate recipient of the contribution is a qualifying organization. It is well established in the law of taxation that "A given result at the end of a straight path is not made a different result because reached by a devious path". *Minnesota Tea Co. v. Helvering*, 302 U.S. 355, at 358, Ct. D. 1431, C.B. 1940-1, 136. Moreover, it seems clear that the requirements of § 170(c)(2)(A) of the Code would be nullified if contributions inevitably committed to go to a foreign organization were held to be deductible solely because, in the course of transmittal to the foreign organization, they came to rest momentarily in a qualifying domestic organization. In such cases, the domestic organization is only nominally the donee; the real donee is the ultimate foreign recipient. In the year under review, the \_\_\_\_\_ Organization received contributions, which were inevitably committed to go to \_\_\_\_\_. In this instance, the contributed funds came to rest briefly with the \_\_\_\_\_ Organization until the \_\_\_\_\_ Organization made payments by check, at convenient intervals, to \_\_\_\_\_.

- In the year under review, the \_\_\_\_\_ Organization engaged in no other charitable activities other than to fund the activities of the foreign organization. In *United States v. Wells Fargo Bank*, 485 U.S. 351, 108 S. Ct. 1179, 99 L.Ed. 2d 368 (1900) the Supreme Court held that an organization must prove unambiguously that it qualifies for a tax exemption. In *Harding Hospital, Inc. v. United States*, 505 F2d 1068 (1974), the court held that an organization seeking a ruling as to recognition of its tax exempt status has the burden of proving that it satisfies the requirements of the particular exemption statute. Whether an organization has satisfied, the operational test is a question of fact. In *Better Business Bureau of Washington, D.C., Inc. v. United States*, 326 U.S. 179 (1945), the Supreme Court held that the presence of a single non-exempt purpose, if substantial in nature, will destroy a claim for exemption regardless of the number or importance of truly exempt purposes. As mentioned above, IRC § 170 states that contributions to domestic organizations that operate under the circumstances described above are not deductible. Our examination revealed the support of \_\_\_\_\_ to be the Organization's primary activity. Due to the Organization's apparent operation as a foreign conduit, coupled with the Organization's lack of expenditure responsibility, we conclude that the Organization is no longer eligible for tax exemption under IRC § 501(c)(3).

- Additionally, in the year under review \_\_\_\_\_, a Disqualified Person, cashed multiple checks totaling \$ \_\_\_\_\_ from the domestic organization's bank account.

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATIONS OF ITEMS</b>	Schedule number or exhibit
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A Disqualified Person is an officer, director, or trustee of a private foundation (or a person having similar responsibilities). Under Regs. 53.4946-1(f)(2) a person is considered an officer of a foundation if he or she is specifically so designated under the certificate of incorporation, bylaws, or other constitutive documents of the foundation. He or she is also considered an officer under the regulations if he or she regularly exercises general authority to make administrative or policy decisions on behalf of the foundation. The individual who made \$ \_\_\_\_\_ in checks payable to cash, and the individual who cashed them, \_\_\_\_\_, was listed as "Senior Vice President" on the bank signature authorization card for the account from which the checks were made payable, but was **not** listed as an Officer on the Organization's corresponding Form 990 return. \_\_\_\_\_ power to exercise general authority is implied due to his access to, and use of, the domestic organization's checking account. \_\_\_\_\_ also wrote the checks that were made payable to the foreign organization, which was indicative of his authority to conduct business on behalf of the Organization.

- The Representative stated that \_\_\_\_\_ had hand carried the cash amounts to the foreign organization, but provided no explanation as to why many checks were made payable directly to the foreign organization, but others were made payable to "cash", and cashed by \_\_\_\_\_. The Representative supplied copies of "receipts" that he stated were from the foreign organization, but the receipts were signed by "\_\_\_\_\_", the same individual who cashed the checks in the United States. As the receipts supplied do not constitute acceptable documentation for the \$ \_\_\_\_\_ in checks cashed by \_\_\_\_\_, we also intend to propose revocation based on inurement. Section 501(c)(3) of the Code forbids inurement of any part of the net earnings of a qualifying organization to the benefit of any private shareholder or individual. "Any part" literally means any part. The smallest amount of inurement results in the organization's failure to meet the requirements for exempt status.

**CONCLUSION:**

Our examination revealed that the \_\_\_\_\_ organization, \_\_\_\_\_ was formed to support a foreign organization solicits tax-deductible contributions in the United States for which it represents to prospective contributors that the ultimate destination for the contributed funds is \_\_\_\_\_. The \_\_\_\_\_ organization makes distributions to the foreign organization via check payments, made at convenient intervals, with no apparent control or discretion over how the foreign organization utilizes the funds.

As a result, the Government's position is that \_\_\_\_\_ appears to be a foreign conduit. In addition, a Disqualified Person issued and cashed \$ \_\_\_\_\_ in checks from the Organization's bank account with no acceptable documentation to show what became of the funds, or whether or not the funds were used for charitable purposes. We intend to propose revocation of the Organization's exempt status based on the results of our examination. Once an organization's exempt status is revoked, contributions to the Organization are no longer deductible under IRC § 170, and the organization is no longer eligible for tax exemption under IRC § 501(c)(3).