



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
TEGE: EO Examinations
1100 Commerce Street, MC 4920 DAL
Dallas, TX 75242

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: AUG 10, 2017

Release Number: **201804011**

Release Date: 1/26/2018

UIL Code: 501.03-00

Person to Contact:

Identification Number:

Contact Telephone Number:

Telephone:

Fax:

EIN:

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 reasons:

You have failed to produce documents to establish that you are operated exclusively for exempt purposes within the meaning of Internal Revenue Code section 501(c)(3), and that no part of your net earnings inure 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 I.R.C. sections 6001, 6033(a)(1) and Rev. RuL 59-95, 1959-1 C B. 627.

As such, you failed to meet the requirements of I.R.C. section 501(c)(3) and Treasury Regulation Section 1.501(c)(3)-1(a)(1) in that you failed to establish that you are operated exclusively for exempt purposes within the meaning of Internal Revenue Code section 501(c)(3).

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 the appropriate Service Center for the year ending _____, 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 91st 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

The Taxpayer Advocate Service (TAS) 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 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: August 16, 2016

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

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

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 **886-A**
(Rev. January 1994)**EXPLANATIONS OF ITEMS**

Name of taxpayer

Tax Identification Number

Year/Period ended

ISSUE

Should the exempt status of _____ under Section 501(a) of the Internal Revenue Code (IRC) as an organization described in IRC Section 501(c)(3) be revoked effective _____?

FACTS

_____ was incorporated on _____ in the State of _____ as a non-profit corporation. Article II of the Articles of Incorporation stated that the purpose of the corporation is to provide pilgrimages, low cost products and functions for the _____. _____ was listed as the initial Board of Director of _____.

_____ filed Form 1023, *Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, on _____.

Part II of the Form 1023 sets forth the purposes of _____. It states that _____ purpose is to provide _____ and information to _____. It will be accomplished by running the religious store and conducting pilgrimage tours.

The attachments to Form 1023 provide more detail of _____ projects and project objectives. The explanation, under the title _____, provided that the beginning of _____ was as a religious store that opened in 19 _____ with \$ _____ worth of merchandise. 7 ½ years later there was \$ _____ in inventory and additional income from the pilgrimages provided to benefit _____. The 1023 attachment states that _____ Religious store averages \$ _____ a month and a _____ would bring in \$ _____ and more as time goes on.

Internal Revenue Service granted tax exempt status to _____ on _____.

The Part I of the Forms 990 for the years _____ through _____ provided that _____ exempt activities were serving the _____ and _____ of the _____ with solid teaching and materials, prayer ministry, _____ pilgrimages, conferences, youth ministry as well as a web presence for information and prayer requests.

The Forms 990 filed by _____ from _____ through _____ provided the following:

- All Forms 990 were signed by the president of _____.
- Revenue was reported as fundraising events and/or contributions on the Forms 990.
- No wages or salaries were reported on the Forms 990.
- No beginning inventory and no ending inventory was reported on the Forms 990.
- No inventory for sale or use was reported on the Forms 990.
- No loan from current and/former officers, directors, and disqualified persons reported on the Forms 990 from _____ through _____. A \$ _____ loan from _____ to _____ was reported on the Forms 990 for the years _____ and _____, and balance of the loan at the end of year _____ was \$ _____. No loan from _____ to _____ was reported on the Form 990 for the year 20 _____.
- No section 4958 excess benefit transactions were reported during the years from _____ through _____.

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

Activities:

The website describes and its activities. It states that is a locally-owned and operated religious store and pilgrimage company established in 19 by

During the course of the examination, indicated that received revenue from three different sources: book store/gift shop, pilgrimage tours, and tax preparation.

Book Store/Gift Shop

operates a book store / gift shop staffed by and volunteers. It is located at . The store has variety of religious items such as bibles, small statues, crosses, chains, CDs, books, and pictures. The store hours are

explained in the response to Information Document Request 003 that she started the pilgrimage and resource center and religious store in received its tax exempt status in . She figured that all revenue and inventory of Religious Store should not be part of . Thus, she executed an agreement with that all the materials in the religious store will become her donation to when sold, and will be responsible for replenishing inventory when necessary. All stock will be returned to her if ceases its operation.

provided an electronic copy of an agreement between and during the examination. The agreement provided that all the merchandise of the religious store belongs to provided exclusive rights to to sell the merchandise, all the proceeds of the sales are donated to , and is required re-stock the merchandise. The agreement was effective as of January 1, 20 , and was added to corporation papers on January 1, 20 . No inventory list was included in the agreement. See Exhibit 1 for the agreement between and

During the course of examination, provided its bank statements for the year and account statements for the months of April, June, and November of . Although requested, no other financial records, such as copies of cancelled checks, deposit slips, credit card statements, and additional bank statements were provided for the examination.

No beginning inventory and no ending inventory was reported on Forms 990 since its inception. reported \$ expenses on materials supplies and equipment of its Form 990 for the year 20 . However, no detailed books and records such as invoices, receipts, purchase orders, and cancelled checks were provided to verify the expenditures.

There were two types of revenues reported on the Form 990 for the year under examination, fundraising revenue and contributions. No book store revenue was identified on Form 990, and no detailed records such as cash register tapes were provided to verify the revenues received from the merchandise sales of the book store / gift shop.

The copies of cancelled checks of were secured by the SBSE Division of IRS. Through review of these records purchases from

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

_____ were identified as merchandise purchases. Total merchandise purchases were \$ _____ for the years _____ and _____, respectively.

To date, no detailed books and records including inventory records were provided to reconcile the inventory purchases and sales for the year under examination.

Pilgrimage Tours

There were two pilgrimage tours conducted by _____ during the year _____. _____ advertised the trips through _____ website and brochures. The tour charges covered air fares, hotels, meals, admission fees, and international visa fees. The individuals paid their pilgrimage tours by personal checks or by credit cards. _____ then wire transferred the funds to a third party travel agency, _____, which helped to conduct the tours and make reservations overseas. Finally, _____ made flights reservations for the participants of the pilgrimages.

She explained in the response to Information Document Request 003 that every pilgrimage began with a _____ who had contacted _____ and requested a specific pilgrimage based on the final destination. Then, _____ took on the task of preparing the itinerary, sending the itinerary to the overseas tour company for a quote, pricing airfare, advertise the trip, confirming arrangements for travel and accommodations, and handling all the accounting for the pilgrimage tour.

_____ further explained in the response that the _____ destination becomes the pilgrimage for the people who want to accompany this _____ on his journey. The _____ did not handle any of the business aspects because the travel and tours are provided as a donation to aid the _____s own spiritual life and enhance of his _____. _____ indicated in the response that her role was a nonpaid professional guide while traveling with the group. Both of the _____ and _____ travel expenses were paid by the participants of the pilgrimages.

The two pilgrimages conducted by _____ in the year 20 _____ were _____, and _____

_____ led the _____ pilgrimage tour. The tour was from _____ through _____. There were 7 people took the pilgrimage tour, _____, and 5 paid participants. The participants were charged \$ _____ per person double occupancy. _____ paid a total of \$ _____¹ to _____ for the pilgrimage tour, \$ _____ to _____ for flight reservations, and \$ _____ to _____ for flight related insurances such as baggage insurance, travel delay insurance, and flight insurance.

The second pilgrimage to _____ was led by _____ from _____. There were 10 people took the pilgrimage tour, _____, and 8 paid participants. The participants were charged \$ _____ per person double occupancy. Then, _____ paid _____

¹ _____

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

\$ ² to _____ for booking the tour, \$ _____ to _____ for flight reservations,
and \$ _____ to _____ for flight related insurances.

In May, _____ figured out that _____ did not have enough funds to pay _____ for
booking the _____ pilgrimage tour. In order to conduct the tour, _____ decided to borrow
funds from a private commercial lender, _____ . On May 30, 20 _____ , _____ borrowed
\$ _____ from _____

_____ statements provided by _____ and SBSE Division of IRS revealed that _____ paid
\$ _____ daily from May 31, 20 _____ to March 21, 20 _____ to _____ for the repayment of the loan.

To date, no detailed books and records were provided to reconcile the revenue and expenses of
pilgrimage activities conducted by _____ for the year under examination.

Tax Preparation

_____ explained during the interview held by agent _____ on May 12, 20 _____ that she prepared
individual tax returns. The individuals paid for tax preparation service either by the checks and/or
credit/debit cards. The checks written by the individuals were either marked as donations or tax
preparation fees. She deposited all income received from tax preparation service in the bank account of
_____. Then, she used some of the funds from _____ account to pay for her personal expenses such
as mortgage monthly payments, auto payments, utilities, and food expenses.

_____ explained in the response to Information Document Request 003 that she did not have a huge
tax business prior to beginning the ministry she was called to do. She was an accountant and facilitated
taxes for her clients.

To this date, _____ and _____ were not able to provide the detailed books and records to show the
revenue received from the different revenue sources.

During the course of examination by SBSE Division of IRS, the Tax Compliance Officer identified _____³
Forms 1040 for the year _____ were prepared by _____ , and estimated that the total revenue received
from tax preparation was \$ _____ in the year _____ .

Summary of day to day operations:

_____ provided a folder marked as 20 _____ minutes of meetings in the response to Information Document
Request 003. In the folder, there were summary of day to day operations for the year 20 _____. The
summary of day to day operations contained opening prayers and daily activity descriptions. No board
meeting information was provided in the summary of day to day operations.

2
3

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

The samples of the summary of day to day operations are shown below:

- January : We celebrated First Friday Mass with Spiritual Warfare prayers and healing prayers. we are storming heaven so nothing happen and final healing. Friday night to start the New Year with has to have next week and needed prayers for
- January : came in from and donated to called from , lighting candle at as well as his home parish for the end of the demonic attacks against the Ministry, myself and all out Board members especially IRS.
- February : Real busy. came in with . Talked about future trips.
- February : were in. They will be praying with us. was very upset over the IRS attack on me and the ministry. and family and myself went to for mass with . We were all anointed by him and of course
- March : in and brought for me to look at. All in ministry are for getting it for the security of being able to travel when necessary. The is showing signs of problems.
- March : It will be official to get the ; however, the payoff of \$ is still a bill to be paid as soon as possible to clear the loan taken out to pay for the pilgrimages. This is approved by the Board of Directors. sent Salesman in to sign papers because "someone wanted to buy !!" ...
- March : Went to to finalize the papers for the truck.
- April : Paid the payment in amount of \$ Balance for \$
- May : Am applying for loan with today for the pilgrimage. 10 people only for this one. Talked to and we talked about and he sent me pictures of the sun as well as a video. He promised he will get the loan if at all possible but admitted that it is impossible to fund a non-profit.
- June : We have no more signups so we have to force this pilgrimage because has to the
- June : Leave for , pilgrimage with only 10. (Only 8 paying, we have to pay for and me).

To this date, no other board meeting minutes were provided by

Financial Records:

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

With the financial records provided by _____ and SBSE Division of IRS, the expenses other than inventory purchases and pilgrimage were identified and described below:

Mortgage

Per Schedule L of Form 990 filed by _____ for the year 20____, _____ made a \$ _____ loan to _____, and there was a written loan agreement. At the end of 20____, the balance of the loan was \$ _____.

_____ explained during the interview held on May 12, 20____, that she put significant funds into _____ to cover _____ overhead cost. She indicated that she refinanced her personal residence and deposited the proceeds in _____ bank account. _____ provided a copy of the May, 20____ statement from _____. The statement showed that the loan started on 09/08/____. Also, it provided that the original principal balance, current principal balance, and monthly payment of the loan were \$ _____, respectively.

_____ explained in a letter dated June 4, 20____ that there was a \$ _____ loan taken out on 09/08/____ against her property for operating expenses, and she has actually paid almost all of it herself from her account directly to _____ over the years. _____ provided a spreadsheet statement to show the payments made by her to _____. However, no loan agreement was provided.

_____ also indicated in the letter dated June 4, 20____ that she often used her debit or credit cards to deposit money to _____ checking account to pay its bills or rents in order to keep _____ open. No personal debit or credit card statements were provided to support this statement.

_____ phoned the Service on September 30, 20____. During the phone conversation, _____ indicated that she filed the 20____ Form 990 wrong. She explained that the loan did not occur in 20____, it occurred in 20____ instead. She further explained that she re-financed her mobile home in 20____. She stated that she gave the funds to _____ after she received them from the mortgage firm. She emphasized that _____ does not owe her, but _____ is the collateral of her property. When _____ was asked why she did not record the loan in the year that was occurred, she said she did not do it because she did not need the money at that time, and she always paid her mortgage from her own funds. But, she exhausted of her funds after _____, and she needed _____ to help her to pay the mortgage. Thus, she recorded the loan in the year 20____. _____ was asked to provide the bank records to show that the fund was transferred from her account to _____ account in 20____. She said that she did not maintain the bank records.

Per the _____ statements provided by _____ and SBSE Division of IRS, _____ paid a total of \$ _____ for the years _____, and _____, respectively.

Car Loan & Car Insurance

The summary of day to day operations provided in response to Information Document Request 003 indicated that _____ purchased a _____ from _____ for _____ in March, 20____.

Prior to the purchase of _____, _____ owned a _____. The documents provided by SB/SE Division of IRS showed that, _____ purchased a new _____ for \$ _____ on March 8,

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

20 . She put \$ in cash down, received a \$ cash rebate, and financed \$. The auto loan was initially through which was later bought out by . In and there were several payments made out of to paid a total of \$ and \$ for the years 20 and 20 , respectively.

In 20 , opened a account and refinanced her truck with for \$. The balance on the loan with was paid off by on October 1, 20 .

In March 20 , purchased a new . The documents provided by SB/SE Division of IRS showed that went to and signed the purchase agreement on March 9, 20 . The car loan was financed through made 3 payments for a total of \$ to in the year 20 . statement showed that a final payment was made on August 17, 20 , and the total of the payments was \$ could not confirm who made the final payments on August 17, 20 .

However, the IRS showed that the payment of \$ to statements provided by SB/SE Division of was made on behalf of by as a new-loan to on August 15, 20 .

made 2 payments for a total of \$ to In the year 20 . Per the statements provided by SBSE Divisions of the Internal Revenue Service (IRS), made 11 payments for a total of \$ to in the year 20 .

Bank and Credit Card Payments

transferred funds to bank, credit card, and store credit card accounts. The total transfers were \$ for the years , and respectively.

Although requested, was not able to provide any documents or explanations of its funds used by

Others

used funds for cash withdrawals, restaurants, food purchases, roof repair, insurance, attorney fees, garden products, health products, car washes, utilities payments, drugstore purchases, doctor appointment, cell phone, personal credit card payments, and payments made to her daughters⁴. The total funds used by to pay for her expenses were \$ and respectively for the years and respectively.

Personal Tax Records

No forms W-2 or 1099-Misc. was filed by for the years from 20 through 20 .

⁴

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

LAWS

IRC §501(a) provides, in part, that organizations described in IRC §501(c) are exempt from federal income tax. Section 501(c)(3) of the Code describes, in part, an organization that is organized and 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.

IRC §6001 states 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.

Treasury Regulations §1.501(c)(3)-1(a)(1) 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.

Treasury Regulations §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 section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Treasury Regulations §1.501(c)(3)-1(c)(2) states 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.

Treasury Regulations §1.501(c)(3)-1(d)(1)(ii) states 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.

Fact patterns suggesting inurement also frequently suggest excess benefit transactions between an exempt organization and disqualified person under §4958. The recent regulations issued under §501(c)(3), at Treas. Reg. §1.501(c)(3)-1(f)(ii), instruct the Service to consider a variety of factors to determine whether revocation is appropriate when section 4958 excise taxes also apply:

- (A) The size and scope of the organization's regular and ongoing activities that further exempt purposes before and after the excess benefit transaction or transactions occurred;
- (B) The size and scope of the excess benefit transaction or transactions (collectively, if more than one) in relation to the size and scope of the organization's regular and ongoing activities that further exempt purposes;

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

- (C) Whether the organization has been involved in multiple excess benefit transactions with one or more persons;
- (D) Whether the organization has implemented safeguards that are reasonably calculated to prevent excess benefit transactions; and
- (E) Whether the excess benefit transaction has been corrected (within the meaning of section 495(f)(6) and §53.4958-7), or the organization has made good faith efforts to seek correction from the disqualified person(s) who benefited from the excess benefit transaction.

Treasury Regulations §1.501(c)(3)-1(f)(iv) Example 3 supposes that an organization's founder diverts significant portions of the organization's to pay personal expenses, which reduces the funds available to conduct exempt activity, over the course of multiple years. The board of trustees never authorized the organization to pay the founder's personal expenses and takes no action to seek repayment or terminate the founder's involvement with the organization. The founder claims that the payments represent loans, but no contemporaneous documentation exists and no payments of principal or interest were ever made to the organization. Based on the factors above, the regulations contemplate that not only does the diversion of funds constitute an excess benefit transaction under §4958, but the prohibition against inurement has been violated and the organization no longer qualified as an organization described in §501(c)(3).

Rev. Rul. 70-534, 1970-2 CB 113, (Jan. 01, 1970) A nonprofit organization whose primary activity is conducting travel study tours that include courses on the culture of the United States, foreign countries, and nature studies taught by certified teachers is exempt under section 501(c)(3) of the Code.

Rev. Rul. 77-366, 1977-2 C.B. 192, states that a nonprofit organization that arranged and conducted winter-time cruises during which activities to further religious and educational purposes were provided in addition to extensive social and recreational activities was not operated exclusively for exempt purposes and did not qualify for exemption.

In *Rameses School of San Antonio, Texas v. Commissioner*, I.C. Memo 2007-85, the Tax Court held that a private school failed to qualify for exemption under section 501(c)(3) because it operated for the private benefit of its founder. The Tax Court stated; Factors highlighted of a prohibited relationship have included control by the founder over the entity's funds, assets, and disbursements; use of entity moneys for personal expenses; payments of salary or rent to the founder without any accompanying evidence or analysis of the reasonableness of the amounts; and purported loans to the founder showing a ready private source of credit. Nearly all of these factors are present here,

Scripture Press Foundation v. United States, 285 F. 2d 800 (1961) cert. den. 363 U.S. 985(1962), states that a corporation engaged in the publication and sale of religious periodicals, books, and supplies to churches and to individuals was held to be operated for the primary purpose of carrying on a trade or business, and was not entitled to exemption..

In *Easter House v. U.S.*, 12 Cl. Ct. 476, 486 (1987), *aff'd*, 846 F.2d 78 (Fed. Cir. 1988), 846 F. 2d 78(Fed. Cir. 1988), cert. den., 488 U.S. 907 (1988), the organization, in exchange for a fee, provided adoption services to parents seeking to adopt a child, including services to pregnant women who intended to place their newborns for adoption. The Claims Court concluded that the organization's business purpose of operating an adoption service, not the advancement of educational and charitable activities, was its primary goal. It competed with other commercial organizations providing similar

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

services. Thus, "plaintiff's competition provides its activities with a commercial hue." 12 Cl. Ct. at 486. Accordingly, the organization did not qualify for exemption under I.R.C. §501(c)(3).

Christian Stewardship Assistance, Inc. v. Commissioner, 70 T.C. 1037(1978), an organization was formed as a nonprofit corporation to assist charitable organizations in their fundraising activities with individual contributions. The organization engaged in a service which provided financial planning advice on charitable giving and tax planning to wealthy individuals referred to it by subscribing charitable organizations. The court held that the organization's tax planning services are a nonexempt activity that is substantial in nature and not incidental to its charitable purpose. Therefore, the organization failed to qualify for exemption under section 501(c)(3) of the Code.

GOVERNMENT'S POSITION

The 501(c)(3) tax exempt status of the _____ should be revoked because it is not operated exclusively for tax exempt purposes. An organization described in section 501(c)(3) must establish that no more than an insubstantial part of its activities is not in furtherance of an exempt purposes. Treas. Regs. 1.501(c)(3)-1(c)(1).

In the year 20 _____, _____ ran a book store/gift shop, conducted 2 pilgrimage tours, and performed tax preparations. The revenues from the activities were deposited in _____ account.

Activities

- Book Store / Gift Shop

_____ book store and gift shop is located in a street shopping center at _____ The facility is leased at the rate of \$ _____ per month. It is surrounded and adjacent to many other stores and shops. The store sales variety of religious items such as bibles, small statues, crosses, chains, CDs, books, and pictures.

The store hours are _____. The store accepts cash, check, American Express, Discover, MasterCard, and Visa. The store is run by _____ and volunteers.

No detailed books and records, such as cash register tapes and/or sale receipts, were provided to show whether all of the proceeds from the merchandise sale were deposited into _____ account.

Section 501(c)(3) of the Code provides, in part, for the organization to be exempt from Federal income tax the organization must be organized and operated exclusively for charitable, religious or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Reviewed _____ bank accounts revealed that its funds were comingled with those of its president, _____. It was difficult to differentiate _____ personal funds from _____.

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

failed to provide requested books and records under IRC section 6001 and section 6033 to demonstrate that no part of its net earnings inured to the benefit of any private shareholder or individual, including . For this reason, fails to meet the operational test of Section 501(c)(3).

In addition, operates its book store and gift shop similarly to the book stores and gift shops that were commercially operated as described in Scripture Press Foundation v. United States.

Although activity of operating of a book store and gift shop may, in part, further religion, has a substantial business purpose. is operated in a commercial manner and is in competition with other local businesses. Accordingly, operating a book store and gift shop in a commercial manner is not an exempt activity.

- Pilgrimage Tours

conducted two pilgrimage tours during the year 20 . The pilgrimage tours were led by to different religious sites in . The activities accomplished both religious and non-religious, or both educational and non-educational purposes. And, no structured educational program was provided during the tours.

Each pilgrimage tour began with a requested to provide a specific pilgrimage based on the final destination. conducted the pilgrimage tour according to the request and the travel expenses were paid by .

Rev. Rul. 70-534, 1970-2 CB 113, (Jan. 01, 1970) provided that a nonprofit organization whose primary activity is conducting travel study tours that include courses on the culture of the United States, foreign countries, and nature studies taught by certified teachers is exempt under section 501(c)(3) of the Code.

is dissimilar to the organization described in Rev. Rul. 70-534 because it does not provide any structured educational programs. In the ruling, the activity served a bona fide educational purpose since the courses were conducted by certified teachers, consisted of lectures, instruction, preparation of reports, recitation, examinations, and the issuance of grades.

pilgrimage activity is similar to the organization in Rev. Rul. 77-366. Even if some of the activities are religious and educational in nature, there is substantial time available for recreational and other non-exempt activities.

is not operated exclusively for section 501(c)(3) purposes since provided a substantial private benefit to the priest who requested the pilgrimage tour.

- Tax Preparation

prepared individual tax returns and the individuals paid the tax preparation service fees to either by checks and/or credit/debit cards. During the course of examination by the SBSE Division of IRS, the Tax Compliance Officer identified Forms 1040 for the year 20 that were prepared by , and estimated that the total revenue received from tax preparation fees was \$ in the year 20 .

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

The tax preparation service is regularly carried on as a business activity and not substantially related to furthering the exempt purpose of

tax preparation service activity is not charitable within the meaning of the Code and Regulations. Treas. Reg. §1.501(c)(3)-1(d)(2). provided the tax preparation service in a commercial manner similar to the organization described in *Easter House v. U.S.*, 12 Cl. Ct. 476(1987), which was determined to be carrying on essentially commercial activities in competition with ordinary commercial enterprises, rather than activities that furthered a charitable purpose.

Similar to *Christian Stewardship Assistance, Inc. v. Commissioner*, 70 T.C. 1037(1978), tax preparation service is a nonexempt activity that is substantial in nature and not incidental to its charitable purpose.

Private Benefit Transactions

Examination of records revealed that used the organization funds for personal expenses.

- Merchandise purchases

Per the agreement between and , all the merchandise sold by the store belongs to . No value of merchandise has been reported in the assets section of Forms 990 since its inception. The merchandise is purchased from various distributors and is then sold at the retail level. The payments made for merchandise purchases constitute private benefit received by because all the merchandise of the store belongs to , per the agreement between and . Total merchandise purchases by the organization were \$ for the years and , respectively.

- Mortgage

indicated in the phone conversation with the Service on , that she re-financed her personal mobile home in 20 and gave the funds to after she received them from the mortgage firm. However, she was not able to provide the loan agreement or any document to demonstrate the funds were transferred from her account to account in 20 .

made mortgage payments to for personal residence. These payments constituted private benefit received by because the payments were for her personal residence. The total mortgage payments made were \$ for the years and respectively.

- Car payments

made payments from account to to pay her car loan. These payments constituted private benefit received by . The total car loan payments made by were \$ for the years and , respectively.

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

- **Bank and Credit Card Payments**

transferred funds from _____ account to her bank, credit card, and store credit accounts for her personal use, and no explanation of the funds use was provided by _____. These transfers constituted private benefit received by _____. The total payments transferred by _____ to bank, credit, and store credit card accounts were \$ _____ and _____ respectively for the years _____ and _____ respectively.

- **Food and Others**

used _____ funds for cash withdrawals, restaurants, food purchases, roof repair, insurance, attorney fees, garden products, health products, car washes, utilities payments, drugstore purchases, doctor appointment, cell phone, personal credit card payments, and payments made to her daughters. These funds used by _____ constituted private benefit received by _____. The total funds used by _____ to pay for her personal benefit were \$ _____, and _____ respectively for the years _____, and _____ respectively.

<u>Year</u>	<u>Expense Category</u>	<u>Total Expenses Paid by</u>	<u>Reported by President</u>
20	Bank Cards		0
	Merchandise		0
	Truck		0
	Mortgage		0
	Others		0
	<u>Total</u>		<u>0</u>
20	Bank Cards		0
	Merchandise		0
	Truck		0
	Mortgage		0
	Others		0
	<u>Total</u>		<u>0</u>
20	Bank Cards		0
	Merchandise		0
	Truck		0
	Mortgage		0
	Others		0
	<u>Total</u>		<u>0</u>
20	Bank Cards		0
	Merchandise		0
	Truck		0
	Mortgage		0
	Others		0
	<u>Total</u>		<u>0</u>

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

Year	Expense Category	Total Expenses Paid by	Reported by President
	Total		0
20	Bank Cards		0
	Merchandise		0
	Truck		0
	Mortgage		0
	Others		0
	Total		0
20	Bank Cards		0
	Merchandise		0
	Truck		0
	Mortgage		0
	Others		0
	Total		0

The total of the payments made and funds transferred on behalf of \$ _____ for her personal benefit was \$ _____ for the years _____, _____, and _____, respectively. The summary of personal expenses for the years _____ through _____ are shown on Exhibit 2.

_____ did not report the president's, _____, use of the organization's funds for personal expenses paid on its Forms 990 as wages to officers, issue Forms W-2 or 1099 to its President, or report on Forms 990 (Part IV, line 25 b and c) whether the organization engaged in section 4958 excess benefit transactions during the years from _____ through _____.

_____ used _____ funds for her personal expenses totaling \$ _____ for the years _____ through _____, and she did not report the expenses paid or funds used for her personal benefit on her Forms 1040 as income for those years.

_____ account, its primary asset, is commingled with _____ personal finances. _____ used _____ account for both personal and organizational matters. _____ allows its assets to be used by its president for non-exempt personal purposes. Such use constitutes inurement and _____ fails the operational test under Treasury Regulations 1.501(c)(3)-1(c)(1), which states, "an organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purposes."

The Service asked _____ to provide all books and records of its assets, liabilities, receipts and disbursements. Other than _____ account statements for the months of April, June, and November of _____, summary of day to day operations, Title Security loan information, and flyers of Pilgrimage trips, no other financial records, such as copies of cancelled checks, deposit slips, and credit card statements were provided to show how its expenditures furthered exempt activities.

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

There are no internal controls to ensure that funds were only used for exempt purposes. had free reign over the following:

- Pay the loan of her personal vehicles;
- Pay the mortgage of her personal residence;
- Use funds to pay for her personal credit cards for and her personal expenses.

There is no record of the other Board members having any involvement with the finances of

Analysis under the factors laid out in Treas. Regs. §1.501(c)(3)-1(f) support the conclusion that revocation of exempt status is appropriate in this case. This situation is very similar to example 3 of the regulation. The funds available for activities before and after the transactions appear to have been affected. diverted thousands of dollars in payments of personal expenses, yet only had minimal documented charitable activities. The size and scope of the transactions are substantial in relation to exempt activities.

The excess benefit transactions between and multiple and repeated during 20 through 20 . There were no internal controls in place, the board did not question management of funds, and no safeguards were put in place to prevent the occurrence of excess benefit transactions. No correction is known to have been sought by or made to .

In summary, managed more like a personal business than an exempt organization. had control over funds, assets and disbursements and made use of the funds for personal use. essentially appear to have had access to a zero interest line of credit with no promissory notes, terms of repayment, interest charged, or balance approved by an informed board of directors for purported loans between and . The income and assets of inured to the benefit of , founders and president of , thus was not operating exclusively for exempt purposes as required by section 501(c)(3), Rameses School of San Antonio, Texas v. Commissioner, T.C. Memo 2007-85.

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

Exhibit 1 – Agreement between and

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

Exhibit 1 – Agreement between and (continued)

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

Exhibit 2 – Funds used for personal benefit.

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

Exhibit 2 Continued – Funds used for personal benefit.

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

Exhibit 2 Continued – Funds used for personal benefit.

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

Exhibit 2 Continued – Funds used for personal benefit.

EXPLANATIONS OF ITEMS

Name of taxpayer

Tax Identification Number

Year/Period ended

Exhibit 2 Continued – Funds used for personal benefit.

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

Exhibit 2 Continued – Funds used for personal benefit.