



**DEPARTMENT OF THE TREASURY**

Internal Revenue Service  
TE/GE EO Examinations  
1100 Commerce Street MC 4920 OAL  
Dallas, TX 75242

**TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION**

Date: **JUN 27 2018**

Number: **201843011**  
Release Date: 10/26/2018

Person to Contact:  
Identification Number:  
Telephone Number:  
In Reply Refer to:

**LAST DATE FOR FILING A PETITION  
WITH THE TAX COURT:**

UIL: 501.03-00

**CERTIFIED MAIL - Return Receipt Requested**

Dear :

This is a final adverse determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code (the Code). Our favorable determination letter to you dated March 15, 20XX, is hereby revoked and you are no longer exempt under section 501(a) of the Code, effective January 1, 20XX.

Our adverse determination was made for the following reasons:

You have not established that you are operated exclusively for an exempt purpose or that you have been engaged primarily in activities that accomplish one or more exempt purposes as required by Treas. Reg. section 1.501(c)(3)-1(c)(1).

You have operated for the benefit of a private interest. You have operated in a manner consistent with a commercial enterprise.

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 year ending December 31, 20XX and for all years thereafter.

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. 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](http://taxpayeradvocate.irs.gov) or call 1-877-777-4778.

We will notify the appropriate State Officials of this action, as required by section 6104(c) of the Internal Revenue Code.

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

Sincerely yours,



Maria Hooke  
**Director, Exempt Organizations Examinations**

Enclosures:  
Publication 892



Department of the Treasury  
Internal Revenue Service  
Tax Exempt and Government Entities Division  
Exempt Organizations Examination

Date:  
09/22/2017  
Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:

Employee ID number:  
Telephone number:  
Fax:

Manager's contact information:

Employee ID number:  
Telephone number:  
Response due date:

**CERTIFIED MAIL – Return Receipt Requested**

Dear :

**Why you're receiving this letter**

We enclosed a copy of our audit report, Form 886-A, Explanation of Items, explaining that we propose to revoke your tax-exempt status as an organization described in Internal Revenue Code (IRC) Section 501(c)(3).

**If you agree**

If you haven't already, please sign the enclosed Form 6018, Consent to Proposed Action, and return it to the contact person shown at the top of this letter. We'll issue a final adverse letter determining that you aren't an organization described in IRC Section 501(c)(3) for the periods above.

After we issue the final adverse determination letter, we'll announce that your organization is no longer eligible to receive tax deductible contributions under IRC Section 170.

**If you disagree**

1. Request a meeting or telephone conference with the manager shown at the top of this letter.
2. Send any information you want us to consider.
3. File a protest with the IRS Appeals Office. If you request a meeting with the manager or send additional information as stated in 1 and 2, above, you'll still be able to file a protest with IRS Appeals Office after the meeting or after we consider the information.

The IRS Appeals Office is independent of the Exempt Organizations division and resolves most disputes informally. If you file a protest, the auditing agent may ask you to sign a consent to extend the period of limitations for assessing tax. This is to allow the IRS Appeals Office enough time to consider your case. For your protest to be valid, it must contain certain specific information, including a statement of the facts, applicable law, and arguments in support of your position. For specific information needed for a valid protest, refer to Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status.

Fast Track Mediation (FTM) referred to in Publication 3498, The Examination Process, generally doesn't apply now that we've issued this letter.

**Letter 3618 (Rev. 9-2017)**  
Catalog Number 34809F

4. Request technical advice from the Office of Associate Chief Counsel (Tax Exempt Government Entities) if you feel the issue hasn't been addressed in published precedent or has been treated inconsistently by the IRS.

If you're considering requesting technical advice, contact the person shown at the top of this letter. If you disagree with the technical advice decision, you will be able to appeal to the IRS Appeals Office, as explained above. A decision made in a technical advice memorandum, however, generally is final and binding on Appeals.

**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 adverse determination letter.

**Contacting the Taxpayer Advocate Office is a taxpayer right**

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 [www.taxpayeradvocate.irs.gov](http://www.taxpayeradvocate.irs.gov) or call 877-777-4778.

**Additional information**

You can get any of the forms and publications mentioned in this letter by visiting our website at [www.irs.gov/forms-pubs](http://www.irs.gov/forms-pubs) or by calling 800-TAX-FORM (800-829-3676).

If you have questions, you can contact the person shown at the top of this letter.

Sincerely,

Maria Hooke  
Director, Exempt Organizations Examinations

Enclosures:  
Form 886-A  
Form 6018

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

**Issue**

1. Is the organization operated primarily for exempt purposes, as required to qualify for exemption under Internal Revenue Code section 501(c)(3)?

**Facts**

Background

The organization under audit is ( ). The organization was incorporated in June 20XX. received tax-exempt status as a charity under Internal Revenue Code (IRC) section 501(c)(3) effective June 20XX. The organization applied for and received public charity status as an organization described in IRC sections 509(a)(1) and 170(b)(1)(A)(vi).

was directed by uncompensated board members. All operational work was contracted to a service provider, ( ), and to the accounting firm, ( ). Secretary of State business records show that was incorporated in April 20XX.

The audit was conducted with , authorized representative, and employee of accounting firm, . A letter was sent March 21, 20XX adding 20XX to the organization's 20XX Form 990 audit and requesting information about the additional year. replied in a letter dated May 25, 20XX that expanding the audit was not warranted. In a June 13, 20XX letter, he requested 20XX items be removed from the March document request or that a reasonable explanation justifying opening a subsequent year be provided. Documentation relating to operations in 20XX was not provided.

primary activity was providing a web-based platform that enabled sports teams, primarily college-level, to run fundraising campaigns. stated that over 0 schools have been touched and over 0 fundraising campaigns have been conducted using this web-based fundraising platform.

Application for charitable status

Planned exempt purpose and activities

application for exempt status described the organization's planned purpose and activities. In Part IV, the applicant provided a narrative description of past, present, and planned activities. This included the following:

- o ( ) intends to provide educational information to the public by raising awareness about community needs and benefits gained from supporting organized amateur athletics and other activities in the school environment.

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

- o *will foster programs meant to provide the opportunity for successful extra-curricular youth, high school, and college sport programs and other programs.*
- o *plans to raise tax exempt monetary donations and monetary pledges from the general public in order to provide resources to qualified school organizational programs and youth programs that would benefit from additional funding.*
- o *will conduct fundraising through its officers and directors ... [using] e-mail and person-to-person contact.*
- o *[Support will be provided] to local youth organizations, high schools, and colleges throughout communities within the United States.*

In Part VIII Question 13, the applicant described how its grant program furthered the organization's exempt purpose.

*has been established to provide much needed funds to organizations that assist in the overall development and education of youth, high school, and college students. distributions to education-related organizations benefits the recipients by helping them achieve their goals of educating youth both intellectually and socially. By providing funds to various and different types of organization (including but not limited to school athletic booster clubs, drama club, science club, ROTC), recipients provide youth with experiences that come from interacting with others in a structured environment.*

In follow up correspondence dated February 20XX, the determinations agent asked:

*Your activity is raising and providing funds for the purposes of 501(c)(3). However, funding is not really your activity because fundraising is done by a contractor. What is your exempt purpose activity?*

replied:

*Our exempt purpose activity is to provide educational information to the public about the community needs and benefits gained from supporting organized amateur athletics and other activities for students and athletes. The educational information raises the public awareness of the role amateur athletics and other activities paly in building a responsible and capable society*

*As stated in the Articles of Incorporation, "The specific purpose of this corporation is to promote educational programs for students and athletes, and to carry on other activities associated with this goal as allowed by law. These activities shall include the instruction or training of individuals for the purpose of improving or developing their capabilities, or the instruction of the public on subjects useful to individuals and beneficial to the community."*

*Planned control of funds*

In Part IV, narrative description of activities included the following:

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

- o *will also have a full-time presence on the internet ... [, which] will allow individuals the opportunity to provide direct support to their local, regional, or national fundraising efforts and goals.*
- o *... allows a contributor to specify or generally direct how their contribution is to be utilized, and by which qualifying organization.*

In Part VI, the applicant described exempt-purpose activities which involved providing funds to organizations, specific individuals, or groups of specific individuals.

*In order to meet goal of supporting specific organizations, each donor is given the opportunity to particularly designate which qualified organizations will be allowed to fund with that particular donor's gift. For example, the internet site will provide prospective donors with the opportunity to direct their donation to a particularly identified recipient organization.*

In Part VIII Question 4, described the operations of the fundraising program.

*will maintain separate accounts for each contributor who advises that a particular organization or entity is to be the lawful recipient of the funds they contribute to . Each contributor who identifies a specific use(s) of their contributed funds will be allowed to advise and suggest whether a general gift should be made to a particular organization, and if not, then how the contribution is to be allocated between or among any number of identified organizations.*

In Part VIII Question 13, the applicant wrote:

*retains records of each distribution recording the amount and date of the distribution.*

In follow up application correspondence dated February 20XX, the determinations agent asked:

*A 501(c)(3) tax exempt organization must have control over the money it receives and then uses for its charitable, educational, or scientific purposes without inuring the funds to individuals. Donors may suggest, but not control the use of funds they donate. Please clarify how you will control the payout of contributions, gifts, and grants when the donors wish otherwise*

responded:

*receives contributions from the public to support its educational activities regarding youth, high school, and college amateur athletic programs and other activities. Donors can suggest a particular school or amateur athletic program that they believe deserves the support of , but the donor can merely suggest, not control how allocates the raised funds.*

*Planned relationship with*

In Part VIII Question 4, described relationships with professional fundraisers.

**EXPLANATIONS OF ITEMS**

Name of taxpayer

Tax Identification Number

Year/Period ended  
December 31, 20XX  
December 31, 20XX

*has a written contract with \_\_\_\_\_, a private company, wherein developed a computer program that \_\_\_\_\_ will license and utilize for \_\_\_\_\_ internet fundraising purposes.*

In response to follow up questions from the determinations agent, \_\_\_\_\_ responded:  
*There is no upper limit cap [in fees paid to \_\_\_\_\_]. There is no excessive payment to because they are paid a percentage of actual funds raised. Each program is set up as a separate fundraising event and the percentage is projected to cover cost and is below market.*

Relationship with recipient organizations

In response to Part VIII Question 13, \_\_\_\_\_ wrote:

*maintains an ongoing relationship with every recipient organization. Members of the recipient organization have an affirmative responsibility to report use of funds for purposes not described in the \_\_\_\_\_ website.*

*uses software that requires each recipient organization to identify and describe how they intend to utilize the contributed funds.*

*exercises no control of influence over the recipient organizations. Many of the organizations that receive distributions were established prior to \_\_\_\_\_ origination and there is no anticipated overlap between members of those existing organizations and \_\_\_\_\_.*

Purpose and activities

The purpose for which \_\_\_\_\_ was granted tax-exempt status was:

- o To provide educational information to the public about the need for and benefit of supporting organized amateur athletics and other activities for students and athletes.
- o To foster, support, and promote educational programs for students and athletes.

The planned activities to support this purpose included:

- o The instruction or training of individuals for the purpose of improving or developing their capabilities.
- o The instruction of the public on subjects useful to individuals and beneficial to the community.
- o Online fundraising to support specific schools, youth organizations, and amateur athletic programs as suggested by the contributors.

Audit year activities

*ran a very "lean," electronic- and internet-based service which helped clients run fundraising campaigns. \_\_\_\_\_ stated that clients were generally college sports teams, although the review of the*



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

GL indicated a significant number of high school sports teams as well. The interview with found the following activities. This list of activities was reviewed with during the audit and he stated that it was accurate.

- o Provided easy-to-use, on-demand, and targeted fundraising tools to college-level sports teams.
- o Maintained contractual relationship with provided the fundraising platform for use on website as well as all related support services. Teams/coaches using signed an end user license agreement directly with, not with.
- o Received donations on behalf of fundraising coaches/teams.
- o Retained 0% of donations raised by coaches/teams.
- o Electronically remitted 0% of donations received to.
- o Hired to handle accounting needs, including receiving the occasional check donation and cutting monthly remittance checks to teams/coaches on behalf of.
- o Interacted with teams/coaches. said that was well-known in the college and high school athletic community, so coaches tended to reach out to for fundraising tools.
- o Sent occasional bulk emails to coaches who had opted-in to receive messages.
- o Confirmed charitable status of fund raisers who used fundraising tools.
- o uncompensated officers/directors of provided "sporadic" training on administrative skills needed for running a sports team and occasionally offered clinics on specific athletic skills to teams based on the time, motivation, and interest of the officers and of the teams/coaches.
- o Held annual board meeting.

These activities can be summarized as:

- 1) Provided access to fundraising tools and support services.
- 2) Occasionally interacted with teams/coaches.
- 3) Confirmed charitable status of teams/coaches.
- 4) Sporadic training for teams/coaches.
- 5) Annual board meeting.

Documents reviewed during the audit confirmed that there was an annual board meeting and that had a contractual relationship with, who then contracted directly with the fundraising teams/coaches. No evidence was observed that showed interaction between officers/directors and teams/coaches or that the org confirmed the tax-exempt status of the recipient orgs.

stated that activities remained largely unchanged since inception.

### Website

The website uses text from the organization's organizing documents and adds a privacy policy relevant to electronic and online data and communication.

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

The \_\_\_\_\_ website describes in detail how the web-based fundraising platform works. The FAQ begins by saying, " \_\_\_\_\_ ( ) and our non-profit partner \_\_\_\_\_ ( ) are deeply committed to safeguarding you, your participants and \_\_\_\_\_ privacy online."

\_\_\_\_\_ writes in response to the question, "Are donors contributions tax deductible?":  
*Unequivocally, YES! \_\_\_\_\_ ships or donations always are directed to the intended program via a qualified 501(c)3 organization,*

In response to another question, \_\_\_\_\_ writes, "You'll love us like our clients do because on the \_\_\_\_\_ of every month, \_\_\_\_\_ will remit your funds securely..."

Another question asks, "How safe is it to donate online with [ \_\_\_\_\_ ]?" \_\_\_\_\_ responds, " \_\_\_\_\_ deploys the industry's most robust SSL encryption throughout its website and database."

The final FAQ asks, "Will \_\_\_\_\_ and \_\_\_\_\_ share our personal information with any third-party?"

The demo video describing the \_\_\_\_\_ product includes an image of a receipt showing the donation to be tax-deductible. The receipt lists the nonprofit ( \_\_\_\_\_ ), the program and organization for which the donation was made, the date and amount of donation, and the donor information. The fine print says:

*Your sponsorship has been processed by \_\_\_\_\_ ( \_\_\_\_\_ ), a federal non-profit 501C3 corporation... Proceeds will be distributed to \_\_\_\_\_ on behalf of \_\_\_\_\_ in your name. This will ensure you receive the maximum tax benefit for you generous sponsorship. Please remember that this charge on your bank or credit card statement will reflect a check clearance to or a charge from \_\_\_\_\_*

Donations to \_\_\_\_\_

When asked for a copy of the letter given to donors for their tax records, a sample confirmation email was provided. It read, "Upon your donation, you will receive a "thank you" email receipt that may be used for tax purposes. Please consult your tax preparer for any questions regarding non-profit donation deductions. No goods or services were received in connection with this donation." Despite giving an acknowledgment letter to donors, the organization did not record donations as income to the organization.

Fundraising services agreement between \_\_\_\_\_ and \_\_\_\_\_

The contract between \_\_\_\_\_ and \_\_\_\_\_ provided was effective July 30, 20XX until July 31, 20XX. The contract begins with the following recitals:

**EXPLANATIONS OF ITEMS**

Name of taxpayer

Tax Identification Number

Year/Period ended  
December 31, 20XX  
December 31, 20XX

*Whereas, is a nonprofit public benefit corporation formed and operated for charitable and educational purposes, including but not limited to raising donated funds that will be distributed to qualifying organizations meeting the criteria for furthering educational and athletic programs for youth, high school, and college students and athletes.*

*Whereas, is a for profit corporation engaged in the business of commercial fundraising for charitable purposes.*

*Whereas, subject to the terms of this Agreement, desires to engage the services of and desires to engage in fundraising activities on behalf of .*

The terms of the contract provide that will use its online software applications to conduct fundraising activities for . will conduct all of its own sales and solicitation activity. In conducting sales and solicitations, will state that they represent . may use name and trademark in fundraising on behalf of . will maintain records and will provide them to at least every three months. Records will include a contribution history for each donor.

Control of funds. *Each contribution made by a donor or shall be delivered electronically directly to . Any contribution made by a donor or inadvertently delivered to shall be held in trust for and shall be delivered to within zero (0) working days of its receipt by .*

Fees for service. *In exchange for fundraising and software services provided under this Agreement, shall pay a fixed fee in the amount of 0 percent of total contributions raised and actually received by .*

Distribution of Contributions. *shall retain 0 percent of total contributions raised and actually received from all donors and .*

The agreement was signed by , Secretary, and , CEO, .

End user license agreement between and fundraising client

Per the fundraising services agreement, conducts all fundraising for . makes individual agreements with each user, usually school sports teams. A copy of a sample end user license agreement for 20XX was provided. The agreement was applicable to any user who clicked the 'accept' button when logging into the online system.

The agreement granted the coach/team use of software to fundraise through the website. The agreement included:

- o an internet-based sponsorship environment to be used for fundraising by the team/coach
- o internet-accessible database management tools

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

- recordkeeping of each fundraising transaction in the account
- account and technical support via phone, online chat, or email

*Payment of fees. All fees payable to \_\_\_\_\_ (" \_\_\_\_\_"), a tax exempt nonprofit public benefit corporation and partner with \_\_\_\_\_, will be expressed as a percentage of gross funds raised, and will be no greater than thirty percent (0%), as negotiated between the program Administrator and \_\_\_\_\_. This percentage will be available through the \_\_\_\_\_ System, accessible by the program Administrator at any time before, during, or after the fundraiser begins.*

*Sponsorship remittance. In exchange for your use of the Software and Services offered under this Agreement, \_\_\_\_\_ will accept and retain funds raised and remit the percentage agreed upon by the client and \_\_\_\_\_. Each fundraiser percentage will be approved prior to each fundraiser by authorized personnel of the client and \_\_\_\_\_. The designated percentage of all funds collected from each who contributes to your fundraising program will be remitted by the \_\_\_\_\_ day of the next month. ... All remittances will be electronically deposited into Licensee's Financial Account.... The Software will account for all sponsorships submitted to your accounts during each sponsorship campaign.*

*Checks received by Licensee. During the course of the campaign and/or as a result of the campaign the licensee receives hand-written checks, the licensee is required to send the checks to \_\_\_\_\_ where the checks will be manually input into the \_\_\_\_\_ system and included in the according [sic] remittance disbursement. Unless \_\_\_\_\_ receives the written checks your sponsor(s) will not receive a tax-deductible receipt.*

**Audit year remittance amounts**

The fee percentages have been updated since these agreements were created. In 20XX and 20XX, they were:

- 0% to the fundraising team/coach
- 0% fee to \_\_\_\_\_
- 0% retained by \_\_\_\_\_

Based on these contracts, \_\_\_\_\_ had no discretion over who received the funds raised. All were distributed per the contracts. Coaches/teams ran their own campaign using the \_\_\_\_\_ software and their own donor network. \_\_\_\_\_ stated that the teams/coaches liked that the money raised went to the team rather than to individual athletes. Per the contracts, \_\_\_\_\_ maintained records of each fundraising transaction and provided that information to the users and to \_\_\_\_\_.

**\_\_\_\_\_ financial records in audit years**

The three most recent years' income statements taken from the filed Form 990s show the following:

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

table 1: filed Forms 990 income statement

	20XX	20XX	20XX
<u>income</u>			
program service revenue	\$ 0	\$ 0	\$ 0
investment income	\$ 0	\$ 0	\$ 0
uncleared payments	\$ 0	\$	\$
	\$ 0	\$ 0	\$ 0
<u>expense</u>			
accounting/legal fees	\$ 0	\$0	\$ 0
advertising	\$	\$	\$ 0
office expenses	\$ 0	\$ 0	\$ 0
payments to	\$	\$ 0	\$
bank charges	\$ 0	\$ 0	\$ 0
payment processing	\$ 0	\$ 0	\$ 0
taxes and licenses	\$ 0	\$	\$
dues and subscriptions	\$	\$ 0	\$
maintenance	\$	\$	\$ 0
other	\$	\$	\$ 0
printing, postage, shipping	\$ 0	\$ 0	\$ 0
misc	\$	\$	\$ 0
	\$ 0	\$ 0	\$ 0
<u>net profit</u>	\$ 0	\$ (0)	\$ 0

- o stated that "Program service revenue" represented the 0% of gross income retained by . stated that the near-doubling of revenue from 20XX to 20XX reflected the natural growth in the business and increasing efficiency in operations. The business had not yet reached the saturation point, he said.
- o Accounting fees were paid to handled all bookkeeping needs including cutting and mailing disbursement checks, recording and depositing mailed fundraising checks, and paying any unusual or non-automated expenses. also prepared annual returns. About \$0 of the professional fees in 20XX were paid to and about \$0 was paid for legal services.
- o During an audit meeting, speculated that the advertising cost recorded on the 20XX Form 990 was actually the fee. He refused to answer the same question in writing when the question was proposed in a document request sent in March 20XX, but he did say that there was no adverting expense in 20XX.
- o The expense to reported on the 20XX Form 990 was in addition to the 0% fee payable to . stated that the 0% fee was recorded on the balance sheet as an account payable. Schedule O indicated that the expense on the income statement was for

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

"information technology." An analysis of the GL confirmed that these payments to \_\_\_\_\_ were in addition to the monthly 0% fee.

- o "Payment processing" was credit card fees, which typically run at 0% of sales processed. Bank fees grew over the three years as business grew. (Gross sales were not recorded on the income statement so a direct relationship between income and credit card fees cannot be made.)
- o \_\_\_\_\_ also refused to explain why there was a maintenance expense of \$0 in 20XX but none in other years.

Distribution of gross income

Gross income, payments to \_\_\_\_\_, and payments to the fundraising sports teams were not recorded on the income statement, but rather as balance sheet transactions. Per the agreements described above, all income fundraised by the teams/coaches was received by \_\_\_\_\_. On a monthly basis 0% was remitted electronically to the sports teams. This amount was recorded on the balance sheet as a cash asset and as an account payable. The 0% fee \_\_\_\_\_ was handled the same way. \_\_\_\_\_ described the automated, electronic system as very "lean" and "managed lightly."

\_\_\_\_\_ advised that adding all deposits recorded in the bank statements would show \_\_\_\_\_ gross income since donations to the \_\_\_\_\_ clients were the only source of income.

table 2: calculation of gross income received, 20XX

<u>description</u>	<u>amount</u>
total annual deposits	
checking	\$ 0
checking	\$ 0
savings	\$ 0
savings	<u>\$ 0</u>
 remove internal transfers	
01/08/XX    0 to 0	\$ 0
01/28/XX    0 to 0	\$ 0
02/03/XX    0 to 0	\$ 0
02/06/XX    0 to 0	\$ 0
02/06/XX    0 to 0	\$ 0
03/03/XX    0 to 0	\$ 0
03/03/XX    0 to 0 savings	\$ 0
03/20/XX    0 to 0	\$ 0
interest income	<u>\$ 0</u>
	\$ 0
 gross income	 \$ 0

**EXPLANATIONS OF ITEMS**

Name of taxpayer

Tax Identification Number

Year/Period ended  
December 31, 20XX  
December 31, 20XX

This approximates deposits recorded in the GL. Total deposits recorded in the GL were \$0 before internal transfers. A comparison of total GL deposits and total bank deposits finds a discrepancy of about \$0, or 0%.

Based on this gross income, expected allocations would be:

table 3: expected distributions based on bank statement income

	rate	expected
to teams	0%	\$ 0
fee	0%	\$ 0
income	0%	\$ 0
		\$ 0

income recorded on the Form 990 was \$0, making a difference of \$0. The GL amount for income matched the Form 990.

GL totals for the fee and funds raised returned to the teams/coaches did not match expected distributions. The GL indicated that amounts remitted to were higher than 0% and amounts passed on to the sports teams were lower than the contracted amount.

table 4: distributions per GL

	rate	GL amount
to sports teams	0%	\$ 0
fee	0%	\$ 0
income	0%	\$ 0
		\$ 0

Additional payments to

The GL showed that the monthly 0% fee to totaled \$0. The GL revealed that the \$0 recorded on the Form 990 income statement as "information technology" and which thought might be the 0% fee was actually a different monthly fee paid to . The GL also found a third group of payments to totaling \$0.

table 5: summary of GL payments to

monthly 0% payments to	\$ 0
payments for services to	\$ 0
other payments to	\$ 0
	\$ 0

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

The additional monthly "payments for services" to \_\_\_\_\_ generally averaged \$0 each month from April through December. These payments for services included two unusual transactions. When asked for a written explanation of certain large expenses, including these two, \_\_\_\_\_ replied, "...all of these withdrawals are either vendor bill payments or donation disbursements."

The first unusual transaction was a March 20XX bank originated debt of \$0. The memo on the GL entry for this transaction said "20XX-20XX." The supporting documentation for this withdrawal indicated that it was a bank originated debt requested by customer \_\_\_\_\_, \_\_\_\_\_ was an accountant with \_\_\_\_\_, the firm which provided all bookkeeping services for the organization. In the next month, \_\_\_\_\_ cut a check for \$0 with the memo line "services." This check was in addition to the usual monthly payment for services (\$0 in April 20XX). Both of these unusual checks were included on the GL with the other monthly payments to \_\_\_\_\_ as a Cost of Goods Sold.

The other payments to \_\_\_\_\_, totaling \$0, were recorded on the GL as payables to \_\_\_\_\_. These payments were four checks dated in January and March 20XX and varied from \$0 to \$0.

#### For-profit competition

Other businesses provide similar fundraising software and services to schools and youth sports teams on a for-profit basis, for example \_\_\_\_\_. Like \_\_\_\_\_, \_\_\_\_\_ provides users with an online platform for running fundraising campaigns and charges a percent of funds-raised. Unlike \_\_\_\_\_, \_\_\_\_\_ informs donors that the tax-deductibility of their donation depends on the exempt status of the organization receiving the donation. Other fee-based for-profit entities include:

- o
- o
- o
- o

#### **Law**

##### Operational test

Internal Revenue Code section 501(c)(3) exempts from federal income tax organized that are:  
*...organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, [so long as] no part of the net earnings of which inures to the benefit of any private shareholder or individual...*

Treasury Regulation 1.501(c)(3)-1(a) states:

*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.*



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

Treas Reg 1.501(c)(3)-1(c)(1) defines the operational test:

*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.*

Treas Reg 1.501(c)(3)-1(d)(1)(ii) says:

*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*

Treas Reg 1.501(c)(3)-1(d)(3)(i) defines "educational."

*(a) The instruction or training of the individual for the purpose of improving or developing his capabilities; or*

*(b) The instruction of the public on subjects useful to the individual and beneficial to the community.*

Congress identified the organizations intended to be included in the phrase "to foster national or international amateur sports competition" in the Senate Congressional Record dated August 5, 1979, at page S13612. They included two types:

- o National organizations that "are responsible for the conduct of national and international competition, including the conducting of national championships and the selection of national teams in Olympic and Pan American sports."
- o "National, local, and regional organizations whose primary purpose is supporting and developing amateur athletes for participation in national and international competition in Olympic and Pan American sports."

The discussion of the amendment emphasized that

*It is not intended to make social clubs, or organizations of casual athletes, into tax-exempt charities. Only an organization whose primary purpose is the support and development of amateur athletes for participation in international competition in Olympic and Pan American sports will qualify under this amendment. Organizations whose primary purposes are the recreation of their members or whose facilities are used primarily by casual athletes will not qualify.*

Congress amended IRC section 501(c) in 1982 by adding section 501(j). Section 501(j)(1)(A) removed "the requirement of subsection (c)(3) that no part of [amateur sports organization's] activities involve the provision of athletic facilities or equipment."

IRC section 501(j)(2) defined a "qualified amateur sports organization" as:

*any organization organized and operated exclusively to foster national or international amateur sports competition if such organization is also organized and operated primarily to conduct national or international competition in sports or to support and develop amateur athletes for national or international competition in sports.*

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

Treasury Regulation section 53.4942(b)-1(a)(2)(ii) defines "primarily" as at least 50% of total activities.

Treasury Regulation section 53.4942(b)-1(c) defines "substantially all" as 85% or more. Therefore "insubstantial" means 15% or less.

In Revenue Ruling 72-369, advice was requested as to whether an organization that otherwise qualified for exemption under section 501(c)(3) was operated for charitable purposes when engaging in the activities described as follows:

*The organization was formed to provide managerial and consulting services for nonprofit organizations exempt from Federal income tax under section 501(c)(3) of the Code to improve the administration of their charitable programs.*

*The organization enters into agreements with unrelated nonprofit organizations to furnish managerial and consulting services on a cost basis. The services consist of writing job descriptions and training manuals, recruiting personnel, constructing organizational charts, and advising organizations on specific methods of operation. These activities are designed for the individual needs of each client organization.*

*Receipts of the organization are from services rendered. Disbursements are for operating expenses.*

The government found that the organization was not operated for charitable purposes.

*An organization is not exempt merely because its operations are not conducted for the purpose of producing a profit. To satisfy the 'operational test' the organization's resources must be devoted to purposes that qualify as exclusively charitable within the meaning of section 501(c)(3) of the Code and the applicable regulations.*

*Providing managerial and consulting services on a regular basis for a fee is trade or business ordinarily carried on for profit. The fact that the services in this case are provided at cost and solely for exempt organizations is not sufficient to characterize this activity as charitable within the meaning of section 501(c)(3) of the Code. Furnishing the services at cost lacks the donative element necessary to establish this activity as charitable.*

*Accordingly, it is held that the organization's activities are not charitable and therefore the organization does not qualify for exemption from Federal income tax under section 501(c)(3) of the Code.*

In *B. S. W. Group, Inc vs Commissioner of Internal Revenue*, the issue was whether the organization was operated exclusively for charitable, educational, or scientific purposes within the meaning of section 501(c)(3). The Court's opinion found the following:

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

*The petitioner's activity consists of selling consulting services to nonprofit or exempt organizations interested in rural-related policy and program development. Actual substantive research work is conducted by individual researchers supplied by petitioner to its clients. Petitioner's services are largely intended to be a substitute for full-time staffing of client organizations. Petitioner charges each client a fee based primarily upon its cost of obtaining paid researchers plus an "administrative" charge. ...*

*We must agree with the Commissioner that petitioner's activity constitutes the conduct of a consulting business of the sort which is ordinarily carried on by commercial ventures organized for profit.... Petitioner has completely failed to demonstrate that its own services, or the services performed by its consultants, are not in competition with commercial businesses such as personnel agencies, consulting referral services, real estate agents, housing rental services, banks, loan companies, trash disposal firms, or environmental consulting companies. Competition with commercial firms is strong evidence of the predominance of nonexempt commercial purposes. ... And since the conduct of a business with an apparently commercial character is petitioner's sole activity, we think that fact weighs heavily against exemption. This is not the typical case where an organization, concededly conducting substantial educational, scientific, or charitable activities, also conducts a trade or business related to its exempt functions. ...*

*Furthermore, petitioner's only role is that of a conduit linking individual researchers with interested client organizations seeking a substitute for full-time staffing. This aspect of petitioner's service is not inherently charitable, educational, or scientific. However, we would be sympathetic to petitioner if the record showed that the research conducted by the independent consultants in fact furthered exclusively exempt purposes....*

*Several additional factors weigh against petitioner's claim. In the first place, its financing does not resemble that of the typical section 501(c)(3) organization. Petitioner has not solicited, nor has it received, voluntary contributions from the public. Its only source of income is fees for services, and those fees are set high enough to recoup all projected costs (including an unexplained \$2,250 item, denominated "administrative expenses (18%)"), and indeed, to produce a net profit. This net profit (\$1,950) is not insubstantial compared to projected income (\$18,000), being 10.8 percent of income. Furthermore, although to some extent fees will reflect ability to pay, it does not appear that petitioner ever plans to charge a fee less than "cost." To be sure, petitioner states that its fee is "nominal," and it may in fact be lower than those charged by other firms. However, we think that this is not enough to prove that petitioner's purposes are primarily exempt. In this respect, petitioner resembles certain health care organizations which have sought classification under section 501(c)(3) on the ground that they provide medical services which are of great social value. Despite the public benefit of the services provided, some degree of free or below-cost services to patients has generally been required to qualify these organizations as charitable before exemption has been granted under section 501(c)(3). ...*

*Another negative factor lies in petitioner's failure to limit its clientele to organizations which are themselves section 501(c)(3) exempt organizations, but only to organizations which are either nonprofit or exempt. In some cases, organizations conducting trades or businesses have been granted exemption on the grounds that they serve only exempt organizations and are performing services which their clients would otherwise have to provide for themselves in order to accomplish their own exempt purposes. ...*

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

*It is with some reluctance that we conclude that petitioner is not an organization described in section 501(c)(3) because its primary purpose is neither educational, scientific, nor charitable, but rather commercial. Petitioner's officers, at least for the present time, serve without compensation, and there is no indication in the record that their personal motives are different from the stated purposes of petitioner. ... Nonetheless, ... we are unable to find that petitioner's primary purpose is educational, scientific, or charitable, rather than the conduct of an ordinary commercial consulting enterprise in competition with other commercial firms.*

**Government Position**

primary purpose was neither educational, charitable, nor the fostering of national or international amateur sports competition. The organization engaged in commercial activities for the purpose of enriching

Application for exemption

The application for exemption stated the following planned activities:

- o The instruction or training of individuals for the purpose of improving or developing their capabilities.
- o The instruction of the public on subjects useful to individuals and beneficial to the community.
- o Fundraising to support schools and amateur athletic programs throughout the United States.

Education is a tax-exempt purpose. conducted, at best, "sporadic" educational activities in the audit year. An organization will show that it is operated exclusively for exempt purposes if it is engaged primarily in activities which accomplish the exempt purpose. To be engaged primarily generally means to be engaged at least 50% in the exempt-purpose activity. "Sporadic" educational activities do not meet this requirement.

An organization that conducts the fundraising activities for the purpose of distributing funds to other charitable organizations may be recognized as exempt under IRC 501(c)(3). did no fundraising in the audit year. As described above, the client teams/coaches conducted the fundraising activity using the software. Operations were handled by and was a passive shell, present only so that could advertise that donations made using their system were tax-deductible. As stated on the website, " sponsorships or donations always are directed to the intended program via a qualified 501(c)3 organization, " and "Your sponsorship has been processed by ( ), a federal non-profit 501C3 corporation." did not engage in exempt- purpose fundraising activities.

was granted tax-exempt status for educational purposes and to provide financial support to schools and amateur athletics. In the audit year, the organization did not engage in activities to support these exempt purposes. The organization's purpose was to support business.

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

License agreements and contract

The contracts between [redacted] and [redacted] and between [redacted] and the client coaches/teams allowed to work directly with the fundraising clients and to conduct all fundraising support activities, yet passed all funds raised through [redacted] to the clients. This allowed [redacted] to advertise to clients that all donations processed using their software were tax-deductible. The [redacted] website proclaims, "

"

Both [redacted] contracts specified that all funds raised would pass through [redacted]. [redacted] accepted delivery of all funds and remitted fees to [redacted] and donations to the fundraising teams and coaches. The agreement between [redacted] and the clients specified that if the coach or team was to receive a check directly from a donor, they would have to send it to [redacted] in order to get a receipt indicating that the donation was tax deductible. [redacted] purpose was to increase the marketability of [redacted] software.

Website

[redacted] website does not indicate any activities.

[redacted] website provides tutorials and a FAQ describing how the [redacted] fundraising process works. [redacted] includes [redacted] throughout the description of the fundraising product. For example, the following was included in the FAQ:

Q Will [redacted] and [redacted] share our personal information with any third-party? A We DO NOT share any information gathered for your campaign with a third-party.

(Since the issuance of the draft Form 886-A in this audit, this item and other references to [redacted] on [redacted] website have been changed.)

[redacted] is described as the company's non-profit partner. [redacted] is presented to clients as the reason that donors can make tax-deductible donations and as an advantage over other fundraising services. [redacted] purpose is to induce customers to use [redacted] software and services for fundraising campaigns rather than a competing online fundraising service.

Organizational income

[redacted] did not solicit donations or receive tax-exempt income from any charitable or educational activities, or from activities engaged in to foster national or international amateur sports competition.

All funds received were fees received in exchange for enabling tax-deductible donations in fundraising software business. As an agent of [redacted], [redacted] received all donations raised by coaches/teams through the [redacted] system and remitted 0% to [redacted] and 0% back to the clients.

**EXPLANATIONS OF ITEMS**

Name of taxpayer

Tax Identification Number

Year/Period ended  
December 31, 20XX  
December 31, 20XX

was responsible for issuing a letter thanking the donor for their tax-deductible donation. did not report the 0% of funds retained as donations received.

Zero percent of each donation made through was contractually held in trust for and for the fundraisers. reported these amounts as liabilities on the balance sheet until the contracted amounts were remitted monthly to and to the clients. did not have control over this money. Amounts were not remitted to the fundraising coaches/teams as a part of a grant program or at the discretion of . All amounts remitted to fundraisers was in compliance with a contract between the organization and .

The 0% fee retained by (around \$0) was an insignificant portion of the overall activity and was all eaten up by overhead stemming from the business activity. The largest component of overhead in 20XX was payments totaling \$0 made to above the contracted 0%. Net income after business expenses averaged a loss of \$0 over the years 20XX, 20XX, and 20XX, leaving no funds for any exempt-purposes. The lack of profit or a profit motive does not make the organization's operations exempt-purpose. To satisfy the 'operational test' the organization's resources must be devoted to purposes that qualify as exclusively charitable.

The mandatory pass-throughs of 0% of funds raised by clients were business transactions, not exempt-purpose transactions. As such, they did not constitute public support of charitable purpose. The organization was an agent that acted for the benefit of the for-profit entity, and is not qualified for tax-exempt status.

Operated to foster national or international amateur sports competition

To operate an organization for the purposes of fostering national or international amateur sports competition refers only to organizations which conduct national championships, select national teams, and support and develop athletes affiliated with the Olympics and the Pan American Games. Regarding support and development of amateur athletes, only an organization whose primary purpose is the support and development of amateur athletes for participation in international competition in Olympic and Pan American sports will qualify under this exempt purpose. activities have nothing to do with the Olympics, the Pan American Games, or any other national or international sports competition.

Summary

An organization must be operated exclusively for exempt purposes to qualify for tax-exempt status under IRC section 501(c)(3). To qualify as operated exclusively for exempt purposes, it must engage primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). These exempt purposes include charitable and educational purposes, or to foster national or international amateur sports competition.

An analysis of the facts has shown that conducted virtually no activities. conducted all fundraising software sales and support; coach and team clients conducted the actual fundraising; and conducted all bookkeeping. existed almost entirely on paper, serving as an inducement to clients to engage services because of the advantage of all donations being tax-deductible

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

to donors. Donations were paid via software to . Remittances to and clients were paid electronically or by check prepared by .

failed to qualify for tax-exempt status under IRC section 501(c)(3) because it was not operated exclusively for exempt purposes as shown by it not being engaged primarily in exempt activities.

### Organization Position

In a letter dated September 2, 20XX, the taxpayer's representative, provided the following statement:

Per IRC section 501(c)(3), an organization must be organized and operated exclusively to foster national or international amateur sports competition (there are other qualifying activities but this is the element that is most applicable to ) so long as no part of the net earnings inures to the benefit of any private shareholder or individual. As the initial examination report clearly states, 0 cents of every dollar goes to amateur sports. has maintained operational control of every dollar donated to ensure that these funds went to amateur sports. While the auditor has raised vague questions about some of the expenses found on profit and loss statement, the auditor cannot refute this fact. Remarkably, this is in direct contrast to the government's nonfactual statement that "in the audit year, none of these [these includes "Fundraising to support schools and amateur athletic programs] activities were conducted."

It is important to note that, while all qualify, there is no requirement that the recipient amateur sports teams themselves be approved as exempt organizations. The requirement is that the funds are used to foster amateur sports and the government has not presented a single piece of evidence to the contrary. We can provide tens of thousands of pieces of evidence to support that the funds were used to support amateur sports. Every coach, every player, every parent will gladly testify that it was through that they were able to buy much needed equipment, travel to remote games, purchase uniforms, attend educational clinics, etc. What the government omitted in their report was that the fundraisers are typically tied to very specific goals for the team. That is, the team might need funds to buy a new piece of equipment, which is highlighted throughout the fundraising campaign. In fact, funding goals (amounts) are usually set around specific goals and the auditor was certainly made aware of this during the examination. As such, it would be very hard for a team to then use these funds for something else and contrary to section 501(c)(3). In other words, with everyone (players, parents, etc.) aware of the outcome of a fundraising campaign, it is impossible for the funds to be used for non-qualified uses; that is, the goal was to attend a basketball clinic and they met their fundraising goal and they don't attend the clinic, someone will have to answer the question as to where the money went. However, that question is ever asked because of the transparent nature of the campaign and the effective crowd based honesty assurance. That is, the team would scream if they didn't get what they worked hard to raise money for. In other words, meets the Treasury Regulation section 1.501(c)(3)-1(c)(1) operational test as ALL (not merely primarily or substantially) of its activities are to accomplish the goal of fostering amateur sports.

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

Auditor cites both Revenue Ruling 72-369 and B.S.W. Group Inc. vs. Commissioner as part of the argument that the activities of \_\_\_\_\_ are not exempt in nature. Neither of these references are pertinent to this case. The Revenue Ruling concerns an organization providing managerial and consulting services to nonprofit organizations. That organization is not exempt because 0% of their proceeds benefit them and them alone and they are not formed and operated for public benefit. In stark contrast, 0% of the funds raised by \_\_\_\_\_ go to amateur sports. B.S.W. Group was selling consulting services. In the B.S.W. case, the petitioner had not solicited nor received voluntary contributions from the public. \_\_\_\_\_ solicits voluntary contributions from the public to foster amateur sports.

While \_\_\_\_\_ performed many of \_\_\_\_\_ operational tasks, \_\_\_\_\_ was operating as an agent, via contract, for \_\_\_\_\_ (not the other way around as the government claims). That is, \_\_\_\_\_ is merely a vendor of \_\_\_\_\_. Despite this fact, the auditor in her report states that she believes \_\_\_\_\_ and \_\_\_\_\_ were formed together to work in this way (i.e., that \_\_\_\_\_ activity was to support \_\_\_\_\_) and that \_\_\_\_\_ is \_\_\_\_\_ only client. First, it is both incorrect and irresponsible for the auditor to assert that \_\_\_\_\_ is only client as the auditor has no knowledge of how many clients \_\_\_\_\_ has. In reality, \_\_\_\_\_ has clients other than \_\_\_\_\_ and the auditor was informed of this during the audit. Moreover, some of \_\_\_\_\_ other clients also raise funds for amateur sports and as such can be considered as competitors to \_\_\_\_\_. Secondly, the auditor has presented no evidence, other than formation dates to support her assertion as to the formation intent. In true reality, to put it simply, \_\_\_\_\_ was formed to foster amateur sporting teams. Moreover, the relationship between \_\_\_\_\_ and \_\_\_\_\_ is a moot point as \_\_\_\_\_ is, and, I am quoting the auditor, operating as outlined in their exempt status application which was approved by the IRS.

The facts have shown that \_\_\_\_\_ primary purpose was to foster amateur sports and that 0% of the funds raised reach these amateur sports organizations. \_\_\_\_\_ was formed and operated for these purposes and clearly serves as public benefit. As such, \_\_\_\_\_ exempt status is without question and should not be revoked.

### Conclusion

The facts have shown that \_\_\_\_\_ was not operated exclusively for tax-exempt purposes under IRC section 501(c)(3). Due to the lack of any charitable activity and the lack of funds geared toward charitable activities, the organization failed to meet the primary purpose test described in Treasury Regulation 1.501(c)(3)-1 which says that to be considered a charitable organization under section 501(c)(3), the organization must be operated exclusively for charitable purposes and it must serve a public rather than a private interest.

The exempt status of \_\_\_\_\_ status should be revoked effective January 1, 20XX.