



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
TEGE EO Examinations Mail Stop 4920 DAL
1100 Commerce St.
Dallas, Texas 75242

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: August 9, 2018

Release Number: 201846006
Release Date: 11/16/2018
UIL Code: 501.03-00

Tax Year Ending:
December 31, 20XX
Taxpayer Identification Number:

Person to Contact:

Employee Identification Number:

Employee Telephone Number:
(Phone)

CERTIFIED MAIL – RETURN RECEIPT

Dear :

This is a final determination that you do not qualify for exemption from Federal income tax under Internal Revenue Code (the "Code") section 501(a) as an organization described in Code section 501(c)(3) effective January 1, 20XX. Your determination letter dated March 10, 20XX is revoked.

The revocation of your exempt status was made for the following reason(s):

Organizations described in section 501(c)(3) of the Internal Revenue Code and exempt from tax under section 501(a) must be both organized and operated exclusively for exempt purposes. You are not operated exclusively for exempt purposes because your activities are limited to the family and serve a private, not public interest. Also because over 0% of your expenditures were used for personal purposes.

Contributions to your organization are no longer deductible under IRC §170 after January 1, 20XX.

Organizations that are not exempt under section 501 generally are required to file federal income tax returns and pay tax, where applicable. For further instructions, forms, and information, please visit www.irs.gov.

If you decide to contest this determination, you may file an action for declaratory judgment under

the provisions of section 7428 of the Code in one of the following three venues: 1) United States Tax Court, 2) the United States Court of Federal Claims, or 3) the United States District Court for the District of Columbia. A petition or complaint in one of these three courts must be filed within 90 days from the date this determination letter was mailed to you. Please contact the clerk of the appropriate court for rules and the appropriate forms for filing petitions for declaratory judgment by referring to the enclosed Publication 892. You may write to the courts at the following addresses:

United States Tax Court
400 Second Street, N.W.
Washington, D.C. 20217

U.S. Court of Federal Claims
717 Madison Place, N.W.
Washington, D.C. 20439

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

Processing of income tax returns and assessments of any taxes due will not be delayed if you file a petition for declaratory judgment under section 7428 of the Internal Revenue Code.

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 or call 1-877-777-4778.

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

Sincerely,

Maria Hooke
Director, EO Examinations

Enclosure:
Publication 892



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

Date:
January 31, 2018
Taxpayer ID number:

Form:

Tax periods ended:
20XX

Person to contact:

Employee ID number:
Telephone number:
Fax:
Address:

Manager's contact information:

Employee ID number:
Telephone number:
Response due date:
February 28, 2018

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.

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.

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 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 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 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (last 4 digits)	Year/Period ended 20XX

ISSUE:

1. Whether _____, continues to qualify for exemption as an organization described in the Internal Revenue Code (IRC) Section 501(c)(3).
2. Whether _____ engaged in transactions for personal benefit rather than exclusively for charitable purposes.

FACTS:

_____ applied for tax-exempt status by filing Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code, on August 25, 20XX, and was granted tax-exempt status as a 501(c)(3) on March 10, 20XX.

_____ was incorporated on May 11, 20XX in the state of _____.

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

_____ was sent letter 3606 with attachments on March 13, 20XX. Attachment, Form 4564, Information Document Request, requested information regarding the activities of the organization.

The _____ is an _____ Not for Profit Corporation and a 501(c)(3) organization for the operation of a scholarship program to benefit students who are candidates for degrees at educational organizations. The operation of the scholarship program furthers the educational purpose of the _____ by assisting students in the educational studies in institutions of higher learning. The _____ will also make available genealogical information to state historical societies, libraries, colleges and universities and other organizations described in Internal Revenue Code Section 501(c)(3) on an as-requested basis. The _____ is the successor corporation to the _____ Family Scholarship _____, Inc., which was incorporated in 19XX by _____ (19XX – 20XX) and to which she served as President until her death in 20XX. At that time the Scholarship _____, Inc. was maintained, but no scholarships were awarded, until the Estate of _____ and the status of the _____ could be disentangled.

The purpose of The _____ is to provide scholarships for _____ descendants with outstanding scholastic records and to promote genealogical research. _____ descendants are those individuals who are descendants of _____, 16XX – 16XX, of _____, _____, and _____ Parish, _____ County, _____, by birth or adoption, and their spouses. These individuals will be eligible to apply for a scholarship for The _____

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
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For purposes of identifying descendants and spouses referred to above, The is relying on a large volume of genealogical information researched and published most recently in The Family in and the 10XX-19XX by , 19XX – 20XX, and printed and bound by and , .

The current board members consist of, and , in which both are related (is the father of); lives in . The does not have a facility that it operates out of. Meetings between the board members are held through email or phone.

On the website, it states “ descendants are those individuals who are descendants of , 16XX – 16XX, of , and Parish, County, , by birth or adoption, and their spouses”. “These individuals will be eligible to apply for a scholarship for The ”.

For an individual to identify if they are a descendant and/or spouse, The relies on a large volume of genealogical information researched and published most recently in The Family in and the 10XX-19XX by , 19XX – 20XX.

Through the website, applicants prepare and upload their application with all required documentation. Once an application is submitted, it is then received and reviewed by for accuracy and to insure all qualifications are met. If approved, applicants are notified by mail, checks are signed and issued out by of the organization to the respectable university of the applicant’s choice.

In tax year 20XX, there were 0 individuals who received a scholarship from , these individuals were:

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From records provided by _____, all applicants in receipt of the scholarship was a descendant of the _____ Family. The total amount paid out for scholarships for these 0 individuals were \$0.

Per the 990-PF, Part 1, for Tax Year 20XX the following Revenue and Expenses were:

Revenue

Dividends-	\$0
Net gain or (loss) from sale of assets-	0
Gross Sales price for all assets- \$0	
Total	<u>\$0</u>

Expenses

Other Professional Fees	\$0
Other Expenses	0
Contributions, Gifts, Grants Paid	<u>0</u>
Total	<u>\$0</u>

Excess of revenue over expenses and Disbursements (\$0)

Net Investment Income \$0

During interview with POA, _____, it was stated by _____ that the expense listed on Form 990-PF, line 16b for other professional fees was for a personal matter other than for a qualified exempt purpose of the foundation.

_____ stated that the spouse of the President, used income from the foundation's account for his own personal matters. The husband listed the amount on the form 990-PF as an expense of the foundation.

_____ stated that the amount listed on Form 990-PF was understated. _____ withdrew a total of \$0 from the _____ account. The following amounts withdrawn by month are listed before:

Date	Payment
1/1/20XX	\$ 0
1/29/20XX	0
6/12/20XX	0
8/10/20XX	0
10/6/20XX	0

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Name of taxpayer	Tax Identification Number (last 4 digits)	Year/Period ended 20XX

10/31/20XX	0
12/23/20XX	<u>0</u>
Total	\$ 0

If using the \$0 listed on the 990-PF return under other professional fees line, the above expenditures for personal use represent 0% of the organizations' total expenses.

When using the actual amount of \$0, the above expenditures for personal use represent 0% of the organizations total expenses.

LAW:

IRC § 501(c)(3) exempts from federal income tax organizations which 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, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

IRC section 507(d)(2)(A) For purposes of paragraph (1), the term "substantial contributor" means any person who contributed or bequeathed an aggregate amount of more than \$5,000 to the private foundation, if such amount is more than 2 percent of the total contributions and bequests received by the foundation before the close of the taxable year of the foundation in which the contribution or request is received by the foundation from such person.

Income Tax Regulations ("Treas. Reg.")

Treas. Reg. Section 1.501(c)(3)-1(d)(i) states that an organization may be exempt as an organization described in 501(c)(3) if it is organized and operated exclusively for one or more of the following purposes: religious, charitable, scientific, testing for public safety, literary, educational, or prevention of cruelty to children or animals.

Treas. Reg. Section 1.501(c)(3)-1(a)(1) of the regulations provides that in order to be exempt as an organization described in section 501(c)(3) of the Code, the organization must be one that is both organized and operated exclusively for one or more of the purposes specified in that section.

Treas. Reg. Section 1.501(c)(3)-1(c)(1) of the regulations provides 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)

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Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) is 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.

Manning Ass'n v. Commissioner, 93 T.C. 596, 1989 U.S. Tax Ct. LEXIS 146, 93 T.C. No. 50 is not exempt from tax under sec. 501(c)(3) of the Code as an organization operated "exclusively for educational purposes." Notwithstanding the existence of truly educational purposes based largely upon a historic Manning homestead and historic artifacts, the association's operations were also conducted for the benefit of members of the Manning family, a nonexempt purpose that is found to be "substantial in nature."

One of petitioner's activities is the preservation of historical Manning family records and the updating of vital family statistics. This activity is carried on largely through the newsletters which urge "kin" to forward information on births, marriages, and deaths to the association and which publish genealogical data on the Manning family to assist Manning family members in tracing their roots. The compilation of genealogical data serves the private, and thus nonexempt, purposes of the Manning family. Any educational benefit to the public created by petitioner's genealogical activities is incidental.

The Callaway Family Association Inc. v. Commr. 71 T.C. 340 (1978) The court held that petitioner failed to meet the requirements of § 501(c)(3), so it was not tax-exempt under that section. The court found that petitioner's purposes primarily served the private interests of family members no matter how diverse and widespread that family was. Petitioner's activities, when aggregated, demonstrated that petitioner was primarily serving private interests. Any educational benefit to the public created by petitioner's activities was incidental to petitioner's private purpose.

Better Business Bureau v. U.S. 326 U.S. 279 (1945) The Supreme court affirmed the lower courts' judgments rejecting that contention stating that pursuit of the taxpayer's organization was to promote not only an ethical but also a profitable business community. The exemption was therefore unavailable to the taxpayer, whose purpose was not purely educational.

Society of Costa Rica Collectors v. Commissioner, 1984 Tax Ct. Memo The court entered a judgment in favor of the commissioner, finding that the taxpayer was not exempt from taxation under § 501(c)(3). The court found that the taxpayer's substantial mail bid sales activity clearly served a private and nonexempt purpose. The court held that even if the purpose of the taxpayer's educational activities qualified as educational within the meaning of the statute, the presence of the substantial nonexempt activity of mail bed sales negated the taxpayer's claimed exemption.

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U. S. CB Radio Asso. v. Commissioner, 1981 Tax Ct. Memo The court entered its decision in favor of the Commissioner by holding that the radio association did not operate exclusively for exempt purposes because, while some of its activities served an educational purpose, it failed to prove that its nonexempt purposes were insubstantial.

Thomason v. Commr., 2 T.C. 441 (1943), The court held that amounts paid for the benefit of, and to provide special advantages for, a designated ward of a charitable organization, held not deductible as charitable contributions.

Chase v. Commr. T.C. Memo 1960-49, The court held that held that the amounts deducted by the individual and corporate petitioners in their income tax returns for the respective years as contributions to the Foundation were not deductible and disallowed them; and based the ruling on that the "Foundation" does not qualify as an organization the contributions to which are deductible under the provisions of section 23(o) of the Internal Revenue Code of 1939."

In Revenue Ruling 56-403, The awarding of scholarships by a foundation solely to undergraduate members of a designated fraternity will not preclude it from exemption from Federal income tax under section 501 (c) (3) of the Internal Revenue Code of 1954 as an educational organization.

Revenue Ruling 80-302, 1980-2 C.B. 182 An organization that (1) limits its membership to descendants of a particular family, (2) compiles family genealogical research data for use by its members for reasons other than to conform to the religious precepts of the family's denomination, (3) presents the data to designated libraries, (4) publishes volumes of family history, and (5) promotes social activities among family members does not qualify for exemption under section 501(c)(3) of the Code

Taxpayer Position

Issue 1:

In their F1023 application, _____ used *Thomason v. Commr., 2 T.C. 441 (1943)*, *Chase v. Commr. T.C. Memo 1960-49*, 1960 WL 7551 and Revenue Ruling 56-403 as examples of why they meet the requirements of 501(c)(3).

See Exhibit A and Exhibit B

Issue 2:

Organization has agreed that the amount of \$0 listed on line of 16c of the Form 990-PF for tax year 20XX, was not a qualified expenditure of the organization; rather served a private purpose. The Organization included the amount of \$0 and an additional \$0 on the individual's personal return, Form 1040 for tax year 20XX.

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Government Position

Issue 1:

In their F1023 application, _____ used *Thomason v. Commr.*, 2 T.C. 441 (1943), *Chase v. Commr.* T.C. Memo 1960-49, 1960 WL 7551 and *Reveune Ruling 56-403* as examples of why they meet the requirements of 501(c)(3).

_____ is different from the ruling's above in the fact that the "public" is limited to the _____ family descendants. The application references the amount or size of the group as not the issue, nor is the educational purpose of the scholarship. It's the fact that an individual must be related to the _____ Family by birth, marriage or by adoption. These limitations do not meet the requirements of Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii).

With respect to *Chase v. Commr.* T.C. Memo 1960-49, 1960 WL 7551 U.S. and in Revenue Ruling 56-403, the companies and the fraternity did not limit their scholarships to a particular group. The "public" could apply for positions with the companies and could apply for acceptance into the fraternity. It is then at this point, that the scholarships become restricted. In the _____, the qualifications are restricted to _____ descendants at the outset.

The _____ does not meet the requirements of an exempt organization under Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii). Providing of scholarships exclusively for descendants is not consistent with exempt status because it serves a private purpose of the grantor rather than public purpose. A preference accorded to family members and relatives is not a criterion, like financial need and academic achievement that is related to the purpose. The _____ activities taken as a whole were not exclusively in furtherance of exempt purposes. Primary benefit of the foundation flowed directly to members of the _____ family, any benefit to the general public was limited based on the qualifications of the scholarship.

The activities of the _____ are consistent with Revenue Ruling 80-302, in that an organization that limits its membership to descendants of a particular family, compiles family genealogical research data for use by its members for reasons other than to conform to the religious precepts of the family's denomination, presents the data to designated libraries, publishes volumes of family history and promotes social activities among family members does not qualify for exemption under section 501(c)(3) of the code.

The activities of the _____ are consistent with *The Callaway Family Association Inc* in that the purposes primarily served the private interests of family members no matter how diverse and widespread that family was and does not qualify for exemption under section 501(c)(3) of the code.

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Issue 2:

More than 0% of the organizations expenditures were not used exclusively for purposes of the organization as described in Treas. Reg. Section 1.501(c)(3)-1(c)(1). The 0% of the expenditures used by the organization was used for the benefit of private interests.

Conclusion

Issue 1:

The _____ is not operating exclusively as a charitable organization as described in IRC Section 501(c)(3). Their activities are limited to the _____ family and serve a private, not public interest.

Issue 2:

The _____ is not operating exclusively as a charitable organization as described in IRC Section 501(c)(3); since over 0% of its expenditures were used for personal purposes.

Therefore, we have proposed revocation for tax year 20XX and all subsequent years.