



**DEPARTMENT OF THE TREASURY**

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

**TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION**

Date: **SEP 18 2018**

Number: **201903019**  
Release Date: 1/18/2019

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 (IRC). Our favorable determination letter to you dated September 23, 20XX, is hereby revoked and you are no longer exempt under section 501(a), as an organization described in section 501(c)(3) of the IRC, effective January 1, 20XX.

Our adverse determination was made for the following reasons:

You have not established that you are organized and operated exclusively for exempt purposes within the meaning of IRC section 501(c)(3) and that no part of your net earnings inures 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 IRC section 6001, 6033(a)(1), and Rev. Rul. 59-95, 1959-1 C.B. 627. You also failed to respond to questions about the nature of your activities.

As such, you failed to meet the requirements of IRC section 501(c)(3) and Treasury Regulation section 1.501(c)(3)-1(d), in that you have not established that you are organized and operated exclusively for exempt purposes and that no part of your net earnings inures to the benefit of private shareholders or individuals.

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 Court of Federal Claims 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,

A handwritten signature in black ink that reads "Maria Hooke". The signature is written in a cursive, slightly slanted style.

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:  
02/15/2018  
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 34909F

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**

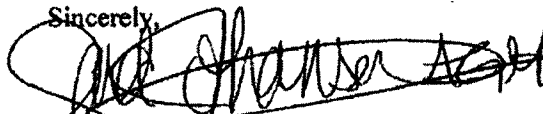
The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, 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,



for Maria Hooke  
Director, Exempt Organizations Examinations

**Enclosures:**

Report of Examination  
Form 886-A  
Form 6018  
Publication 892  
Publication 3498-A

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended December 31, 20XX

**Date of Notice: February 13, 20XX**

**Issues:**

Whether \_\_\_\_\_, which qualified for exemption from Federal income tax under Section 501(c)(3) of the Internal Revenue Code, should be revoked due to its failure to respond and produce records to establish that it is observing the conditions required for the continuation of exempt status.

**Facts:**

\_\_\_\_\_ applied for tax-exempt status by filing the Form 1023-EZ, Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code, on September 03, 20XX, and was granted tax-exempt status as a 501(c)(3) on September 23, 20XX, with an effective date of July 23, 20XX.

An organization exempt under 501(c)(3) needs to be organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes and to foster national and amateur sports competition.

\_\_\_\_\_ was selected for audit to ensure that the organizational documents, activities, and operations align with their approved exempt status.

\_\_\_\_\_ failed to respond to the Internal Revenue Service attempts to obtain ALL information to perform an audit of Form 990-N for the tax year December 31, 20XX.

The Form 1023-EZ application lists the telephone number of \_\_\_\_\_ for \_\_\_\_\_, who is reflected as the Director of \_\_\_\_\_ on Form 1023-EZ application form.

Per the Form 1023-EZ application, \_\_\_\_\_ marked they were incorporated in the State of \_\_\_\_\_.

• Correspondence for the audit was as follows:

- Letter 3606 (Rev. 6-2012) with attachments, was mailed to \_\_\_\_\_ on October 27, 20XX, with a response date of November 28, 20XX.
- Form 2848 with POA information for \_\_\_\_\_, 990-N, 20XX, received by fax from \_\_\_\_\_ on November 08, 20XX.

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b>		<b>Year/Period Ended</b> December 31, 20XX

- Letter 3844-B (11-20XX) with attachments, was mailed certified to  
., at , on March 22,  
20XX, with a response date of April 24, 20XX.  
Certified number  
Certified Letter 3844-B was returned from the USPS as undeliverable on  
4/21/XX.
- Letter 3844-A (12-20XX) with attachments, was mailed certified to  
. at , on August  
21, 20XX, with a response date of September 11, 20XX.  
Certified number  
Per the last USPS tracking history, "The item is currently in transit to the  
destination as of August 25, 20XX at 9:55 am".  
Letter 3844-A was received back at IRS on November 01, 20XX from the  
USPS with the comment "return to sender unclaimed unable to forward".
- Letter 3844-A (12-20XX) with attachments, was mailed certified to  
. Director, at , on August 21,  
20XX, with a response date of September 11, 20XX.  
Certified number  
Per the last USPS tracking history, "Your item was delivered to an  
individual at the address at 12:02 pm on August 31, 20XX in  
".
- Letter 3844-A (12-20XX) with attachments, was mailed certified to  
. POA at , on  
August 21, 20XX, with a response date of September 11, 20XX.  
Certified number  
Per the USPS tracking history, "Your item could not be delivered on  
September 12, 20XX at 10:33 am in . It was held for  
the required number of days and is being returned to the sender".
- Form 2848 received by fax on September 28, 20XX from .  
The Form 2848 was invalid due to Part I, box 2 being completed  
incorrectly.
- Partial response received that included a copy of meeting minutes for May  
20XX, May 20XX, May 20XX, and bank statements/copies of checks for  
January through December 20XX. Received on October 16, 20XX from
- Form 2848 received by fax on November 22, 20XX from .  
Part I, box 2 had been corrected, but the Form 2848 was invalid due to  
Part II not being completed

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- Form 2848 received by fax from \_\_\_\_\_ on December 07, 20XX, with POA information for \_\_\_\_\_, 990, 20XX, 20XX, 20XX.
- Letter 5077-B with attachments, was mailed certified to Director, at \_\_\_\_\_, on January 04, 20XX, with a response date of January 19, 20XX.  
Certified number \_\_\_\_\_  
Per the last USPS tracking history, "Your item was delivered to an individual at the address at 12:22 pm on January 11, 20XX in \_\_\_\_\_."
- Letter 5077-B with attachments, was mailed certified to POA, at \_\_\_\_\_, on January 04, 20XX, with a response date of January 19, 20XX.  
Certified number \_\_\_\_\_  
Per the last USPS tracking history, "your item was delivered at 8:51 am on January 22, 20XX in \_\_\_\_\_."
- Telephone contact for the audit was as follows:
  - November 11, 20XX, Tax Compliance Officer (TCO) called POA, at \_\_\_\_\_. Phone number provided from fax received on November 11, 20XX which included a Form 2848 with POA information. Items discussed:
    - The organization and POA are trying to get the audit information together.
    - The POA has some health issues and has been ill.
    - Granted a 30-day extension. Response due December 28, 20XX.
  - March 16, 20XX, Tax Compliance Officer (TCO) gave large amount of leeway time due to POA health issues. Had not received a response from \_\_\_\_\_. TCO called POA, \_\_\_\_\_, for an update. The voice mail for the POA stated that the office is closed due to POA having health issues and the office cannot run without her oversight.

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- July 25, 20XX, case was transferred to a new TCO. New TCO tried calling POA, and received a message that this is an invalid number.
- July 25, 20XX, TCO wanted to inform organization that she is taking over the audit. TCO called contact number from Form 1023-EZ for , Director of , and left a message asking to call her back and left TCO's direct number.
- August 11, 20XX, TCO did not receive a call back from Director. TCO called Director at and left another message asking her to call and left a direct call back number.
- August 21, 20XX, TCO did not receive a return call from Director. TCO wanted to inform organization that she has taken over the audit and that a letter was being mailed out today. Called number for Director, , and left another message to call her back and left a direct call back number.
- August 31, 20XX, TCO did not receive a return call from Director. TCO called number for Director, , and left another message asking Director to call her back and left a direct call back number.
- September 19, 20XX, no return call received. TCO placed follow up call to , Director of . at  
Items discussed:
  - TCO informed Director that she had taken over audit case from previous TCO and informed her of contact information.
  - Director of stated that anything she receives that has to do with the audit, she forwards to her accountant.
  - TCO informed Director that the POA on file is no longer responding.
  - Director stated that she knows nothing about the POA, unless she is the person that her accounting firm chose to work her case.
  - TCO informed Director that we received notification that our latest letter sent to her address was received, a response was due a week ago and that we had not received anything.



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- Director stated that she knows nothing about this type of stuff and that anything she receives pertaining to the audit, she forwards to her accountant.
  - TCO informed Director that we have still not received anything and asked that Director of . contact her accountant and that I need to speak with her or someone from her accounting firm by the end of the week and if she wants me to discuss with someone from the firm, that I will need a Form 2848 to do so.
  - Director stated that she will pass TCO's contact information on to her accountant on Thursday.
- September 26, 20XX, TCO received a message from , potential POA, stating that she had spoken with Director of , had been hired to represent . and would like to update TCO on the situation. TCO called at .
- Items discussed:
- is aware that she will need a Form 2848 to discuss the particulars of the audit and will get that to me, but wants to inform TCO of organizations situation.
  - prior tax accounting firm, , has gone out of business and apparently, no one knows where any of the TP documentation is.
  - has given Director a list of items that she will need from her, starting with the organization's bank statements
  - does not feel like it will take long to complete the audit once she gets the information from Director, but they will need additional time.
  - TCO informed that without a valid Form 2848, she could not discuss an extension and that the Director would need to call in to request an extension or as soon as the TCO receives the completed Form 2848, could call back in to discuss an extension.
- September 28, 20XX, TCO called , potential POA, to discuss correction needed on faxed Form 2848. Left a message for to call back.

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- September 29, 20XX, TCO left a message with [redacted] to call. [redacted] called and left a message. TCO called [redacted] back and left a message.
- October 02, 20XX, TCO called [redacted] and informed her that she received the faxed Form 2848, however the Form 2848 is not valid. Explained that a correction needs to be done on Part I, line 2. [redacted] stated that she would make the changes and re-fax the Form 2848 tomorrow.
- October 06, 20XX, TCO called [redacted] and left a message asking her to call back.
- October 11, 20XX, TCO called [redacted] and informed her that TCO has not received the corrected Form 2848. [redacted] stated that she has been extremely busy and forgot about it but will fax it by Friday. [redacted] also mentioned that she sent a reply from the organization which we should receive anytime.
- October 18, 20XX, TCO called [redacted] and left a message asking her to call back.
- October 27, 20XX, TCO called [redacted] and left a message asking her to call back.
- November 03, 20XX, TCO called [redacted], potential POA and also called [redacted], Director of [redacted]. Left a message for each asking them to call back.
- November 14, 20XX, TCO called [redacted] and informed her that TCO has still not received the corrected Form 2848. [redacted] stated that she just received notice in her email today that she has received the signed copy from Director of [redacted]. [redacted] stated that the Director has attempted to fax it multiple times, but it keeps coming through blank. [redacted] stated that she will fax the signed Form 2848 to me today.
- November 15, 20XX, TCO called [redacted] and left a message to call back.
- November 22, 20XX, TCO called [redacted].  
Items discussed:

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- TCO informed \_\_\_\_\_ that she had still not received signed Form 2848
  - \_\_\_\_\_ stated that she faxed the previous week and fax machine stated it went through, she will re-fax and if TCO doesn't receive in twenty minutes, call back.
  - TCO called \_\_\_\_\_ back and informed her that she did not receive fax.
  - \_\_\_\_\_ stated she would fax again
  - TCO called \_\_\_\_\_ again and informed her that she received faxed Form 2848 and Part I, line 2 is now correct, however, Part II is now incomplete. TCO asked \_\_\_\_\_ to complete Part II and re-fax.
- December 04, 20XX, TCO called \_\_\_\_\_ and informed her that the last faxed copy of the Form 2848, Part I, line 2 was correct, but that Part II was incomplete and she still needs a complete, correct copy of the Form 2848. \_\_\_\_\_ stated that she will complete and fax today.
  - December 07, 20XX, TCO called \_\_\_\_\_, POA, and left a message asking her to call back.
  - December 15, 20XX, TCO called \_\_\_\_\_, POA, and left a message asking her to call back.
  - December 22, 20XX, TCO called \_\_\_\_\_, POA, and left a message asking her to call back.
  - January 24, 20XX, TCO called \_\_\_\_\_, POA  
Items discussed:
    - TCO discussed the fact that \_\_\_\_\_ had just recently received Letter 5077- B
    - \_\_\_\_\_ stated that she did just receive her copy, but that the Director of \_\_\_\_\_ forwarded a copy of the letter to her when she received it.
    - \_\_\_\_\_ stated that she has been calling and emailing \_\_\_\_\_, Director of \_\_\_\_\_, to get her the information needed for the audit.

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- TCO informed that the audit has been open for over a year, the due date from the last letter 5077-A has come and gone and that the next step is revocation of the organization's exempt status.
- asked TCO to give her until the end of business day on Friday.
- TCO granted organization until the end of business on Friday to fax something in.

**Law:**

**Internal Revenue Code (IRC) §501(c)(3)** of the Code provides that an organization organized and operated exclusively for charitable or educational purposes is exempt from Federal income tax, provided no Part of its net earnings inures to the benefit of any private shareholder or individual.

**IRC §511** of the Internal Revenue Code imposes a tax at corporate rates under section 11 on the unrelated business taxable income of certain tax-exempt organizations.

**IRC §6001** of the Code provides 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.

**IRC §6033(a)(1)** of the Code provides, except as provided in section 6033(a)(2), every organization exempt from tax under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

**Treasury Regulations (Regulation) 1.501(c)(3)-1** In order to be exempt under §501(c)(3) the organization must be both organized and operated exclusively for one or more of the purposes specified in the section. (religious, charitable, scientific, testing for public safety, literary or educational).

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**Regulation §1.501(c)(3)-1(a)(1)** of the regulations 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.

**Regulation 1.501(c)(3)-1(c)(1)** of the regulations provides that an organization will not be regarded as "operated exclusively" for one or more exempt purposes described in section 501(c)(3) of the Code if more than an insubstantial Part of its activities is not in furtherance of a 501(c)(3) purpose. Accordingly, the organization does not qualify for exemption under section 501(c)(3) of the Code.

**Regulation §1.6001-1(c)** of the Code provides that such permanent books and records as are required by paragraph (a) of this section with respect to the tax imposed by section 511 on unrelated business income of certain exempt organizations, every organization exempt from tax under section 501(a) shall keep such permanent books of account or records, including inventories, as are sufficient to show specifically the items of gross income, receipts and disbursements. Such organizations shall also keep such books and records as are required to substantiate the information required by section 6033. See section 6033 and §§ 1.6033-1 through 1.6033-3.

**Regulation §1.6001-1(e)** of the Code provides that the books or records required by this section shall be kept at all time available for inspection by authorized internal revenue officers or employees and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.

**Regulation §1.6033-1(h)(2)** of the regulations provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and section 6033.

**Regulation §1.61-1** of the regulations provides that Gross income means all income from whatever source derived, unless excluded by law. Gross income includes income realized in any form, whether in money, property, or services. Income may be realized, therefore, in the form of services, meals, accommodations, stock, or other property, as well as in cash.

**Rev. Rul. 59-95, 1959-1 C.B. 627**, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The Service held that the failure or inability to file the required

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information return or otherwise to comply with the provisions of section 6033 of the Code and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

### Organizations Position

. position is unknown at this time.

### Governments Position

Based on the above facts, . did not respond to verify that they are organized and operated exclusively for one or more of the purposes specified in IRC Section 501(c)(3). If an organization fails to meet either the organizational test or the operational test, it is not exempt.

In accordance with the above-cited provisions of the Code and regulations under sections 6001 and 6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax.

Section 1.6033-1(h)(2) of the regulations specifically state that exempt organizations shall submit additional information for the purpose on enabling the Internal Revenue Service to inquire further into its exempt status.

Using the rationale that was developed in Revenue Ruling 59-95, the Organization's failure to provide requested information should result in the termination of exempt status.

### Conclusion:

Based on the foregoing reasons, . does not qualify for exemption under section 501(c)(3) and its tax-exempt status should be revoked.

It is the Internal Revenue Service's position that . failed to meet the reporting requirements under sections 6001 and 6033 to be recognized as exempt from federal income tax under 501(c)(3) of the Internal Revenue Code. Accordingly, exempt status is revoked effective January 01, 20XX.

Form 1120 returns should be filed for the tax periods after January 01, 20XX.