



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: October 15, 2018

Release Number: 201906011
Release Date: 2/8/2019
UIL: 501.03-00

Tax Year Ending:
March 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 April 1, 20XX. Your determination letter dated November 20, 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 have failed to establish that you are operated exclusively for exempt purposes and that no part of your net earnings inure to the benefit of private shareholders or individuals.

You were formed to provide benefits to your members. A substantial portion of your activities consists of providing death benefits to your members. The payment of these benefits serves the private interests of your members rather than the public, precluding you from exemption.

Contributions to your organization are no longer deductible under IRC §170 after April 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:
May 3, 2018
Taxpayer ID number:

Form:
990-N
Tax periods ended:
March 31, 20XX
Person to contact:

Employee ID number:
Telephone number:
Fax:
Address:

Manager's contact information:

Employee ID number:
Telephone number:
Response due date:
June 3, 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.

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.

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

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,



for Maria Hooke
Director, Exempt Organizations Examinations

Enclosures:

Form 886-A

Form 6018

Form 4621-A Report of Examination

Publication 892

Publication 3498-A

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

Date of Notice: May 3, 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 meet the operational test by providing Private Benefit.

Facts:

_____ filed the Form 1023-EZ Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code on November 12, 20XX. Organization was granted exemption as a 501(c)(3) on November 20, 20XX. Effective date is November 12, 20XX. Organization checked on Form 1023-EZ they will be organized and operated exclusively for charitable purpose.

Organization checked on Form 1023-EZ that they will not further non-exempt purposes (such as purposes that benefit private interest) more than insubstantially and that they will not be organized or operated for the primary purpose of conducting a trade or business that is not related to your exempt purpose(s).

The Organization was selected for audit to ensure that the examined organization's activities and operations align with its approved exempt status.

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.

The organization sent in a copy of their organizing documents dated Nov 11, 20XX and signed by two officers. These documents have the required clauses and verbiage required.

The organizations purpose is to accumulate and maintain a fund for the relief of "indigent and disabled firemen or their families" and for that purpose has power to take, hold, transfer and convey real and personal property to an amount not exceeding _____ dollars (\$0), and also a contingent fund of _____ dollars (\$0).

Constitution of the _____, Article VI,

Sec 1. Every active member of the _____ and in good standing in this association, who shall receive any injury while in the legitimate performance of their duties as an active member, which shall incapacitate them, either fully or partially, from the pursuit of their usual occupation shall be entitled to receive out of the funds of the association during the time of their injury a sum to be set by the board on a case by case basis.

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Sec 2. In case death results from injuries so sustained, their personal representatives shall be entitled to a sum set by forth the board, in addition to any sums paid for their relief while injured, for the purpose of defraying their funeral expenses.

Per the organization's response received on November 21, 20XX, the organization stated the only "activity" conducted by the Association is the payment for beverages consumed during the Annual Inspection/Banquet of the

Law:

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

Treasury Regulation Section 1.501(c)(3)-1(a)(1) states that in order to qualify under Section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more exempt purposes. If an organization fails to meet either the organizational or operational test, it is not exempt.

Treas. Reg. Section 1.501(c)(3)-1(b)(1)(i) provides that an organization is organized exclusively for one or more exempt purposes only if its articles of organization limit its purposes to one or more exempt purposes and do not expressly empower it to engage, otherwise than as an insubstantial part, in activities which in themselves are not in furtherance of one or more exempt purposes.

Treas. Reg. Section 1.501(c)(3)-1(c)(1) states that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in Section 501(c)(3) of the Code. 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. Section 1.501(c)(3)-1 (d)(1)(ii) states that an organization is not operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. It must not be operated for the benefit of designated individuals or the persons who created it.

Rev. Ru!. 67-367, 1967-2 C.B. 188, describes an organization whose sole activity was the operation of a scholarship plan for making payments to pre-selected, specifically named individuals. The organization established a plan whereby it entered into agreements with subscribers. The subscribers deposited a certain amount of money with a designated bank. The subscriber also named a specific child to be the recipient of the scholarship money. The recipient received the scholarship around the time he or she were to begin college. The organization did not qualify for exemption under Section 501(c)(3) of the Code because it was serving the private interests of its subscribers rather than serve public charitable and educational interests.

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Rev. Rul. 69-175, 1969-1C.B.149, describes an organization which was formed by parents of pupils attending a private school. The organization provided bus transportation to and from the school for those children whose parents belong to the organization. The organization did not qualify for exemption under Section 501(c)(3) of the Code because it served a private rather than public interest.

Rev. Rul. 81-58, 1981-1 C.B. 331, describes an organization formed to provide retirement payments to its members or death benefits to the beneficiaries of the members. Its income is used to provide direct economic benefits to members. Although the class of employees benefited by the organization consists of police officers engaged in the performance of essential and hazardous public services and there is an incidental benefit provided by the organization to the larger community, the fact remains that the primary benefits from the organization are limited to its members. The organization which is primarily engaged in providing retirement benefits to members and death benefits to the beneficiaries of members, does not qualify for exemption from federal income tax under Section 501(c)(4) of the Code as a social welfare organization.

In *Better Business Bureau of Washington, D.C. v. United States*, 326 U.S. 279 (1945), the Supreme Court determined that the presence of a single non-exempt purpose, if substantial in nature, will destroy exemption under Section 501(c)(3) regardless of the number or importance of any other exempt purposes.

In *Police Benevolent Association of Richmond, (PBA) v. US.*, 661 F. Supp. 765, (E.D.Va.1987), the U.S. District Court held that as a matter of law, the association could not establish that it was organized and operated for a charitable purpose under Section 501(c)(3). Because a substantial purpose of the association and its activities were intended to serve the pecuniary interests of its members, a non-exempt purpose, the court held that the association could not qualify as an organization operated exclusively for the promotion of social welfare under Section 501(c)(4), either.

**Application of
Law:**

You failed the operational test as described in Treas. Reg. Section 1.501(c)(3)-1(c)(1). You are primarily operated for the non-exempt, private benefit of your members and not exclusively for exempt purposes.

In order to qualify for exemption under Section 501(c)(3) of the Code you must serve a public, rather than a private, interest as described in Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii). You are similar to the organization described in Rev. Rul. 67-367. Like that organization, your activities serve to benefit the private interests of your members rather than the public.

Like the organization described in Rev. Rul. 69-175, you were formed to provide benefits to your members. In your case, a substantial portion of your activities consists of providing death benefits to members. The payment of these benefits serves private interests, precluding you from exemption.

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

The Supreme Court held in Better Business Bureau that a single nonexempt purpose, if substantial in nature, precludes an organization from qualifying under Section 501(c)(3) no matter the number or importance of truly exempt purposes. Despite the other qualifying charitable activities that you conduct, your activity of providing benefits to your members in the event of death, catastrophic illness, or injury is substantial and serves private, non-exempt purposes.

Similar to the organization in Rev. Rul. 81-58, your income is used to provide direct economic benefits to your members. This ruling stated that an organization which is primarily engaged in providing benefits to members does not qualify for exemption under Section 501(c)(4) of the Code as a social welfare organization. If providing payments to members is too much private benefit under Section 501(c)(4), it is logical to conclude that it is also too much private benefit to qualify under Section 501(c)(3). This was confirmed in Police Benevolent Association, where the court determined that an organization providing retirement and death benefits to members could not qualify for exemption under Section 501(c)(3) or 501(c)(4) due to the private benefit to members. You are similar to these associations because your only activity is providing benefits to your members and is serving private interests, which is a non-exempt purpose and precludes you from exemption under Section 501(c)(3).

Conclusion:

Based on the facts and circumstances presented, we conclude that you do not qualify for recognition of exemption from federal income tax as an organization described in Section 501(c)(3) of the Code and you must file federal income tax returns.

Contributions to the organization are not deductible under § 170.

of exemption, April 1, 20XX. is revoked to effective date