



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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: **October 24, 2018**

UIL: 501.03-00

Number: **201907009**
Release Date: 2/15/2019

Person to Contact:

Identification Number:

Contact Telephone Number:

Telephone Number:

Fax:

EIN:

CERTIFIED MAIL –Return Receipt Requested

Dear :

This is a final determination that your exempt status under section 501(c)(3) of the Internal Revenue Code is revoked. Recognition of your exemption under Internal Revenue Code section 501 (c)(3) is revoked effective January 1, 20XX for the following reason(s):

You have not demonstrated that you are operated exclusively for charitable, educational, or other exempt purposes within the meaning of I.R.C. section 501 (c)(3). Organizations that are described in I.R.C. section 501 (c)(3) and section 501 (a) must be organized and operated exclusively for an exempt purpose. You provide services and items that directly benefit private parties who are not of a charitable class.

As such, you failed to meet the requirements of Internal Revenue Code section 501 (c)(3) and Treasury Regulation Section 1.501 (c)(3)-1 (d), in that you failed to establish that you were operated exclusively for an exempt purpose.

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code, effective January 1, 20XX.

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 subsequent years.

Processing of income tax returns and assessment of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination in court, you must initiate a suit for declaratory judgment in the United States Tax Court, the United States Claim Court or the District Court of the United States for the District of Columbia before the 91st day after the date this determination was mailed to you. Contact the clerk of the appropriate court for the rules for initiating suits for declaratory judgment. Please contact the clerk of the respective court for rules and the appropriate forms regarding filing petitions for declaratory judgment by referring to the enclosed Publication 892. Please note that the United States Tax Court is the only one of these courts where a declaratory judgment action can be pursued without the services of a lawyer. You may write to the courts at the following addresses:

United States Tax Court
400 Second Street, NW
Washington, DC 20217

US Court of Federal Claims
717 Madison Place, NW
Washington, DC 20005

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

You may call the IRS telephone number listed in your local directory. An IRS employee there may be able to help you, but the contact person at the address shown on this letter is most familiar with your case. You may also call the Internal Revenue Service Taxpayer Advocate. The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. We can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for our assistance, which is always free, we will do everything possible to help you. Visit taxpayeradvocate.irs.gov or call 1-877-777-4778

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

Sincerely yours,



Enclosures:
Publication 892
Envelope

Maria Hooke
Director, EO Examinations



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

Date:
May 7, 2018
Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact:

Employee ID:
Telephone:
Fax:
Manager's Contact Information:

Employee ID:
Telephone:
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.

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.

For 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 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended 12/31/20XX

ISSUE

Whether
Section 501(c)(3).

qualifies for exemption under Internal Revenue Code

FACTS

was incorporated under the laws of the State of on September 21, 19XX. It filed Form 990-N for the year ended December 31, 20XX.

The articles of incorporation of the state that: "The purpose of this public benefit corporation is to promote the , as well as to support baseball at all levels in the / / Tri-State. Fund raising activities will be conducted primarily to sponsor: (1) assistance to players; (2) improved team and community relations; (3) game tickets for youngsters and others; (4) community educational programs about baseball; and (5) assistance (to) the and the in maintaining historic ."

A financial audit of the organization did not indicate that any money was spent during 20XX for purposes of improved team, community relations community educational programs about baseball or assistance to the and/or the in maintaining . The audit also indicated substantial payments related to the players who are members of the baseball team which is a for-profit entity.

Assistance to the players of the baseball team included the providing of warmup jerseys and jackets to players, sack lunches and water for bus trips for the players, meals provided to players at tryouts for the team, plaques for the players and pre and post season picnics at which time the public may meet the players.

The organization participates in charitable gaming by holding a half-pot raffle at each baseball game. Some of the money collected from the raffle is donated to , a non-profit home for disabled and older adults in , .

On March 27, 20XX, an interview was between the Revenue Agent, members of the board of directors and one of the owners of the . The members of the board of directors were specifically asked whether they believed that the organization is a religious, charitable, scientific, testing for public safety, literary or educational, or fosters national and amateur sports competition. To each of these questions, the members of the board of directors answered that they did not think that the was any one of these types of organization.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended 12/31/20XX

The owner of the _____ was asked whether the team operated as a non-profit entity. He answered that the _____ is operated as a for-profit enterprise.

Additionally, in the interview, the board of directors was asked about the amount of time and money spent on improved team and community relations, game tickets for youngsters and others, community educational programs about baseball and assistance for the maintenance of _____. The members of the board of directors indicated that no money was spent on any of these activities and that only "sweat equity" was used for maintenance of _____.

LAW

IRC Section 501(c)(3) provides tax exemption for corporations and foundations that are operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

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

Treasury Regulation Section 1.501(c)(3)-1(b) states that an organization is organized exclusively for one or more exempt purposes only if its articles of organization limit the purposes of the organization to one or more exempt purposes and do not expressly empower the organization to engage in activities which in themselves are not in furtherance of one or more exempt purposes except on an insubstantial basis.

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

Treasury Regulation Section 1.501(c)(3)-1(d)(2) provides that the term "charitable" is used in section 501(c)(3) of the Code in its generally accepted legal sense and includes the relief of the poor and distressed or of the under privileged as well as the advancement of education.

In *Better Business Bureau of Washington, D.C., Inc. v. United States*, 326 U.S. 179 (1945), the Supreme Court held that a better business bureau was not exclusively educational or charitable, its activities were in part aimed at promoting the prosperity and standing of the business community, even though there was also benefit to the public. The presence of a single non-exempt purpose, if substantial in nature, will destroy a claim for exemption regardless of the number or importance of truly exempt purposes.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended 12/31/20XX

GOVERNMENT'S POSITION

Organizational Test

Your articles of incorporation state that one of your purposes is to "promote the _____". In the interview on March 27, 20XX, one of the owners of the _____ indicated that the team is a for-profit enterprise. You do not meet the requirements of Treasury Regulation Section 1.501(c)(3)-1(a)(1) because you are not organized exclusively for a purpose described in IRC Section 501(c)(3). Therefore, you fail the organizational test and should not be considered tax-exempt.

Operating Test

Your primary activity is to "promote the _____".

You state that your fundraising activities are primarily to assist players, improve team and community relations, provide game tickets for youngsters and others, community educational programs about baseball and assistance for the maintenance of _____. However, during our interview, your board of directors stated that no money had been spent on any of these activities except to assist players.

You fail the operating test in Treasury Regulation Section 1.501(c)(3)-1(c)(1) because you do not operate primarily for one or more exempt purpose as specified in IRC Section 501(c)(3).

TAXPAYER'S POSITION

Unknown

CONCLUSION

Based on the information you provided and the interview with your board of directors, we conclude that _____ is neither organized nor operated exclusively for purposes described in IRC section 501(c)(3).

Accordingly, your tax-exempt status should be revoked as of January 1, 20XX and all subsequent years.

You are required to file federal income tax return, Form 1120, for the year ending December 31, 20XX and any subsequent years.

Contributions to your organization are no longer deductible under IRC section 170.