



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: **October 19, 2018**

UIL: 501-03-00

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

Number: **201907014**
Release Date: 2/15/2019

LAST DATE FOR FILING A PETITION
WITH THE TAX COURT:

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 August 16, 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 operated exclusively for an exempt purpose or that you have been engaged primarily in activities that accomplish one or more exempt purposes within the meaning of IRC section 501(c)(3).

You have not established that no part of your net earnings inure to the benefit of any private shareholder or individual.

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 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:
April 9, 2018
Taxpayer ID number:

Form:
Tax periods ended:

Person to contact:

Employee ID number:

Telephone number:

Fax:
Address:
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). We enclosed a copy of our audit report, Form 886-A, Explanation of Items, explaining that your organization doesn't qualify as an organization described in Internal Revenue Code (IRC) Section 501(c)(3).

This letter is not a determination of your tax-exempt status under IRC Section 501 for any period other than the tax periods above.

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 [insert code section] 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.

In the future, if you believe your organization qualifies for tax-exempt status and would like a status determination letter from the IRS, you can request a determination by filing Form 1024, Application for Recognition of Exemption Under Section 501(a), and paying the required user fee.

Revenue Procedure 80-27 requires that, in the event your tax-exempt status is revoked, your group exemption will also be revoked. If that occurs, none of your subordinates will be able to rely on the group ruling for tax-exempt status. You should notify each subordinate of this proposed action.

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 Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended December 31, 20XX

Date of Notice: April 9, 20XX

Issues:

Whether the exempt status of _____ (the Organization) under IRC § 501(c)(3) should be revoked, effective January 1, 20XX because it is not organized exclusively for exempt purposes within the meaning of section 501(c)(3) and Treas. Reg. § 1.501(c)(3)-1(c)?

Facts:

Application for Exemption:

_____ 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 August 5, 20XX, and was granted tax-exempt status as a 501(c)(3) on August 16, 20XX, with an effective date of May 14, 20XX.

The organization attest they were incorporated, as a Nonprofit Corporation, under the laws of _____ State on May 14, 20XX. The organization also attest that they have the necessary organizing document, that your organizing document limits your purposes to one or more exempt purposes within the meaning of section 501(c)(3), that your organizing document does not expressly empower you to engage, otherwise than as an insubstantial part of your activities that in themselves are not in furtherance of one or more exempt purposes, that your organizing document contains the dissolution provision required under section 501(c)(3).

The organization attest that they are organized and operated exclusively to further prevention of cruelty to children or animal's purposes and that they have not conducted and will not conduct prohibited activities that violate prohibitions and restrictions under section 501(c)(3).

The organization stated in the Articles of Incorporation, the organization was formed for the following purposes:

- To provide safe, adequate, and maintained housing for our adopted special-needs children and to improve their quality of life.

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

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Activities:

reported on February 2, 20XX, they have adopted 0 special needs kids, with several being total-care, 0 who were non-verbal and one who passed away in 20XX. The goal of the organization was to add on additional room needed in "our" house and create a team to run the operation so that all the children, but especially the non-verbal ones would always have a place to live and quality of life, even after we are gone.

The addition to the house has been completed and permit to occupy was granted on August 4, 20XX. We are now working on eliminating all debts incurred during construction, and building the team to run the operation after we are gone.

All expenses paid from the account have been related to the construction of the addition with the exception of the August 28, 20XX expenditure of \$0 to the School Boosters club which was voted for and agreed upon to support at his new school.

The organizations reported, the fundraising activities mainly involved writing letter and making phone calls to businesses that could provide the needed materials for the construction. We did have a account that provided some funds. Also spreading the word via social media brought donations from individuals.

All monetary donations were received in 20XX and 20XX and placed into the savings account until needed in the checking account.

The organization reported on March 14, 20XX, that as the owners of the home, our plan has always been to pay it off so it is free and clear before we pass on. The board and the team we have put together will grow and change so that their focus will be for the best interest of the adults still living in the home.

The founders of the organization are a married couple who adopted a number of special needs children. The founders state that they created the organization to provide and maintain a safe, adequate housing for their adopted special needs children after the founders are not living. The married couple are also officers of the organization and the activities conducted include renovating the founders personal residence to accommodate their children, soliciting donations of materials for construction, and locating people to care for their children.

Law:

Exempt Purpose:

IRC §501(a) provides that an organization described in § 501(c)(3) is exempt from

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

income tax. The code § 501(c)(3) exempts from federal income tax corporations organized and operated exclusively for charitable, educational, and other purposes, provided that no part of the net earnings inure to the benefit of any private shareholder or individual. The term charitable includes relief of the poor and distressed. §1.501 (c) (3)-1 (d) (2), Income Tax Regulations.

IRC §501(c)(3) states "Corporations, and any community chest, fund, or foundation, 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." Treas. Reg. §1.501(a)-1(c).

Treas. Reg. 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 no exempt.

Exempt Purpose, Private Benefit and Inurement:

Treas. Reg. 1.501(a)-1(c) defines a private shareholder or individual as those persons having a personal and private interest in the activities of an organization. In general, a private shareholder or individual is considered an "insider" with respect to the exempt organization.

Treas. Reg. 1.501(c)(3) states that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Treas. Reg. 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.

Wendy L. Parker Rehabilitation Foundation, Inc. v. C.I.R., T.C. Memo. 1986-348, the Tax Court upheld the Service's position that a foundation formed to aid coma victims, including a family member of the founders, was not entitled to recognition of exemption. In *Wendy L. Parker Rehabilitation Foundation*, the Tax Court upheld our position that a

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foundation formed to aid coma victims, including the founder's daughter Wendy, was not entitled to recognition of exemption. Approximately 30% of the organization's net income was expected to be distributed to aid Wendy Parker. The Court held that Wendy would be a substantial beneficiary of the foundation's funds, and the distributions would relieve the family of their economic burden, which constitutes inurement.

Organization's Position

Taxpayer's position is unknown at this time.

Government's Position

Section 501(c)(3) of the Code sets forth two main tests for qualification for exempt status. An organization must be organized and operated exclusively for purposes described in section 501(c)(3).

The Organizations Articles of Incorporation provided states the "corporation is organized exclusively for charitable, religious, educational and scientific purposes, within the meaning of 501(c)(3) of the Internal Revenue Code" and the appropriate dissolution clause for a 501(c)(3). As a result, satisfies the organizational test required by Section 1.501(c)(3)-1(b)(1)(i) of the regulations.

However, the organization does not meet the requirements of Section 1.501(c)(3)-1(c)(1) of the regulations, which requires them to engage primarily in activities which accomplish one or more exempt purposes. Since the organization is operating for the substantial part of a private purpose they are not operating exclusively for charitable, educational, religious or scientific purposes. The organization conducts activities that provide direct benefits to private individuals that is more than insubstantial in nature.

In analysis of the current description of activities, the organization's activities do not meet the operational requirements for a 501(c)(3) exemption. The organization did not serve a public rather than a private interest.

Conclusion:

Based on the facts and information provided, does not qualify for exemption under section 501(c)(3) of the Internal Revenue Code.

The organization failed to establish that is was organized and operated exclusively for exempt purposes within the meaning that are described under that section of 501(c)(3), its net earnings inured to the benefit of private individuals, and more than an insubstantial part of its activities furthered private purposes rather than purposes described in section

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501(c)(3). The organization did not serve a public rather than a private interest. Therefore, we conclude that you do not meet the operational test and are not described for exemption under section 501(c)(3).

Based on the foregoing reasons, it is the IRS's position that the organization does not qualify for exemption and failed to establish that it meets the organizational test as required to be exempt from federal income tax under IRC §501(c)(3) and its tax-exempt status should be revoked. Accordingly, the organization's exempt status is revoked effective January 1, 20XX.

Form 1120, *U.S. Corporation Income Tax Return*, should be filed for the tax periods after January 1, 20XX.