



**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: February 5, 2019

Release Number: 201922034  
Release Date: 5/31/2019  
UIL Code: 501.03-00

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

**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 N o v e m b e r 1 2 , 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 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 within the meaning of IRC section 501 ( c )( 3 ).

You did not respond to our repeated requests to you about material matters concerning your operations as required by IRC sections 6001, 6033( a)( 1), and Rev. Rul. 59-95, 1959-1 C.B. 627.

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 91<sup>st</sup> 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

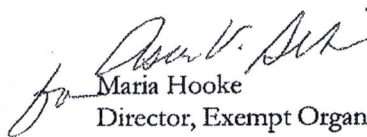
U. S. District Court for the District of Columbia  
333 Constitution Ave., N.W.  
Washington, DC 20001

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,

  
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:  
August 13, 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](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:  
Form 886-A  
Form 6018  
Form 4621-A Report of Examination

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: August 13, 20XX**

**Issues:**

Whether (the organization), 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 November 10, 20XX and was granted tax-exempt status as a 501(c)(3) on November 12, 20XX, with an effective date of September 17, 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.

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

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

The organization has not filed a Form 990 series return for the December 31, 20XX tax year.

The Form 1023-EZ application list the phone number of for of

Per the State of web-site, it lists the organization in good standing, copy attached from state web-site.

- Correspondence for the audit was as follows:
  - Letter 3606 (Rev. 6-2012) with attachments, was mailed to the organization on April 3, 20XX, with a response date of May 3, 20XX. This letter was not return by the post office as being undeliverable.
  - Letter 3844-A (Rev. 12-2015) with attachments, was mailed certified to on May 21, 20XX, with a response date of June 21, 20XX, Article Number

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Per the United States Postal Service (USPS) tracking, this was delivered, Front Desk/Reception on May 30, 20XX at 3:33 pm. The PS Form 3811 was signed and dated by \_\_\_\_\_ on May 30, 20XX.

- Letter 3844-A (12-2015), with attachments, was mailed certified to \_\_\_\_\_, the Director per Form 1023-EZ application, on May 21, 20XX, with a response date of June 21, 20XX. Article Number \_\_\_\_\_  
Per USPS tracking this letter, Unable to deliver item, problem with address and returned to the Internal Revenue Service on May 28, 20XX. This letter was received back at the Internal Revenue Service on June 8, 20XX, yellow postal sticker indicates not deliverable as addressed, unable to forward.
- Letter 3844-A (12-2015), with attachments, was mailed certified to \_\_\_\_\_, the Director per Form 1023-EZ application, on May 21, 20XX, with a response date of June 21, 20XX. Article Number \_\_\_\_\_  
Per USPS tracking this letter, Unable to deliver item, problem with address and returned to the Internal Revenue Service on May 28, 20XX. This letter was received back at the Internal Revenue Service on June 8, 20XX, yellow postal sticker indicates not deliverable as addressed, unable to forward.
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Per USPS tracking this letter, Unable to deliver item, problem with address and returned to the Internal Revenue Service on May 28, 20XX. This letter was received back at the Internal Revenue Service on June 8, 20XX, yellow postal sticker indicates not deliverable as addressed, unable to forward.
- Letter 5077-B, *TE/GE IDR Delinquency Notice*, was mailed to \_\_\_\_\_, the Director, on June 25, 20XX, with a response date of July 16, 20XX. Article Number \_\_\_\_\_. Per USPS tracking this letter was Unclaimed/Being Returned to Sender on July 16, 20XX at 9:29 am. PS Form 3800 was not received back from USPS.
- Letter 5077-B, *TE/GE IDR Delinquency Notice*, was mailed to the \_\_\_\_\_ organization, on June 25, 20XX, with a response date of July 16, 20XX.

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<b>Name of Taxpayer</b>		<b>Year/Period Ended</b> December 31, 20XX

Article Number . Per USPS tracking this letter was Unclaimed/Being Returned to Sender on July 5, 20XX. This letter was received back at the Internal Revenue Service on July 12, 20XX.

- Telephone contact for the audit was as follows:
  - April 18, 20XX, Tax Compliance Officer (TCO) called the phone number listed on the Form 1023-EZ application for of and received a message that wireless caller was not available. Unable to leave a message for an officer of the organization to return my phone call.
  - May 8, 20XX, through external research located a different phone number for , the Director of , when calling this phone number, it just rang busy. Unable to leave VMS. Called the phone number listed on the Form 1023-EZ application for of and received VMS. Left a message for to return my phone call.
  - June 12, 20XX, called the phone number listed on the Form 1023-EZ application for of . The call just rang and unable to leave a VMS. Called , the Director of . This call just rang busy and unable to leave a VMS.
  - June 25, 20XX, called the phone number listed on the Form 1023-EZ application for of . The call just rang and unable to leave a VMS.
  - July 20, 20XX, called the phone number listed on the Form 1023-EZ application for of . The caller that answered indicated I had the wrong number, no one by the name of

**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.



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**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).

**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.

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**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 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.

### Organization's Position

Taxpayer's position is unknown at this time.

### Government's Position

Based on the above facts, the organization 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

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

It is the IRS's position that the organization failed to establish that it meets the reporting requirements under IRC §§ 6001 and 6033 to be recognized as exempt from federal income tax under IRC § 501(c)(3). Furthermore, the organization has not established that it is observing the conditions required for the continuation of its exempt status or that it is organized and operated exclusively for an exempt purpose. 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.