



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 22, 2019

Release Number: **201926014**  
Release Date: 6/28/2019  
UIL Code: 501.03-00

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

LAST DATE FOR FILING A PETITION  
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 13, 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 are operated in a commercial manner and competing with other commercial entities. Treas. Reg. section 1.501(c)(3)-1 provides that an organization is not described in section 501(c)(3) of the Code if it operates a trade or business that primarily furthers a nonexempt purpose.

You operated for the benefit of private interests of church members. Treas. Reg. section 1.501(c)(3)-1(d)(ii) provides that an organization is not operated exclusively for exempt purposes unless it serves a public rather than a private interest.

Part of your earnings inured to the benefit of church members. Treas. Reg. section 1.501(c)(3)-1(c)(2) provides 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 individuals.

You are not a church within the meaning of I.R.C. sections 509(a)(1) and 170(b)(1)(A)(i).

We have enclosed a copy of our report of examination explaining why we believe a revocation of your tax-exempt status under section 501(c)(3) of the Internal Revenue Code is necessary. Section 7611(g) provides that any final report of an agent of the Internal Revenue Service shall be treated as a final

adverse determination under section 7428(a)(1), and any church receiving such a report shall be treated for purposes of sections 7428 and 7430 as having exhausted any administrative remedies available to it. Accordingly, section 7611(g) precludes the administrative appeal of any final report issued to a church.

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

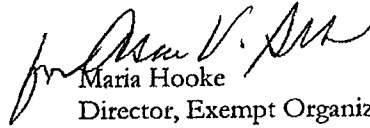
U. S. District Court for the District of Columbia  
333 Constitution Ave., N.W.  
Washington, DC 20001

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,

A handwritten signature in black ink, appearing to read "Maria Hooke". The signature is written in a cursive style with a large initial "M".

Maria Hooke  
Director, Exempt Organizations Examinations

Enclosures:  
Form 4621-A  
Form 886-A, Explanation of Items  
Form 6018

Form <b>886-A</b> (May 2017)	Department of the Treasury – Internal Revenue Service <b>Explanations of Items</b>	Schedule number or exhibit
Name of taxpayer	Tax Identification Number ( <i>last 4 digits</i> )	Year/Period ended  12/31/20XX

## **ISSUE**

1. Whether \_\_\_\_\_, (the "Organization"), qualified for exemption as an organization described in the Internal Revenue Code (IRC) Section 501(c)(3) and 170(b)(1)(A)(vi)
2. Whether the Organization qualified for exemption as an organization described in IRC Section 501(c)(3) and 170(b)(1)(A)(i)

## **FACTS**

### Background

The Organization was incorporated in the state of \_\_\_\_\_ as a non-profit corporation on October 30, 20XX. It received its recognition of exempt status under IRC section 501(c)(3) in a determination letter dated August 13, 20XX. It was recognized as a publicly supported organization under 170 (b)(1)(A)(vi).

### **Initial For-Profit Business**

Prior to forming as a non-profit, \_\_\_\_\_, a \_\_\_\_\_ and the Organization's Treasurer, operated a for-profit \_\_\_\_\_ corporation, \_\_\_\_\_, from July 17, 20XX until November 13, 20XX when it dissolved the for-profit corporation.

### **Non Profit**

The Organization filed Form 1023, Application for Recognition of Exemption Under 501(c)(3) of the Internal Revenue Code with the Service on November 26, 20XX. The Organization's Articles of Incorporation were filed with the \_\_\_\_\_ Secretary of State on October 30, 20XX. The Articles of Incorporation stated that no part of the net earnings would inure to the benefit of its officers or other private persons.

The Organization adopted bylaws on October 31, 20XX. Article Two of the bylaws stated the Organization's alleged purposes. Article Two stated the following:

"The mission of \_\_\_\_\_ is to further the mental, emotional, spiritual, and physical health of its members. The founding members of this church ministry have experience in Christianity, \_\_\_\_\_, and Spiritual Healing and will combine the best of all Their knowledge and Abilities in the management of \_\_\_\_\_. The mission of the Church Ministry is to educate and produce creative and artistic projects in the form of books, presentations and church services that enlighten mass consciousness on health, vitality and well-being."

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The Organization stated in an attachment to its Form 1023, under the heading, “  
” that “What we do is different because we focus on finding and removing  
through specific, .”

The initial application showed the Organization’s hours were:

Mon: 11a.m.-1 p.m. & 4:15 p.m. – 7 p.m.

Tues 4:15 p.m. – 7p.m. with service beginning at 7 p.m.

Wed 11 a.m. – 1 p.m. & 3:30 p.m. – 5:30 p.m.

Thurs 11 a.m. – 1 p.m. & 4:15 p.m. – 7p.m. with service beginning at 7 p.m.

Fri-Sun – Closed for seminar travel days

The Organization filed Form 990, *Return of an Organization Exempt from Income Tax* in 20XX. It suspended its operations in November 20XX. The Organization did not terminate, and instead filed Form 990-N, *Electronic Notice (e-Postcard) for Tax-Exempt Organizations Not Required to File Form 990 or Form 990EZ* in 20XX. After suspending its operations, the Organization continued banking, selling assets, and paying expenses, until the present day. The founder stated that she took a break to recharge in preparation for future service and planning.

### Church

When the Organization filed its Form 1023, it applied for recognition of church status and completed Schedule A Churches.

The following shows the Form 1023 Schedule A questions and the Organization’s answers.

#### Schedule A/Form 1023 Attachment

- a. Do you have a written creed, statement of faith, or summary of beliefs? Yes.
  - i. The Organization presented a Statement of Faith in its attachment to Schedule A. It also included references to “ ” and that specific, , and that comes from .
- b. Do you have a form of worship? Yes.
  - i. The Organization described its form of worship is through music, and that everything they do can be an act of worship. It also stated that when they serve others, they serve Jesus. They utilize healing prayers and use spiritual habits.
- c. Do you have a formal code of doctrine and discipline? Yes.

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- i. The Organization stated the Bible is its utmost code for doctrine and discipline. It uses the Bible for morning and evening preparations and in their meetings.
  - 1. The Organization's meetings were held twice a week.
  
- d. Do you have a distinct religious history? No.
  - i. The Organization stated that it is the only one it knows of that conducts " " and brings spiritual, mental and emotional and physical health to their members through education, prayer, worship and . They are serving God through serving man.
  
- e. Do you have a literature of your own? Yes.
  - i. The Organization provided brochures that described the put there by God in its pamphlet.
  
- f. Describe the organization's religious hierarchy or ecclesiastical government. No.
  - i. The Organization stated it does not have a government or religious hierarchy.
  
- g. Do you have regularly scheduled religious services? Yes.
  - i. The Organization described its services are held by speaking life into its practice members and informing them of how God designed the body to heal itself. They utilize the : pamphlet and hold services twice a week.
  
- h. What is the average attendance at your regularly scheduled religious services? 0
  
- i. Do you have an established place of worship? Yes.
  - i. The business address was listed as the place for religious services.
  - ii. The Organization's business address was
  
- j. Do you own the property where you have an established place of worship? No.
  
- k. Do you have an established congregation or other regular membership group? Yes.
  - i. The Organization did not comment further on this question.
  
- l. How many members do you have? 0
  
- m. Do you have a process by which an individual becomes a member? Yes
  - i. The Organization stated that its current practice members (of the for-profit) would switch over to the religious non-profit.

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- n. If you have members, do your members have voting rights, rights to participate in religious functions, or other rights? Yes
- o. May your members be associated with another denomination or church? Yes and No  
i. The Organization stated that practice members only needed a willingness to learn and increase their well-being. Their members have the freedom to believe what is correct for them. The Organization also stated that its members are not members of other religious nonprofit organizations.
- p. Are all members part of the same family? No
- q. Do you conduct baptism, weddings, funerals, etc. No
- r. Do you have a school for the religious instruction of the young? No
- s. Do you have a minister or religious leader? Yes  
i. The Organization presented \_\_\_\_\_ as its religious leader, or Leader. She does not have any ordination and is a \_\_\_\_\_ and has experience in prayer and spiritual healing.
- t. Do you have schools for the preparation of your ordained ministers or religious leaders? No
- u. Is your minister or religious leader also one of your officers, directors, or trustees?  
Yes  
i. \_\_\_\_\_ was the Organization's founder and Treasurer.
- v. Do you ordain, commission, or license ministers or religious leaders? No
- w. Are you part of a group of churches with similar beliefs and structures? No
- x. Do you issue church charters? No
- y. Did you pay a fee for a church charter? No
- z. Do you have other information you believe should be considered regarding your status as a church? Yes  
i. The Organization replied that its primary mission is sharing the message with people and that being \_\_\_\_\_ is just in their backgrounds and "NOT the primary mission at all."

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### IRS Determination on Church Status

The Organization's final determination letter did not recognize the Organization as a church.

The Organization disputed its foundation status by contacting the Tax Exempt Government Entities, ("TEGE") Correspondence Unit and requested an update to church foundation status 170(b)(1)(A)(i) in May 20XX.

The Service reviewed the Organization's Forms 1099K and Forms 1099-MISC and initiated an examination to determine if the Organization was tax exempt and engaging in substantial nonexempt activities subject to tax. The Service issued an examination letter in May 20XX to the Organization. The Organization verbally claimed to be a church after it received the Service's initial contact Letter 3611. The Organization also submitted a letter to the Service dated May 22, 20XX that stated that it was church.

Section 7611 procedures were instituted and followed. The TEGE Commissioner approved issuance of a Notice of Church Tax Inquiry to the Organization. The Inquiry ensued because information reported on Forms 1099-K and Forms 1099-MISC showed that a significant amount of the Organization's income came from merchant credit cards and insurance companies.

The Inquiry and subsequent conference with the Organization did not alleviate our concerns that the Organization may not be tax exempt and engaging in substantial nonexempt activities subject to tax. The TEGE Commissioner approved issuance of a Notice of Church Tax Examination to the Organization.

The Service interviewed \_\_\_\_\_, the Organization's Treasurer, on July 18, 20XX at the Organization's prior location, \_\_\_\_\_. The Service completed its questions and \_\_\_\_\_ answers in written format. Both the Service and the Organization signed the interview workpaper to show the content was accurate as written. \_\_\_\_\_ provided the information described in this report.

### Resumed For-Profit

The \_\_\_\_\_ Secretary of State website shows that \_\_\_\_\_ resumed her for-profit corporation under the names, \_\_\_\_\_ on November 9, 20XX and \_\_\_\_\_ on April 7, 20XX.

### Board Officers

\_\_\_\_\_ is a \_\_\_\_\_. \_\_\_\_\_ served as the Organization's Treasurer and had primary responsibility and authority over the Organization's bank account and financial records. She remains in control of the Organization's assets to the present day. The President \_\_\_\_\_



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and Secretary were unrelated to . primarily updated the board officers on the Organization's activities. The Officers were notified, but did not vote on Organization issues or expenditures.

### Operations

#### **Building Appearance**

The for-profit and non-profit Organization have both operated at different times out of the same building on . The Organization provided a photo of the front of its building at , in 20XX. A photo of its 20XX building signage shows the name " " " not " .” The Service took photos of the current building signage during the interview on July 18, 20XX. The Service's current photo showed the same building signage as 20XX, except the business name is " " instead of " .” (See Exhibit 1.)

#### **Website**

The Service accessed the Organization's website on February 14, 20XX and April 18, 20XX. The website showed the Organization's name as " " on both dates. The website did not show the Organization was a non-profit or a church.

The website also showed the and her husband, are both and graduates of . The Service accessed the website at . The website showed that is a college in

The Service accessed the website on July 17, 20XX and August 12, 20XX and was redirected to www. .com. The current website shows that was founded by . The current website shows that and a plan as it did in 20XX.

Additionally the Service accessed the internet archives, through The Wayback Machine, <https://www.archive.org> on August 12, 20XX. The Service viewed website home page images captured of the website at on December 24, 20XX, March 15, 20XX, July 9, 20XX, and September 28, 20XX. The home page did not change with the change in business names or changes from non-profit to for-profit.

#### **Organization's Website Home Page**

**For each of the visited dates outlined above, the Organization's home web page showed the same introduction as shown below:**

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## INFORMATION DELETED

From the information provided on the Organization’s website, it shows that the organization’s primary activities consist of providing solutions and , care.

### Interview with the Organization

During the interview with on July 18, 20XX, stated that the difference between the non-profit and the for-profit was the “God component.” She stated that services were only provided after a person attended a “service.”

described the service as the way to describe the Organization’s non-profit mission and donations policy. stated that the in the

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current for-profit . . . . . stated, "Every person that had a . . . . . had to go through a service first. We had to make sure everyone was on the same page."

The examination showed that the Organization issued donation receipts for amounts paid for services. The Organization issued donation receipts for everything it paid for and everything it received payment for. Most of its checks showed "donation" in the memo section. . . . . stated that she thought that everything that came into and went out of a non-profit was a donation. The Organization also issued donation receipts to its . . . . . members and to . . . . . (See Exhibit 2.)

**Financial Records**

The Organization reported \$0 on its 20XX Form 990. It provided its bank statements and all cancelled checks from January 1, 20XX through December 31, 20XX. The bank statements showed total deposits of \$0. The Organization also provided all bank deposit records from January 1, 20XX through May 31, 20XX, and its donations check register.

The Organization provided a summary of its insurance payments on its "20XX Year End Tax Deductible Receipts for Insurance." The Organization's summary amount was \$0 more than reported to the Service on Forms 1099-MISC. However, the total reported revenues did not change because the bank deposits reconciled to the return and the check deposits register was \$0 less than the bank deposits. The discrepancy did not result in a larger total, just a larger amount paid by insurance.

The chart below shows the Organization's 20XX Form 990 reporting:

**20XX Form 990 As Reported**

	<u>Description</u>	<u>Amount</u>
Revenue	Contributions	0
Expenses	Grants	0
Expenses	Other Expenses	0
Assets	Cash	0
Assets	Equipment	0
Liabilities		0

The Service reconciled the Organization's type of income as shown below:

**20XX Income**

<u>Type</u>	<u>Amount</u>
Credit Card	\$0

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Insurance	\$0
Cash/Check/Debit	\$0
<b>Total Income</b>	<b>\$0</b>

**Pricing Policies**

-The Service received ten(10) Forms 1099-MISC that reported . The Service received additional that explained these payments from :

1.
  - a.
  - b.
  - c.
  - d.
  - e.

“ ”

2.
  - a. , “ ” reported payments of \$0 in 20XX to , i.e. the Organization.
  - b. Correspondence from showed that:
    - i. The Organization submitted
    - ii. was not under the impression it was donating to a charity.
    - iii. did not receive requests for donations or a W-9 stated the organization was a church.

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The Organization provided two “ ” as examples to show what the Organization submitted to . These forms were for service dates in February and March 20XX. They included . During the interview, explained

**Direct Payments**

The Organization provided 0 payment agreements called, “ ” or “Monthly Plan.” The agreements were signed by the and the Organization’s “Accounts Secretary.”

The document showed the agreement for

The agreement also included the following statement at the top of the form:

“...the member is responsible for the , and any outstanding balances will be due upon termination of or will come out of credit/debit card on file. I give permission to charge my credit/debit card for my balance.”

There is also a mention of court costs and attorney fees for any collection. Although during the interview, stated the Organization did not collect on accounts and that this should be worded differently.

The bottom of the form showed the Organization is a non-for-profit and that all monetary transfers were considered donations and voluntarily agreed to by the member and that donations were tax deductible. This form also showed the Organization was a “ ministry.”

**Interviews**

The Organization provided the first and last names, and telephone numbers for 0 . The Organization provided a 28 page “Transactions” report for January 1, 20XX through November 10, 20XX, that included names, dates of payments, amounts of payments, and account balances. The report showed all payments as “donations.”

The Service randomly selected three names from the Transactions report who also had a and/or Monthly Plan. The Service contacted each of these .

Each person stated they were paying for services and that they were not required to attend a service prior to being seen by . None of the were aware that the Organization was a church or a non-profit.

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Inurement

**Mortgage payments on personal home**

The Organization leased a business office at \_\_\_\_\_, where it regularly conducted business. However, the Organization paid \$0 in mortgage payments on behalf of the \_\_\_\_\_ personal home in 20XX. \_\_\_\_\_ and \_\_\_\_\_ repaid the Organization after the house sold in July 20XX.

**Personal Expenses**

The Organization's financial records showed "Other Expenses" between \$0 and \$0 each month in 20XX. The bank statements showed many debit card transactions for personal clothing, grooming, fitness, sporting goods, etc. The financial records showed \$0 for car travel, \$0 for car maintenance and \$0 for food. The Organization stated the car and food were for business. However, it did not keep contemporaneous records for these items to substantiate business use.

\_\_\_\_\_ provided a document entitled, "Extra Notes" that explained that since she was not receiving a paycheck she needed to look presentable. She needed general grooming expense covered by the church.

**Loans**

Loans were made between the Organization and \_\_\_\_\_, for-profit business, \_\_\_\_\_ without any interest or contemporaneous contracts.

- a. The Organization paid \_\_\_\_\_ lease payments each month from December 20XX until January 20XX.
- b. The Organization made loans to an organization and person associated with \_\_\_\_\_ for \$0 without requiring any interest.
- c. The Organization's assets were repurchased by \_\_\_\_\_ after the Organization suspended operations. The Organization did not pay rent on the part of the building that occupied its assets while they were being repurchased.

The Organization did not have an accountable plan for any of the above transactions.

= \_\_\_\_\_ (501 c 3)  
= \_\_\_\_\_ ( \_\_\_\_\_ Founder's husband's for-profit business)

20XX	20XX	20XX	20XX	20XX	20XX	20XX	20XX
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<u>Transactions</u>	<u>Loans</u>	<u>Loans</u>	<u>Payments</u>	<u>Loans</u>	<u>Payments</u>	<u>Loans</u>	<u>Payments</u>
made Lease Payments for loans to Survival Depot ( )	0.00	0.00	(0.00)	0.00	(0.00)	0.00	
cash loans to	0.00		(0.00)				
loan to ( )	0.00		(0.00)				
AL made Asset Purchases from	<u>0.00</u>	<u>0.00</u>	<u>(0.00)</u>	<u>0.00</u>	<u>(0.00)</u>	<u>0.00</u>	<u>(0.00)</u>
Totals	0.00	0.00	(0.00)	0.00	(0.00)	0.00	(0.00)

**Excess Loans = Loans - Payments at year end**

20XX	0.00
20XX	0.00
20XX	0.00
20XX	0.00

**LAW**

**Internal Revenue Code**

Section 501(c)(3) of the Code exempts from federal income tax organizations which are 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.

Section 170(c) of the Code provides that the term "charitable contribution" means a contribution or gift for the use of organizations organized in the United States organized and operated exclusively for religious and charitable purposes if the contribution or gift is made for exclusively public purposes.

**Federal Treasury Regulations**

Section 1.501(c)(3)-1(d)(i) of the Federal Treasury Regulations, (the "Regulations") provides that an organization may be exempt as an organization described in 501(c)(3) if it is organized and operated exclusively for one or more of the following purposes: religious, charitable, scientific, testing for public safety, literary, educational, or prevention of cruelty to children or

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animals.

Section 1.501(c)(3)-1(a)(1) of the Regulations provides that in order to be exempt as an organization described in section 501(c)(3) of the Code, the organization must be one that is both organized and operated exclusively for one or more of the purposes specified in that section.

Section 1.501(c)(3)-1(c)(1) of the Regulations provides 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).

Section 1.501(c)(3)-1(c)(2) of the Regulations provides 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.

Section 1.501(c)(3)-1(e)(1) of the Regulations provides that an organization may meet the requirements of section 501(c)(3) of the Code although it operates a trade or business as a substantial part of its activities, if the operation of such trade or business is in furtherance of the organization's exempt purpose or purposes and if the organization is not organized or operated for the primary purpose of carrying on an unrelated trade or business, as defined in section 513 of the Code. In determining the existence or nonexistence of such primary purpose, all the circumstances must be considered, including the size and extent of the trade or business and the size and extent of the activities which are in furtherance of one or more exempt purposes. An organization which is organized and operated for the primary purpose of carrying on an unrelated trade or business is not exempt under section 501(c)(3) of the Code even though it has certain religious purposes, its property is held in common, and its profits do not inure to the benefit of individual members of the organization.

Section 1.501(c)(3)-1(f)(2) of the Regulations provides that in determining whether to continue to recognize the tax-exempt status of an applicable tax-exempt organization described in section 501(c)(3) of the Code that engages in one or more excess benefit transactions that violate the prohibition on inurement under section 501(c)(3), the Commissioner will consider all relevant facts and circumstances, including, but not limited to, the following—

- (A) The size and scope of the organization's regular and ongoing activities that further exempt purposes before and after the excess benefit transaction or transactions occurred;
- (B) The size and scope of the excess benefit transaction or transactions (collectively, if more than one) in relation to the size and scope of the organization's regular and ongoing activities that further exempt purposes;
- (C) Whether the organization has been involved in multiple excess benefit transactions with one or more persons;



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**(D)** Whether the organization has implemented safeguards that are reasonably calculated to prevent excess benefit transactions; and

**(E)** Whether the excess benefit transaction has been corrected (within the meaning of section 4958(f)(6) [26 USCS § 4958(f)(6)] and § 53.4958-7), or the organization has made good faith efforts to seek correction from the disqualified person(s) who benefited from the excess benefit transaction.

### Revenue Ruling

Revenue Ruling 58-617, 1958-2 CB 260, (Jan. 01, 1958) Rulings and determinations letters granting exemption from federal income tax to an organization described in section 501(a) of the Internal Revenue Code of 1954, to which contributions are deductible by donors in computing their taxable income in the manner and to the extent provided by section 170 of the Code, are effective only so long as there are no material changes in the character of the organization, the purposes for which it was organized, or its methods of operation. Failure to comply with this requirement may result in serious consequences to the organization for the reason that the ruling or determination letter holding the organization exempt may be revoked retroactively to the date of the changes affecting its exempt status, depending upon the circumstances involved, and subject to the limitations on retroactivity of revocation found in section 503 of the Code.

Revenue Ruling 76-244:1976-1 C.B. 155 provides that delivery meals to elderly on a sliding scale based on a recipient's ability to pay is an exempt purpose.

### Court Cases

In Better Business Bureau of Washington, D.C. v. United States, 326 U.S. 279 (1945), the Supreme Court held that the presence of a single non-exempt purpose, if substantial in nature, will prevent exemption regardless of the number or importance of truly exempt purposes.

In B.S.W. Group v. Commissioner, 70 T.C. 352 (1978), the Tax Court found that a corporation formed to provide consulting services in the area of rural-related policy and program development to tax-exempt and not-for-profit clients was not entitled to section 501(c)(3) status because it was primarily engaged in an activity that was characteristic of a trade or business. The Court found that the organization's planned service areas were of the sort normally carried on for profit by commercial businesses and the organization's financing was not typical of section 501(c)(3) organizations. The organization did not provide any free or below-cost services; its clientele was not limited to section 501(c)(3) exempt organizations; its support came from fees for services, and it did not receive or solicit charitable contributions.

In Airlie Foundation v. Commissioner, 283 F. Supp.2<sup>nd</sup> 58 (D.D.C. 2003) the courts found that due to the "commercial" manner in which an organization conducts its activities, the organization is operated for nonexempt commercial purposes rather than for exempt purposes. Among the major

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factors courts have considered in assessing commerciality are competition with for-profit commercial entities; extent and degree of below cost services provided; pricing policies; reasonableness of financial reserves; whether the organization uses commercial promotional methods; and the extent to which the organization receives charitable contributions. Because it operated its conference center in a manner consistent with that of a commercial business, it did not meet the requirements of I.R.C. § 501(c)(3). Although, Airlie Foundation carried out a number of charitable and educational activities, these were incidental to its primary activity of operating center.

In Living Faith, Inc. v. Commissioner, 950 F. 2d 365 (7<sup>th</sup> Cir. 1991) aff'g 70 T.C. 352 (1978), the court held that a vegetarian restaurant and health foods store that adhered to the principles of the Seventh Day Adventist Church was not operated exclusively for exempt religious purposes, but rather for a substantial commercial purpose. The court examined the method of operations to infer the purposes. The court found substantial evidence to support a conclusion that the organization's activities furthered a substantial nonexempt purpose, including:

- a. The organization's operations were presumptively commercial;
- b. The organization competed directly with other restaurants and food stores;
- c. The organization used profit-making pricing formulas common in the retail food business;
- d. The organization engaged in a substantial amount of advertising;
- e. The organization's hours of operation were competitive with other commercial enterprises

The organization's primary activities were managing a restaurant and health food store that was operated in competition with commercial entities, charging competitive prices set by formulas common in the retail food business, and using commercial promotional methods.

In Leon A. Beeghly Fund v. Commissioner, 35 T.C. 490 (1960), inurement occurred when the organization entered a transaction to benefit the stockholders of a particular business corporation, not to benefit the charity, even though corporation suffered no financial loss.

In Church of Spiritual Technology vs. United States, 26 Cl. Ct. 713, 714 cited a long line of authority holding that the applicant bears the burden of showing it is entitled to exemption. In order to meet the operational test of tax exemption under section 501(c)(3), the church had to show that it operated exclusively for exempt purposes, that it had no substantial non-exempt purpose, and that no benefits inured from it to private individuals. It was unable to do so. Further, incidental provision of religious services was not sufficient to qualify the organization as a church.

The court case, Christian Echoes Nat'l Ministry v. United States, showed the exemption to corporations organized and operated exclusively for religious purposes is granted because of the benefit the public obtains from their activities and is based on the theory that: ". . . the Government is compensated for the loss of revenue by its relief from financial burden which would otherwise have to be met by appropriations from public funds, and by the benefits resulting from the promotion of the general welfare." H.R. Rep. No. 1860, 75th Cong., 3d Sess. 19 (1939)." "

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### Taxpayer Position

The Taxpayer desires to agree with the revocation of exempt status.

### Government Position

1. Whether \_\_\_\_\_, (the “Organization”), continues to qualify for exemption as an organization described in the Internal Revenue Code (IRC) Section 501(c)(3) under foundation status 170(b)(1)(A)(vi)

Section 501(c)(3) of the Code provides tax exemption for organizations that are organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, educational, or prevention of cruelty to children or animals’ purposes.

Section 1.501(c)(3)-1(c)(1) of the Regulations provides 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).

Section 1.501(c)(3)-1(e)(1) of the Regulations provide that an organization may meet the requirements of section 501(c)(3) of the Code although it operates a trade or business as a substantial part of its activities, if the operation of such trade or business is in furtherance of the organization's exempt purpose or purposes and if the organization is not organized or operated for the primary purpose of carrying on an unrelated trade or business, as defined in section 513 of the Code.

Section 1.501(c)(3)-1(e) of the Regulations provide that an organization is not described in section 501(c)(3) of the Code if it operates a trade or business that primarily furthers a nonexempt purpose. Similarly, the courts have denied exempt status under what is generally known as the commerciality doctrine.

In Airlie Foundation v. Commissioner, 283 F. Supp.2<sup>nd</sup> 58 (D.D.C. 2003), the court found that, due to the “commercial” manner in which an organization conducts its activities, the organization is operated for nonexempt commercial purposes rather than for exempt purposes. Among the major factors courts have considered in assessing commerciality are competition with for-profit commercial entities; extent and degree of below cost services provided; pricing policies; reasonableness of financial reserves; whether the organization uses commercial promotional methods; and the extent to which the organization receives charitable contributions.

### Competition with Commercial Entities

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Although the for-profit corporation dissolved on November 13, 20XX, the corporation's name, " , " continued to be used in signs and on the Organization's website. The Organization did not represent itself with the name associated with the non-profit or church to the public. Instead, the Organization continued to employ similar commercial promotional methods as the for-profit corporation had before. The building signage in 20XX and its website showed, " . The Organization's website was substantially similar to the for-profit's website and did not differ from any other business in that it showed several articles regarding , ' information, contact information and request information.

For the 20XX tax year, two explained they made payments of \$0 and \$0 respectively specifically in response to submitted by the organization. They were not under the impression they were donating to a charity. The were . They received

The records of showed the submitted were not any different when the Organization was a for-profit or a nonprofit. The also used the same

### Building frontage and Website

The 20XX signage and website were similar, except the business name is different. Neither the building frontage nor, the website showed the Organization was a non-profit or a church. Instead, it appears as a business. The Organization's website and business frontage represented a office to the public. A contact form on the website allowed prospective to become members by obtaining not by being involved or as members of a church.

### Services similar to for-profit businesses

Additionally, the current website for and for-profit office, , also shows similar operations to its in 20XX, including plans and tours of the office. During 20XX, and Organization records show that the Organization requested a ,

The Service reviewed the website of office, named, in . Similarly, the https://www. .com/ website at include a / shows its operations also

The building frontage showed the words, " " in 20XX and 20XX. The

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term “ ” is a common statement of philosophy. The Service reviewed the website of at: https:// . This office is in the state of , which is the same state as the ’ alma mater, .

This business describes “ in connection with on its website. The website shows, “

( ), .” Similarly, the Organization’s “ agreements states, “ .” This shows there is no difference between the end result of the care of the for-profit business and the non profit business.

The website also shows the following explanation, “True health comes from within, . Our mission is to help empower you to express your full optimum potential by introducing proper . Thus, and allowing your mind, body and soul to communicate together in harmony.”

in also refers to a spiritual component of the “ ideology on its website . It states, “The philosophy of can be summarized with the acronym, which stands for “ .” We honor the truth that all healing comes from ; God into man, and life is then .” Even though shows the spiritual component, it is a for-profit corporation. The Secretary of State website shows that both and are for-profit LLCs.

### Operating hours similar to for-profit clinic

Additionally, the Organization was similar in operating hours to for-profit businesses as shown below:

hours are:

**Mon:** 8am – 11am & 2pm – 7pm

**Tue:** 2pm – 6pm

**Wed:** 8am – 11am & 2pm – 7pm

**Thu:** 8am – 11am & 2pm – 7pm

**Fri:** 8am-11am

**Sat – Sun:** CLOSED

The Organization’s hours were:

Mon: 11a.m.-1 p.m. & 4:15 p.m. – 7 p.m.

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Tues 4:15 p.m. – 7p.m.  
Wed 11 a.m. – 1 p.m. & 3:30 p.m. – 5:30 p.m.  
Thurs 11 a.m. – 1 p.m. & 4:15 p.m. – 7p.m.  
Fri-Sun - Closed

The initial Form 1023 was incorrect when it stated that the the Organization performed were different. are a normal part of as shown by the on . Additionally, other for-profit offices operate similarly to the Organization with the same ideology. The “God component” is also, not unique to the Organization and does not make it a non-profit.

Simply saying one's purpose is exclusively religious doesn't necessarily make it so. Courts have consistently held that an organization's purposes may be inferred from its manner of operations. Living Faith, Inc. v. Commissioner, 950 F. 2d 365 (7<sup>th</sup> Cir. 1991) aff'd 70 T.C. 352 (1978). As in Living Faith, Inc., the Organization's operations and advertising were outwardly commercial, competed with other offices, even those with a spiritual component, as it had. It's pricing was common to the business. It engaged in substantial advertising through its website and building frontage. Its hours were similar to those of commercial clinics.

Extent of Below Cost Services Provided  
Charitable Contributions

The Organization submitted for payment for . The were not any different when the Organization was a non-profit or a for-profit. The showed normal that any office would use to show

The Organization also signed agreements with who paid for their own by cash, check, debit or credit card. The Organization prepared agreements with its that showed the was required to “give” based on

The Service interviewed three (3) prior who stated they paid for and were not required to attend a religious service before receiving . The were not of the impression that they were donating to a non-profit or a church. There costs were not based on their ability to pay.

Unlike Revenue Ruling 76-244:1976-1 C.B.155 that showed that delivery meals were made to elderly persons on a sliding scale based on a recipient's ability to pay, the Organization

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charged market rate fees as evidenced by the

Pricing Policies

The \_\_\_\_\_ were billed for \_\_\_\_\_ services using \_\_\_\_\_ that used \_\_\_\_\_ to obtain payments. The costs of services were required by the \_\_\_\_\_

The Organization provided 0 examples of \_\_\_\_\_ signatures on “\_\_\_\_\_” and “Monthly Plan” documents that showed the \_\_\_\_\_ was responsible for all costs and outstanding balances. The \_\_\_\_\_ gave the Organization permission to charge their credit and debit cards for their balances. The Organization’s records did not show its revenue included public contributions. It did not solicit deficits from the public. Conversely, the fees were paid or the \_\_\_\_\_ credit/debit card on file was charged for balances due.

There is also a mention of court costs and attorney fees for any collection. Although during the interview, \_\_\_\_\_ stated the Organization did not collect on accounts and that this should be worded differently.

The Organization did not substantiate any charitable contributions. It issued donation receipts in exchange for payments for \_\_\_\_\_ to its \_\_\_\_\_ members. (See Exhibit 2.) Section 170(c) of the Code provides that the term "charitable contribution" means a contribution or gift for the use of organizations organized in the United States organized and operated exclusively for religious and charitable purposes if the contribution or gift is made for exclusively public purposes.

The Service reconciled the Organization’s financial records to the following:

<b>20XX Income</b>		
<u>Type</u>	<u>Amount</u>	<u>% of Total</u>
Credit Card	\$0	0.00%
	\$0	0.00%
Cash/Check/Debit	\$0	0.00%
<b>Total Income</b>	<b>\$0</b>	<b>0.00%</b>

The pricing policies of the Organization were the same as for-profit \_\_\_\_\_.

Reasonableness of Financial Reserves

The Organization’s 20XX Form 990 and bank statements showed an ending bank balance of \_\_\_\_\_

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\$0. The Organization utilized its balance to pay the lease for \_\_\_\_\_ for-profit business, \_\_\_\_\_ . The Organization was reimbursed for the monies paid on the \_\_\_\_\_ behalf.

After the application of the commerciality doctrine, the Service determined the Organization's main activity to provide \_\_\_\_\_ service was in competition with commercial firms. Substantially, all of the Organization's income came from providing \_\_\_\_\_ services at market rates. The Organization failed the operational test.

Instead of accomplishing the mission it expounded in its bylaws to educate and produce creative and artistic products, the Organization had a substantial non-exempt purpose to commercially provide \_\_\_\_\_ services. In Better Business Bureau of Washington, D.C. v. United States, 326 U.S. 279 (1945), the Supreme Court held that the presence of a single non-exempt purpose, if substantial in nature, will prevent exemption regardless of the number or importance of truly exempt purposes.

#### Inurement

Section 501(c)(3) of the Code provides that a public charity cannot have any part of the net earnings inure to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(c)(2) of the Regulations clarifies that an organization is not operated exclusively for exempt purposes if its net earnings inure to the benefit of private individuals.

\_\_\_\_\_, the Organization's Treasurer, was in control of the Organization's assets, which included the bank account and financial records. She was in a position to exercise substantial influence over the Organization's affairs.

Under \_\_\_\_\_' direction, the Organization's net earnings were allowed to inure for her and her husband's personal benefit as shown below:

#### Mortgage payments on personal home

The Organization paid \$0 in mortgage payments on behalf of the \_\_\_\_\_' personal home in 20XX. and \_\_\_\_\_ repaid the Organization after the house sold in July 20XX, which was after the organization received notice of an impending church tax inquiry. However, in 20XX, the Organization's bank account was used to benefit the \_\_\_\_\_ by paying off their mortgage.

Where an exempt organization engages in a transaction with an insider and there is a purpose to benefit the insider rather than the organization, inurement occurs even though the transaction ultimately proves profitable for the exempt organization. The test is not ultimate profit or loss but whether, at every stage of the transaction, those controlling the organization guarded its interests and dealt with related parties at arm's-length.



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The Organization is like Leon A. Beeghly Fund v. Commissioner, 35 T.C. 490 (1960), where inurement occurred when the organization entered a transaction to benefit the stockholders of a particular business corporation, not to benefit the charity, even though corporation suffered no financial loss. The Organization did not suffer financial loss as a result of the paying the mortgage in the end, but it is still considered inurement because when the Organization entered into the transaction, it benefited the business owners.

### Personal Expenses

The Organization's bank statements showed many debit card transactions for personal clothing, grooming, fitness, sporting goods, etc. stated that since she was not receiving a paycheck, the church paid for her general grooming expense. The financial records also showed \$0 for car travel, \$0 for car maintenance and \$0 for food. The Organization did not keep contemporaneous records such as a mileage log for the personal vehicle or an events log for the many purchases of food to substantiate business use.

### Loans

Loans were made between the Organization and , for-profit business, without any interest or contemporaneous contracts. The amounts were repaid with the exception of \$0 by June 20XX.

The above transactions were completed because treated the Organization's assets as if they were her personal bank account and personal assets. The Organization and its Treasurer did not operate for the benefit of the Organization, but for personal benefit.

Section 1.501(c)(3)-1(e)(1) of the Regulations provides that an organization may meet the requirements of section 501(c)(3) of the Code although it operates a trade or business as a substantial part of its activities, if the operation of such trade or business is in furtherance of the organization's exempt purpose or purposes and if the organization is not organized or operated for the primary purpose of carrying on an unrelated trade or business.

Section 1.501(c)(3)-1(f)(2) of the Regulations provides that in determining whether to continue to recognize the tax-exempt status of an applicable tax-exempt organization described in section 501(c)(3) of the Code that engages in one or more excess benefit transactions that violate the prohibition on inurement under section 501(c)(3).

The Service considered the A-E, five factors of section 1.501(c)(3)-1(f)(2) of the Regulations as shown below:

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**(1) The size and scope of the organization's regular and ongoing activities that further exempt purposes before and after the excess benefit transaction or transactions occurred:**

The Organization's regular and ongoing activities were determined to further commercial purposes due to substantial non-exempt activities of operating a \_\_\_\_\_ business in a commercial manner and receiving substantially all of its income from fees for medical services.

**(2) The size and scope of the excess benefit transaction or transactions (collectively, if more than one) in relation to the size and scope of the organization's regular and ongoing activities that further exempt purposes:**

The excess benefit transactions were a substantial part of the Organization's expenses. Loans were unpaid at the end of each year from 20XX – 20XX.

**(3) Whether the organization has been involved in multiple excess benefit transactions with one or more persons;**

The transactions were frequent and routine. The Organization was involved with the Treasurer, her husband and their related businesses in regard to excess benefit transactions.

**(4) Whether the organization has implemented safeguards that are reasonably calculated to prevent excess benefit transactions.**

a. -The Organization has suspended its operations. Safeguards were not implemented.

**(5) Whether the excess benefit transaction has been corrected or the organization has made good faith efforts to seek correction from the disqualified person(s) who benefited from the excess benefit transaction.**

a. The Organization corrected the excess benefit transaction with the \_\_\_\_\_ mortgage payments and has repaid all except \$0 of the loans.

Even though the Organization corrected some of the transactions, correction was made *after* the audit was started. The loans were being repaid prior to the audit. The Organization is disqualified from recognition of exemption under section 501(c)(3) because it operated for a commercial purpose and because the Organization's net earnings inured to the benefit of the insider (owner) instead of furthering an exempt purpose. To be charitable, an organization must serve a public rather than a private interest.

**2. Whether the Organization qualified for exemption as an organization described in IRC**

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**Section 501 (c)(3) under foundation status 170(b)(1)(A)(i)**

The Organization was denied church status when it initially submitted its Form 1023 application. The Service maintains that the Organization is not a church and does not qualify for foundation status 170(b)(1)(A)(i).

During the interview, [redacted] stated that the “God component” was the main distinction in their claims to be a church instead of a for-profit business. This included teaching that all healing comes from Above, i.e. from God. The Organization also stated that they utilized much prayer and Christian music. [redacted] stated that the Organization played Christian music all the time. She regularly prayed openly for her [redacted] for their healing. She submitted herself to God.

Services

The Organization held services twice a week and offered ministering health talks. [redacted] statements also showed she stated that all [redacted] were required to attend a service before being seen by the [redacted]. The service was held to explain the Organization’s mission and that all payments are donations. However, three prior patients did not corroborate this statement. The patients stated they were not required to attend any services and were seen for services.

Advertising

The Organization’s building frontage and website did not indicate it was a church. The Organization advertised itself to the public as a business. Although it provided Form W-9 to insurance companies that showed it was a “nonprofit” the insurance companies made payment based on the claim forms [redacted] submitted, not as a response to a request for donations to a church. The Organization did not represent itself to any insurance company as a church.

God component not original to Organization

The building frontage showed the words, “ [redacted] ” in 20XX and 20XX. The Service reviewed a for-profit clinic’s website for an office in [redacted], [redacted]. It used this same terminology and ideology in connection with [redacted] adjustments.

[redacted] in [redacted] refers to a spiritual component of the “ [redacted] ” ideology on its website [redacted]. The website states, “The philosophy of [redacted] can be summarized with the acronym, [redacted] which stands for “ [redacted] .” We honor the truth that all healing comes from [redacted]; God into man, and life is then [redacted].” The website also states, “ [redacted] ”

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Additionally, the website also shows the business seeks to “Serve the world as the hands of Christ” and also mentions helping missions. The Secretary of State shows is a for-profit LLC.

The distinctions that makes are not any different from any or business person who may pray regularly openly or silently, listen to Christian music and submit themselves to God for help in their work. These distinctions in how the chose to operate their business do not make them a church as evidenced by .

#### Statutory requirements of a church

Any religious organization, including a church, must satisfy the statutory requirements to be exempt under IRC 501(c)(3).

Section 1.501(c)(3)-1(c)(1) of the Regulations provided that an organization’s activities in furtherance of a religious belief must serve exclusively exempt purposes. If the organization’s activities promote a substantial nonexempt purpose, exemption under IRC 501(c)(3) is precluded.

The Organization’s commercial activities showed that even if the Organization did hold services, events, utilize prayer and seek God in its , it did not further its distinctly religious beliefs. Instead, the Organization advertised and adhered to beliefs common to instead of that distinctly held by a church.

The Organization’s net earnings inured to its founder and her husband instead of benefiting a public purpose. The Organization’s net earnings were expended for and her husband, ’ mortgage payments, personal expenses, and loans without interest.

The court in Church of Spiritual Technology cited a long line of authority holding that the applicant bears the burden of showing it is entitled to exemption. In order to meet the operational test of tax exemption under section 501(c)(3), the church had to show that it operated exclusively for exempt purposes, that it had no substantial non-exempt purpose, and that no benefits inured from it to private individuals. It was unable to do so. Further, incidental provision of religious services was not sufficient to qualify the organization as a church.

The court case, Christian Echoes Nat’l Ministry v. United States, 470 F.2d 849, 1972 showed the exemption to corporations organized and operated exclusively for religious purposes is granted because of the benefit the public obtains from their activities and is based on the theory that: “. . . the Government is compensated for the loss of revenue by its relief from financial burden which would otherwise have to be met by appropriations from public funds, and by the benefits resulting from the promotion of the general welfare.” H.R. Rep. No. 1860, 75th Cong., 3d Sess. 19 (1939).”

In Living Faith, Inc. v. Commissioner, 950 F. 2d 365 (7<sup>th</sup> Cir. 1991) aff’g 70 T.C. 352 (1978), the court held that an organization that operated vegetarian restaurants and health food stores in a

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manner consistent with the religious beliefs of the Seventh-Day Adventist religion did not qualify for recognition of exemption under IRC 501(c)(3). The court concluded its operations evidenced a substantial nonexempt commercial purpose.

Likewise, the Organization was not operated exclusively for exempt purposes, had a substantial non-exempt purpose, and had benefits inure from it to private individuals. Thus, any incidental provision of religious services is not sufficient to qualify the organization as a church. Additionally, the profit-producing activity was not merely incidental to and in furtherance of the religious activities and their exempt purpose.

Evaluation of Form 1023, Schedule A Churches

The Organization completed, Schedule A Churches, when it filed Form 1023. The Service has adopted a “ruling position” based on historical and practical considerations. In doing this, the Service has attempted to identify, from judicial sources and historical precedent, those indications of the existence of a church which are most objective and in the least involved with the nature of the particular religious beliefs and practices.

The Service considered the Organization’s Schedule A during the examination. The Service showed the questions and the Organization’s reply below.

The Organization formed as a nonprofit corporation in the state of \_\_\_\_\_ and had a separate legal existence.

Schedule A/Form 1023 Attachment

- aa. Do you have a written creed, statement of faith, or summary of beliefs? Yes.
  - i. The Organization presented a Statement of Faith in its attachment to Schedule A. The Statement of Faith showed what the founder believed. It also included references to “\_\_\_\_\_” and that specific, \_\_\_\_\_ and that \_\_\_\_\_ comes from God. There wasn’t any evidence that this statement of faith was purported during the Organization’s primary activity of making \_\_\_\_\_ during its business hours to its \_\_\_\_\_. Also as shown, for-profit \_\_\_\_\_ s also hold to these same tenants in the operations of their businesses.
  
- bb. Do you have a form of worship? Yes.
  - i. The Organization described its form of worship is through music, and that everything they do can be an act of worship. It also stated that when they serve others, they serve Jesus. They utilize healing prayers and use spiritual habits.

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1. Nothing in the Organization's records indicated it implemented a form of worship. Instead, the form of worship appears to describe how the founder individually operated her business as she submitted herself to God.
2. As noted, , a for-profit also viewed their business as serving Jesus by serving others.
3. While the Organization stated it held services and that all members were required to attend a service before seeing the the member agreements did not indicate they had any knowledge of participating or adhering to certain forms of worship. Instead the Organization was represented to them as a business.

cc. Do you have a formal code of doctrine and discipline? Yes.

- i. The Organization stated the Bible is its utmost code for doctrine and discipline. It uses the Bible for morning and evening preparations and in their meetings.
  1. The Organization's meetings were held twice a week. It wasn't apparent that members were regularly informed of meetings. The building frontage showed a business name. The Organization had office hours that compared to other offices.
  2. It appears the founder utilized the Bible for personal and individual doctrine and discipline; however, the Organization primarily utilized the
  - 3.

dd. Do you have a distinct religious history? No.

- i. The Organization stated that it is the only one it knows of that conducts "Ministering Health Talks" and brings spiritual, mental and emotional and physical health to their members through education, prayer, worship and . They are serving God through serving man.
  1. in , discuss their New Orientation on its website and stated it educates on healthy lifestyle choices and
  2. Discussing that healing comes from God is not a distinctly church concept. As noted, uses this concept and notes the founder of adhered to it as well.

ee. Do you have a literature of your own? Yes.

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- i. The Organization provided brochures that described the potential inside each and every person put there by God in its Ministering Health pamphlet.
  
- ff. Describe the organization's religious hierarchy or ecclesiastical government. No.
  - i. The Organization stated it does not have a government or religious hierarchy.
    - 1. The exam determined the Organization operated independently under the direction of its founder,
  
- gg. Do you have regularly scheduled religious services? Yes.
  - i. The Organization described its services are held by speaking life into its members and informing them of how God designed the body to heal itself. They utilize the " : pamphlet and hold services twice a week. However, the Organization did not substantiate regularly scheduled weekly religious services. Its records show it was offering services to its members. The name, " " was not advertised on the building frontage or website. The three previous members the Service contacted only received services and were not aware of any religious services.
  
- hh. What is the average attendance at your regularly scheduled religious services? 0
  - i. Regular religious services were shown on the One practice member recalled a Appreciation meeting that he described as "kind of churchy." However, the Organizations records show it was offering and fulfilling services to its practice members. Membership was obtained by coming to the and , not by attending or being involved in religious services.
  
- ii. Do you have an established place of worship? Yes.
  - i. The business address was listed as the place for religious services.
  - ii. The Organization's business address at as shown on Exhibit 1 was a business front. Nothing on the front of the building would tell the public they were attending a church or religious service.
  - iii. The website did not show or have any reference to the Organization being a church. In fact, the website and the building were named, " " not
  
- jj. Do you own the property where you have an established place of worship? No.
  - i. The Organization leased the property as part of the same lease agreement it had when the same address was a for-profit clinic in 20XX.
  
- kk. Do you have an established congregation or other regular membership group? Yes.

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- i. The Organization did not comment further on this question.
- ii. The Organization provided a list of \_\_\_\_\_ and their telephone numbers. However, these are \_\_\_\_\_, not an established congregation or group.
- iii. The \_\_\_\_\_ agreements showed they \_\_\_\_\_ were going to the \_\_\_\_\_ to receive \_\_\_\_\_ not as a member of a congregation or group.

ll. How many members do you have? 0

- i. The Organization provided a list of its \_\_\_\_\_ members, a.k.a. names and telephone numbers.

mm. Do you have a process by which an individual becomes a member? Yes

- i. The Organization stated that its current practice members (of the for-profit) would switch over to the religious non-profit.
- ii. During the exam, \_\_\_\_\_ explained that the members were scheduled for a progress report and told they would be giving donations and get tax deductible receipts for it. They were clear about the changes in the healing and lost a lot of \_\_\_\_\_.
  1. When the Organization returned to a for-profit in November 20XX, the Organization had a meeting to let the members know they would not be receiving donation receipts and it would only be from then on.
  2. The examination showed the Organization was issuing donation receipts for amounts paid for \_\_\_\_\_ services. The Organization issued donation receipts for everything it paid for and everything it received payment for. \_\_\_\_\_ thought that everything that came into and went out of a nonprofit was a donation because it was from or for a nonprofit.
  3. The examination showed the Organization had a process for individuals to become members of a \_\_\_\_\_, not a church.

nn. If you have members, do your members have voting rights, rights to participate in religious functions, or other rights? Yes

oo. May your members be associated with another denomination or church? Yes and No

- i. The Organization stated that \_\_\_\_\_ members only needed a willingness to learn and increase their well-being. Their members have the freedom to believe what is correct for them. The Organization also stated that its members are not members of other religious nonprofit organizations.
- ii. The examination showed the Organization did not have any opportunities for voting. The \_\_\_\_\_ could participate in meetings, but how they were notified of such meetings and how the meetings were presented, and how they were incorporated into the \_\_\_\_\_ business was not substantiated.



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pp. Are all members part of the same family? No

qq. Do you conduct baptism, weddings, funerals, etc. No

rr. Do you have a school for the religious instruction of the young? No

ss. Do you have a minister or religious leader? Yes

- i. The Organization presented \_\_\_\_\_ as its religious leader, or Ministering Health Leader. She does not have any ordination and is a \_\_\_\_\_ and has experience in prayer and spiritual healing.
- ii. The examination showed that the primary role of \_\_\_\_\_ in the \_\_\_\_\_ Organization was to act in the role of \_\_\_\_\_ of a \_\_\_\_\_ who regularly prepared and submitted \_\_\_\_\_ and \_\_\_\_\_ for \_\_\_\_\_. Any role as a religious leader was incidental to the business operations.

tt. Do you have schools for the preparation of your ordained ministers or religious leaders? No

uu. Is your minister or religious leader also one of your officers, directors, or trustees?  
Yes

- i. \_\_\_\_\_ was the Organization's founder and Treasurer.

x. Do you ordain, commission, or license ministers or religious leaders? No

ww. Are you part of a group of churches with similar beliefs and structures? No

- i. As shown above, the Organization is similar to the \_\_\_\_\_ for-profit that demonstrates similar beliefs on its website.

xx. Do you issue church charters? No

yy. Did you pay a fee for a church charter? No

zz. Do you have other information you believe should be considered regarding your status as a church? Yes

- i. The Organization replied that its primary mission is sharing the message with people and that being \_\_\_\_\_ is just in their backgrounds and "NOT the primary mission at all."
- ii. Conversely, the examination showed that operating a \_\_\_\_\_'s office was the primary mission. However, the founder may have operated her

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from a spiritual standpoint. This was her choice. As shown above,  
use a variety of ways to operate their businesses and get their  
message across to potential about the benefits of

The receiving of an exemption is matter of legislative grace and not a constitutional right. As long as exemptions are denied by the Commissioner Internal Revenue Service on a non-discriminatory basis using specific and reasonable guidelines and without inquiry into the merits of the particular religious doctrines, the withholding of religious exemptions is permissible under the Constitution.

An organization which is organized and operated for the primary purpose of carrying on an unrelated trade or business is not exempt under section 501(c)(3) even though it has certain religious purposes, its property is held in common, and its profits do not inure to the benefit of individual members of the organization. In Better Business Bureau of Washington, D.C. v. United States, 326 U.S. 279 (1945), the Supreme Court held that the presence of a single non-exempt purpose, if substantial in nature, will prevent exemption regardless of the number or importance of truly exempt purposes.

As outlined above we have determined that the Organization does not meet the qualifications of a church. Furthermore, even if the Organization was to meet some of the qualifications of a church, where a church is engaging in a substantial commercial activity the issue of whether or not it is a church is largely irrelevant. Universal Church of Jesus Christ, Inc. v. Commissioner, 55 T.C.M. 144 (1988). Lastly, the Organization's operations showed that its earnings inured to its founder, and it did not substantiate that its expenses were non-personal in nature.

### **CONCLUSION**

The Organization is disqualified from recognition of exemption under section 501(c)(3) because it engaged in a substantial commercial purpose and its net earnings inured to the benefit of its owner and her husband, private individuals.

The exempt status of the Organization is to be revoked effective January 1, 20XX because the organization is not organized for exempt purposes under section 501(c)(3) of the Code.

The Organization does not qualify as a church.

The organization is liable to file Forms 1120 for the tax period ended December 31, 20XX and for all subsequent periods.

In accordance with Section 6104 of the Internal Revenue Code, state charity officials will be notified of the revocation.