



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

**TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION**

**Number: 202052029**  
**Release Date: 12/24/2020**

**Date: December 11, 2019**

**UIL: 501.03-00**

**EIN:**

**Person to Contact:**

**Identification Number:**

**Telephone Number:**

**Fax Number:**

**CERTIFIED MAIL – Return Receipt Requested**  
**LAST DAY FOR FILING A PETITION WITH THE TAX COURT:**

Dear :

This is a final determination that you do not qualify for exemption from federal income tax under section 501(a) of the Internal Revenue Code (the "Code") as an organization described in section 501(c)(3), effective September 12, 20XX. Your determination letter dated October 20, 20XX is revoked.

Our adverse determination as to your exempt status was made for the following reasons:

You have not established that you are organized and operated exclusively for exempt purposes within the meaning of section 501(c)(3) of the Code.

Your organizing document does not limit your purposes to exempt purposes and expressly empowers you to engage, to a substantial degree, in activities that are not in furtherance of one or more exempt purposes.

You have not shown that you are operated for an exempt purpose. In addition, your activities are in furtherance of social and recreational purposes to a substantial degree. You are also operated in substantial part for the benefit of your members. You have not shown that net earnings do not inure to the benefit of private shareholders or individuals through your provision of benefits to your members.

Accordingly, you fail to meet the requirements of section 501(c)(3) of the Code and Treasury Regulation section 1.501(c)(3)-1(a), in that you have not established that you are organized and operated exclusively for exempt purposes and that no part of your net earnings inures to the benefit of private shareholders or individuals.

Organizations that are not exempt under section 501 of the Code generally are required to file federal income tax returns and pay tax, where applicable. For further instructions, forms, and information please visit [www.irs.gov](http://www.irs.gov).

Contributions to your organization are no longer deductible under section 170 of the Code.

If you decide to contest this determination, you may file an action for declaratory judgment under the provisions of section 7428 of the Code in one of the following three venues: 1) United States Tax Court, 2) the United States Court of Federal Claims, or 3) the United States District Court for the District of Columbia. A petition or complaint in one of these three courts must be filed within 90 days from the date this determination was mailed to you. Please contact the clerk of the appropriate court for rules and the appropriate forms for filing petitions for declaratory judgment by referring to the enclosed Publication 892. You may write to the courts at the following addresses:

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

U. S. 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

Processing of income tax returns and assessments of any taxes due will not be delayed if you file a petition for declaratory judgment under section 7428 of the Code.

We'll notify the appropriate state officials (as permitted by law) of our determination that you aren't an organization described in section 501(c)(3) of the Code.

You may be eligible for help from the Taxpayer Advocate Service (TAS). 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 1-877-777-4778.

Taxpayer Advocate assistance can't be used as substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determination, nor extend the time fixed by law that you have to file a petition in Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You can get any of the forms or publications mentioned in this letter by calling 800-TAX-FORM (800-829-3676) or visiting our website at [www.irs.gov/forms-pubs](http://www.irs.gov/forms-pubs).

If you have questions, you can contact the person listed at the top of this letter.

Enclosures:  
Publication 892

Sincerely,

*Maria D. Hooke*

Maria D. Hooke  
Director, EO Examinations



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

Date:  
June 17, 2019  
Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact:

Employee ID:

Telephone:

Fax:

Manager's Contact Information:

Employee ID:

Telephone:

Response Due Date:

**CERTIFIED MAIL – Return Receipt Requested**

Dear

**Why you're receiving this letter**

We enclosed a copy of our audit report, Form 886-A, Explanation of Items, explaining that we propose to revoke your tax-exempt status as an organization described in Internal Revenue Code (IRC) Section 501(c)(3).

**If you agree**

If you haven't already, please sign the enclosed Form 6018, Consent to Proposed Action, and return it to the contact person shown at the top of this letter. We'll issue a final adverse letter determining that you aren't an organization described in IRC Section 501(c)(3) for the periods above.

After we issue the final adverse determination letter, we'll announce that your organization is no longer eligible to receive tax deductible contributions under IRC Section 170.

**If you disagree**

1. Request a meeting or telephone conference with the manager shown at the top of this letter.
2. Send any information you want us to consider.
3. File a protest with the IRS Appeals Office. If you request a meeting with the manager or send additional information as stated in 1 and 2, above, you'll still be able to file a protest with IRS Appeals Office after the meeting or after we consider the information.

The IRS Appeals Office is independent of the Exempt Organizations division and resolves most disputes informally. If you file a protest, the auditing agent may ask you to sign a consent to extend the period of limitations for assessing tax. This is to allow the IRS Appeals Office enough time to consider your case. For your protest to be valid, it

**Letter 3618 (Rev. 9-2017)**  
Catalog Number 48373U

must contain certain specific information, including a statement of the facts, applicable law, and arguments in support of your position. For specific information needed for a valid protest, refer to Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status.

Fast Track Mediation (FTM) referred to in Publication 3498, The Examination Process, generally doesn't apply now that we've issued this letter.

4. Request technical advice from the Office of Associate Chief Counsel (Tax Exempt Government Entities) if you feel the issue hasn't been addressed in published precedent or has been treated inconsistently by the IRS.

If you're considering requesting technical advice, contact the person shown at the top of this letter. If you disagree with the technical advice decision, you will be able to appeal to the IRS Appeals Office, as explained above. A decision made in a technical advice memorandum, however, generally is final and binding on Appeals.

**If we don't hear from you**

If you don't respond to this proposal within 30 calendar days from the date of this letter, we'll issue a final adverse determination letter.

**Contacting the Taxpayer Advocate Office is a taxpayer right**

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit [www.taxpayeradvocate.irs.gov](http://www.taxpayeradvocate.irs.gov) or call 877-777-4778.

**For additional information**

You can get any of the forms and publications mentioned in this letter by visiting our website at [www.irs.gov/forms-pubs](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,

*Kristopher Raper*

for Maria Hooke  
Director, Exempt Organizations  
Examinations

Enclosures:  
Form 886-A  
Form 6018  
Form 4621-A  
Pub 892  
Pub 3498

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 April 30, 20XX

**Issues:**

1. Whether the exempt status of  
(the organization) under IRC § 501(c)(3) should be revoked,  
effective October 20, 20XX because it is not organized exclusively for exempt  
purposes within the meaning of section 501(c)(3) and Treas. Reg. § 1.501(c)  
(3)-1(b)?
2. Whether the organization continues to qualify for exemption under Section 501  
(c)(3) of the Internal Revenue Code.

**Facts:**

The organization applied for tax-exempt status by filing a Form 1023-EZ, *Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, on November 29, 20XX and was granted tax-exempt status as a 501(c)(3) on October 20, 20XX, with an effective date of September 12, 20XX.

An organization exempt under 501(c)(3) must be organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes or to foster national and amateur sports competition.

The organization was selected for audit to ensure that its activities and operations accomplish one or more exempt purposes as specified in the I.R.C. § 501(c)(3).

The organization partially responded to requests for information on two different occasions with inadequate and incomplete information. As a result of the incomplete responses, the organization failed to establish that its activities and operations accomplish one or more exempt purposes as specified in I.R.C. § 501(c)(3). In addition to the incomplete responses, the organization failed to respond to additional information requests by Internal Revenue Service to obtain the necessary information to perform an audit of Form 990-N for the tax year April 30, 20XX.

The organization has not filed a Form 990 series return for the tax years ending April 30, 20XX and April 30, 20XX.

Several attempts were made to contact the organization to request that it establish that its organizing documents meet the organizational requirements of Treas. Reg. § 1.501(c)(3)-1(b). Specifically, an agent attempted to contact the organization by letter on 0 occasions. The letters were claimed, and inadequate and incomplete responses were received.

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- Correspondence for the audit was as follows:
  - Letter 3606 (Rev. 6-2012) with attachments, was mailed to the organization on June 14, 2017, with a response date of July 14, 20XX.
  - Letter 3844-B (Rev. 11-2015) with attachments, was mailed to \_\_\_\_\_ on July 28, 20XX, with a response date of August 28, 20XX.
  - Letter 6017 (9-2017), was mailed certified to \_\_\_\_\_, on October 5, 20XX. Article Number \_\_\_\_\_. Per the United States Postal Service (USPS) tracking, Letter was delivered on January 3, 20XX at 12:13 pm. The PS Form 3811 was signed and dated by \_\_\_\_\_ on January 3, 20XX.
  - Letter 3844-A (12-2015), with attachments, was mailed certified to the President, on February 14, 20XX, with a response date of March 14, 20XX. Article Number \_\_\_\_\_. Per the United States Postal Service (USPS) tracking, Letter was delivered on February 27, 20XX at 1:30 pm.

### **Organizational Test**

The organization indicated on the Form 1023-EZ, Part II, Line 1 that they were formed as an Unincorporated Association on September 12, 20XX.

The organization attested on Form 1023-EZ, part II, box 2 that they have the organizing document necessary for their organizational structure.

Section 501(c)(3) requires that an organizing document must limit your purposes to one or more exempt purposes within section 501(c)(3). The organization attested that their organizing document contains this limitation.

They also attested that their organizing document does not expressly empower it to engage, otherwise than as an insubstantial part of your activities, in activities that in themselves are not in furtherance of one or more exempt purposes.

The organization attested that their organizing document contains a dissolution provision as required under section 501(c)(3) or that they did not need an express dissolution provision in your organizing document because they rely on the operation of state law in the state in which you are formed for your dissolution provision.

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On March 14, 20XX the organization responded with a statement acknowledging the dissolution clause in their response and a copy of the Bylaws. The Bylaws were not dated or amended to show the dissolution clause and the organization did not establish that it was in the process to amend or correct their organization's documents.

**Operational Test - Specific Activities**

The organization indicated on the Form 1023-EZ, Part III, that they are organized and operated exclusively to further a Charitable purpose and that they have not conducted and will not conduct prohibited activities under section 501(c)(3).

Specifically, the organization attested that it will:

- Ensure that your net earnings do not inure in whole or in part to the benefit of private shareholders or individuals.
- Not further non-exempt purpose (such as purposes that benefit private interests) more than insubstantially.
- Not be organized or operated for the primary purpose of conducting a trade or business that is not related to your exempt purpose(s).

Per the Bylaws of the organization, the mission statement indicates the purpose of the is to provide a means of camaraderie and unification of all assigned to

The Bylaws state membership and dues; that all assigned to are eligible to be a member of the . To maintain membership in good standing and eligibility for membership privileges, the annual or monthly dues must be paid and up to date, members must participate in at least one function per quarter and attend at least one meeting a month.

dues are 0.00 a month or 0.00 per year. Each member contributes an annual fee. This money is used for departing members (transfers and retirement) to receive plaques, paddles, shadow boxes and flags, for monetary allowance to members, gifts/flowers, command picnics, holiday parties and other functions.

July 14, 20XX, the organization responded to the initial Letter 3606. The organization did not provide a detailed description of the activities it conducted. A review of the books and records indicated a substantial amount of the income is coming from fundraising. The organization was unable or unwilling to substantiate that its activities furthered an exempt purpose and failed to establish that the organization is operating within the scope of section 501(c)(3) of the code.

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On March 14, 20XX, the organization provided additional information which indicated the organization was organized and operated, in more than an insubstantial amount, for the benefit of private interests: \_\_\_\_\_ members, sailors attached to the \_\_\_\_\_, and specific members of the local community. During the tax year in review, \_\_\_\_\_ held approximately 0 fundraising events in support of zero \_\_\_\_\_, one holiday party, and various community donations.

To date, a detailed description of the organization's activities has not been provided to reconcile the revenue and expenses of the fundraising activities conducted by the organization for the year under audit.

**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 §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(b)(1)(i)** An organization is organized exclusively for one or more exempt purposes only if its articles of organization (a) Limit the purposes of such organization to one or more exempt purposes; and (b) Do not expressly empower the



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organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

**Regulation 1.501(c)(3)-1(b)(4)** An organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, for example, if, upon dissolution, such assets would, by reason of a provision in the organization's articles or by operation of law, be distributed for one or more exempt purposes, or to the Federal Government, or to a State or local government, for a public purpose, or would be distributed by a court to another organization to be used in such manner as in the judgment of the court will best accomplish the general purposes for which the dissolved organization was organized. However, an organization does not meet the organizational test if its articles or the law of the State in which it was created provide that its assets would, upon dissolution, be distributed to its members or shareholders.

**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.

**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.

**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.

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**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.

**Rev. Proc. 2018-5, Sec 11.02 (3) Inaccurate information on request.** A determination letter issued to an organization that submitted a request in accordance with this revenue procedure may not be relied upon by the organization submitting the request if it was based on any inaccurate material information submitted by the organization. Inaccurate material information includes an incorrect representation or attestation as to the organization's organizational documents, the organization's exempt purpose, the organization's conduct of prohibited and restricted activities, or the organization's eligibility to file Form 1023-EZ.

**I.R.S. P.L.R. 201731016**, a stated purpose to strengthen and boost the morale of military members and support their welfare by engaging in various social activities fails the organizational test because the formation document does not limit its purposes to one or more exempt purposes as required in Treas. Reg. Section 1.501(c)(3)-1(b)(1). Social and recreational events are not considered activities which further exempt purposes under Treas. Reg. Section 1.501(c)(3)-1(c)(1).

**Rev. Rul. 77-366, 1977-2 C.B. 192**, states that a nonprofit organization that arranges and conducts winter-time ocean cruises during which activities to further religious and educational purposes are provided in addition to extensive social and recreational activities is not operated exclusively for exempt purposes and does not qualify for exemption under Section 501(c)(3) of the Code.

**Organization's Position:**

Taxpayer's position is unknown at this time.

**Government's Position:**

Based on the above facts, the organization partially and incompletely responded to requests 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.

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The organization has not established that it had organizing documents limiting the purpose of the organization to one or more exempt purposes, or a proper dissolution clause that meet the organizational test under IRC section 501(c)(3), either currently or the time of applying for tax exemption.

The organization fails the organizational test because it did not establish that it had an organizing document that complied with section 501(c)(3) at the time of applying for tax exemption. Furthermore, the organization fails the organizational test because its articles of organization expressly empower it to engage, in more than an insubstantial amount, in activities which themselves are not in furtherance of one or more exempt purposes. Because the organization never established that it had an organizing document that meets the requirements of section 501(c)(3), and because it misrepresented that fact in its Form 1023-EZ, the revocation is effective as of the date of exemption, October 20, 20XX.

Furthermore, the organization was unable or unwilling to substantiate what its activities were or that its conducted activities furthered an exempt purpose. The organization fails the operational test because it failed to establish that its activities and operations accomplish one or more exempt purposes as specified in I.R.C. § 501(c)(3).

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 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

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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 October 20, 20XX.

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