



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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: JAN 8 2018

Number: 202052033
Release Date: 12/24/2020
UIL: 501-03.00

EIN:

Person to Contact:

Employee Identification

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 Section (the "Code") as an organization described in section 501(c)(3), effective July 1, 20XX. Your determination letter dated October 21, 19XX is revoked.

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

Organizations described in section 501(c)(3) of the Code and exempt from tax under section 501(a) must be both organized and operated exclusively for exempt purposes. You have failed to produce documents or otherwise establish that you are operated exclusively for exempt purposes and that no part of your net earnings inure to the benefit of private shareholders or individuals.

As such, you failed 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 were organized and operated exclusively for exempt purposes and that no part of your earnings inured 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.

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 the rules for initiating suits for declaratory judgment. 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

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

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 also 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 or call 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.

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

Sincerely,

Maria D. Hooke

Enclosures:
Publication 892

Maria D. Hooke
Director, EO Examinations



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

Date:
March 23, 2018
Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:

Employee ID number:
Telephone number:
Fax:
Address:
Manager's contact information:

Employee ID number:
Telephone number: :
Response due date:

CERTIFIED MAIL – Return Receipt Requested

Dear _____ :

Why you're receiving this letter

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

If you agree

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

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

If you disagree

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

The IRS Appeals Office is independent of the Exempt Organizations division and resolves most disputes informally. If you file a protest, the auditing agent may ask you to sign a consent to extend the period of limitations for assessing tax. This is to allow the IRS Appeals Office enough time to consider your case. For your protest to be valid, it must contain certain specific information, including a statement of the facts, applicable law, and arguments in support of your position. For specific information needed for a valid protest, refer to Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status.

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

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

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

If we don't hear from you

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

Contacting the Taxpayer Advocate Office is a taxpayer right

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

Additional information

You can get any of the forms and publications mentioned in this letter by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676).

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

Sincerely,

Maria Hooke
Director, Exempt Organizations Examinations

Enclosures:
Form 886-A
Form 6018

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended June 30, 20XX June 30, 20XX June 30, 20XX June 30, 20XX	

Issue:

Is the _____ an organization exempt from tax under section 501(c)(3) of the Internal Revenue Code?

Facts:

The _____, hereinafter the "School", was incorporated on _____. The School received its exemption on _____ as a 501(c)(3) 170(b)(1)(A)(ii) entity. The School is recognized as a non-church religious organization that is not required to file Forms 990.

The School was organized to operate an elementary school on the _____ located in _____. The school relies on members of the _____ and _____ churches to provide financial and fundraising assistance. The churches also provide the "volunteer" staff and administrators to run the school. Although the _____ has a degree of control over the School, it does/did not maintain the power to compel accounting from the _____.

The former Principal and Administrator.

On May 18th, 20XX, the Internal Revenue Service mailed the initial examination Letter 3611, Form 4564, Information Document Request #1 (IDR 1), and Publication 1, *Your Rights as a Taxpayer* to the organization at _____, _____, 1 _____. The initial exam was scheduled for June 21, 22, & 23, 20XX at the School's facilities.

IDR 1 asked the School to provide information and documents explaining its activities. The examining revenue agent called the School's number listed on its website on May 24, 20XX to confirm the appointment set for June 21 through 23. _____ informed the examining agent that 'the School is currently in its graduation week, that its very busy'. He stated that the missionaries, who are from all parts of the country, are going home next week, and that the school will be closed until August 20XX. _____ advised the examining agent to contact the Treasurer, _____ at _____.

An agreement was made that the exam would be postponed from June to August 20XX. The examining agent attempted to call _____ several times to re-schedule the exam for a specific day in August. Several voice messages were also left with the number provided, however no return call was placed.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
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On September 1, 20XX, Letter 1477 along with IDR #2 was mailed to the School's address. No response was received from the School by the due date of September 21, 20XX.

IDR #3 was mailed on September 13, , which expanded the exam to include the subsequent year ending June 30, 20XX. IDR # 3 requested in part, bank statements for the period July 1, 20XX through June 30, 20XX, Minutes of meetings, all books and records of assets, liabilities, receipts and disbursements, Financial statements, Chart of Accounts, check register, canceled checks, and bank statements from (July 1, 20XX through June 30, 20XX). No response was received by the due date of September 30, 20XX. Note that and wife were arrested for embezzlement charges on September 27, 20XX.

The examining agent issued a third-party record keeping summons to on September 21, 20XX. The United States Postal Service reported that the Summons Noticee copy was unclaimed and subsequently returned to sender.

Letter 1398 (served as request #4), as well as copies of IDR # 1, 2, & 3, were mailed to the School on January 18, 20XX. The request asked the School to provide Governing instruments (articles of incorporation, bylaws, etc.)

- Minutes of meetings
- All books and records of your assets, liabilities, receipts and disbursements
- Check register, canceled checks, and bank statements
- Auditor's report
- Copies of prior and subsequent year returns
- Copies of any other Federal tax returns filed
- Pamphlets, brochures, and other literature printed
- Correspondence files

The School did not response to the fourth (4th) request.

IDR # 5 was issued on January 25, 20XX and asked the School to explain selected expenditures obtained from the statements and cancelled checks. The attached expenditures totaled \$

. The School did not respond to the Service's inquiries or substantiating documents that could explain how the expenditures served an exempt or educational purpose.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
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Additional bank accounts were discovered, and on March 8, 20XX third party record keeping summonses were issued to _____ and _____

The USPS reported that delivery of the Summons Noticee copies (taxpayer copies) were attempted on March 11th, then forwarded to a residential address in _____, in which the letter's acceptance was refused on March 18, 20XX. At the time, it was unclear which administrator submitted the change of address / mail forward on behalf of the School.

On April 14, 20XX, the School's _____ account was summonsed.
On April 17, 20XX, the Summons Noticee was refused at the _____ address.

On May 3rd, _____, IDR #6, Letter 5077-B, IDR delinquency notice, with attached IDR # 1, 2, 3, 4, 5, and a notification that June 30, _____ was now under exam, was mailed to the School at its new address per updated IRS records:

IDR # 6 asked the School to provide evidence that:

- the organization continues to be operated exclusively for 501(c)(3) purposes. to explain if the organization is currently active and operating as a K-8 school. Fully describe any changes in operations or discontinued activities. Please provide documentation evidencing that _____ is operated exclusively for exempt purposes described under 501(c)(3). Please also provide student enrollment documents, tuition fee schedules, and curriculum, syllabus, etc. for each grade (k - 8).
- explain if the organization continues to solicit donations from the public, charges tuition, or receives government funded grants. Provide supporting documentation detailing the source and amount of all funds received for the current year (June 30, _____)
- explain whether the organization has implemented safeguards that are reasonably calculated to prevent excess benefit transactions from occurring in the future
- Provide supporting documentation that the organization's earnings are not being distributed to any insider such as officers, trustees, school board members, etc.
- explain whether the excess benefit transactions that have occurred have been corrected or whether _____ has made good faith efforts to seek correction from the disqualified persons who benefited from the excess benefit transactions: _____ & _____, and _____
- Provide a current listing of _____ school board members, officers, directors, trustees, and any other governing official or decision maker within the organization.

IDR # 6 also asked for responses to Information Document Requests 1, 2, 3, 4 & 5 that remain outstanding. The School did not respond to IDR #6.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
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On May 25, 20XX, IDR # 7 was issued along with a notification that the prior year ending June 30, 20XX is under examination. The requested information included books records, financial statements, meetings, banks statements cancelled checks, etc. The School did not provide a response to IDR #7.

Additional summonses were issued to _____ and _____ on July 11, 20XX covering prior years. The USPS left a notice on July 17th, 20XX (no authorized recipient available) and the summons notice remained unclaimed and was returned to sender on August 23, 20XX.

Evidence was obtained revealing the School administrators created two entities in entitled the _____, and _____ 1. _____ accounts were opened in the name of these 'fake' foundations. Donations destined for the _____ were deposited into these 'fake' foundation accounts. On July 12, 20XX _____ was summonsed as a third-party record keeper for the _____. The USPS left a notice on July 17th, 20XX (no authorized recipient available) and the item remained unclaimed and returned to sender on August 23, 20XX.

Information obtained from the _____ account revealed that checks written to _____ were deposited into the fake foundation's account. The funds were embezzled for similar purposes described above.

Approximately in August 20XX information² was discovered revealing that both _____ and fellow administrator, _____ rented the house at _____, _____ beginning in February 20XX. The Pretrial Release Conditions revealed that _____ is no longer an administrator or working for the School. The release conditions also stated a new board has been implemented, however no names were provided.

In March of 20XX, information was obtained from the _____ which listed _____ as the statutory agent of the School. According the _____ was also responsible for changing the Schools address from: _____, _____ to _____, _____.

On November 18, 20XX _____ was summonsed with respect to the _____. The Summons Noticee copy was mailed to the School's physical address at _____. The address at _____ is now deemed invalid because _____ and _____ are no longer officers or administrators of the School. The Noticee copy mailed to the School's physical address was also returned to sender.

¹ These entities are not recognized under IRC 501(c)(3). None of the Schools funds were deposited into _____ bank account.

² Pretrial Release Conditions

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
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Finally, the owner of the property, the , reported³ that the Schools is in disarray, items and vehicles are missing, and the premise is abandoned.

Law:

Section 501(c)(3) of the Internal Revenue Code provides for exemption from taxation for organizations "organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur athletic competition..., 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..."

Section 1.501(c)(3)-1(c)(1) of the Income tax regulations states that "An organization will be regarded as 'operated exclusively' for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose."

Section 1.501(c)-1(d)(1)(ii) of the Income tax regulations states that "An organization is not organized or operated exclusively for one or more of the purposes specified ... unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests."

Section 1.6033-2(i)(2) of the Income tax regulations provides that "Every organization which is exempt from tax, whether or not it is required to file an annual information return shall submit such additional information as may be required by the Internal Revenue Service for the purpose in inquiring into its exempt status and administering the provisions of subchapter F (section 501 and following), chapter 1 of subtitle A of the Code..."

Rev. Rul 59-95, An organization previously held exempt from Federal income tax was requested to produce a financial statement as of the end of the year and a statement of its operations during such year. However, its records were so incomplete that it was unable to furnish such statements. Section 6033 of the Internal Revenue Code of 1954 provides that every organization, except as provided therein, exempt from taxation under section 501(a) of the Code shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and shall keep such records, render under oath such statements, make such other returns and comply with such rules and regulations as the Secretary of the Treasury or his delegate may from time to time prescribe. Held, failure or inability to file the required information return or otherwise to comply with the

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provision 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 an exempt status.

Rev. Rul. 56-304, Organizations privately established and funded as charitable foundations which are organized and actively operated to carry on one or more of the purposes specified in section 501(c)(3) of the Internal Revenue Code of 1954, and which otherwise meet the requirements for exemption from Federal income tax are not precluded from making distributions of their funds to individuals, provided such distributions are made on a true charitable basis in furtherance of the purposes for which they are organized. However, organizations of this character which make such distributions should maintain adequate records and case histories to show the name and address of each recipient of aid; the amount distributed to each; the purpose for which the aid was given; the manner in which the recipient was selected and the relationship, if any, between the recipient and (1) members, officers, or trustees of the organization, (2) a grantor or substantial contributor to the organization or a member of the family of either, and (3) a corporation controlled by a grantor or substantial contributor, in order that any or all distributions made to individuals can be substantiated upon request by the Internal Revenue Service.

Government's Position:

The Internal Revenue Service requested the School to provide specific information about its actual activities during the years ending June 30, 20XX through June 30, 20XX. The School has not responded to a single request from the Service, nor has it provided any information on how it conducts its charitable activity.

The Internal Revenue Service asked the organization to:

- Prove that it continues to be operated exclusively for 501(c)(3) purposes fully describe any changes in operations or discontinued activities
- provide student enrollment documents, tuition fee schedules, and curriculum, syllabus, etc. for each grade (k - 8)
- explain if the organization continues to solicit donations from the public, charges tuition, or receives government funded grants
- Provide supporting documentation detailing the source and amount of all funds received for the current year (June 30, 20XX)
- explain whether the organization has implemented safeguards that are reasonably calculated to prevent excess benefit transactions from occurring in the future

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- Provide supporting documentation that the organization's earnings are not being distributed to any insider such as officers, trustees, school board members, insider
- explain whether the excess benefit transactions that have occurred have been corrected or whether _____ has made good faith efforts to seek correction from the disqualified persons who benefited from the excess benefit transactions: _____ & _____, and _____
- Provide a current listing of _____ school board members, officers, directors, trustees, and any other governing official or decision maker within the organization.

The Internal Revenue service also asked the School to describe its activities and to provide books, records, minutes, invoices & receipts, financial statements, governing instruments, etc. The organization did not respond to any of the seven document requests issued by the Service.

As required by Revenue Ruling 56-304, the School did not provide any records to show that it continues to operate for exempt purposes; or that safe guards were implemented to prevent future inurement and excess benefit transactions. An exempt organization must respond to Internal Revenue Service inquiries to establish that it is entitled to tax exempt status. The School's administrators embezzled nearly \$ _____ during the years of examination, yet the taxpayer has repeatedly ignored the Service's inquiries in the matter. In Sum, revocation of _____ tax exempt status under 501(c)(3) is proposed due to its failure to provide records to the Service regarding its exempt activities and expenditures, failure to show that corrective measures have been implemented to prevent future inurement. Additionally, the reporting of the School's abandonment also supports the Service's position that no exempt activity is being conducted.

Taxpayer's Position:

The organization has not submitted its position.

Conclusion:

Exemption under Code section 501(c)(3) for the _____ should be revoked effective July 1st, 20XX. The organization is required to file Form 1120 for subsequent taxable years.