



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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Number: **202052036**
Release Date: 12/24/2020

UIL: 501.03-00

Date: May 1, 2020
Taxpayer ID Number:
Form:
Tax Period(s) ended:
Person to Contact:
Identification Number:
Telephone Number:
Fax Number:

CERTIFIED MAIL – Return Receipt Requested
LAST DAY FOR FILING A PETITION WITH THE TAXCOURT:

Dear :

This is a final determination that you do not qualify for exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a) as an organization described in IRC Section 501(c)(3), effective January 28, 20XX. Your determination letter dated April 14, 20XX is revoked.

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

Organizations exempt from federal income tax under IRC Section 501(c)(3) are required to operate exclusively for charitable, education, or other exempt purposes. Organizations are not operated exclusively for one or more exempt purposes if the net earnings of the organization inure in whole or in part to the benefit of private shareholders or individuals of the organization per Treasury Regulations Section 1.501(c)(3)-1(c)(2). We have determined that your net earnings inured to the benefit of private individuals through multiple and repeated transactions.

As such, you failed to meet the requirements of IRC Section 501(c)(3) and Treas. Regs. Section 1.501(c)(3)-1(c), in that you have not established that you were operated exclusively for exempt purposes.

Contributions to your organization are no longer deductible under IRC Section 170.

Organizations that are not exempt under IRC Section 501 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.

If you decide to contest this determination, you may file an action for declaratory judgment under the provisions of IRC Section 7428 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., NW
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 IRC Section 7428.

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

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 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.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

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:
07/19/2019
Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:
Name:
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

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.

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,

Michael Silva

for

Maria Hooke

Director, Exempt Organizations Examinations

Enclosures:

Form 886-A, Exhibits A-D

Form 6018

F4621-A

Pub.892

Pub.3498-A

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

Issues:

Should _____ tax-exempt status under section 501(c)(3) of the Internal Revenue Code be revoked because it failed to demonstrate that it is operates for a charitable purpose?

Should _____ tax-exempt status be revoked because it operates for the private benefit of the President and Founder of the organization?

Facts:

_____ (_____) was incorporated as a nonprofit corporation in the state of _____ on _____. Its purpose is to provide opportunities for foster children by paying/sponsoring for _____ to encourage fitness and develop positive self-esteem, goals, and healthy relationships. The Foundation requires these foster children to meet a minimum number of community service hours to meet monthly and educational requirements to maintain their sponsorship.

The Internal Revenue Service (IRS) granted _____ exempt status under IRC 501(c)(3) in a letter dated April 20XX. The determination letter also noted that _____ was further classified under IRC 509(a)(2) and 170(b)(1)(A)(vi). The effective date of this exemption is the date of incorporation.

Article 4.3 of _____ Bylaws names _____ the Chair of the Board at each annual meeting.

Article 5.3 states that “any time this Corporation compensates its President or Treasurer, the Corporation shall have a Compensation Committee consisting of at least three Directors and exclusively of Directors.”

Section 6.5 Resignation of Officers in the bylaws states in part that “Any Officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary of the Corporation.

_____ filed Form 1023EZ with the IRS, and list _____ as President, _____ as Secretary, and _____ as Treasurer.

On February 26, 20XX, during a conversation with _____ -officer, _____ stated that _____ was not the Treasurer but the Secretary for a short time. _____ stated that she did not have access to _____ checking account nor the authority to approve expenditures. _____ stated that _____ was no longer operating. I asked _____ if _____ provided a written letter resigning from _____ position with the organization, and _____ response was no.

First contact was made by phone with _____, President on February 26, 20XX after a year of extensive research, mailing letters and phone calls. Agent advised President that an audit letter was mailed to the address that _____ presently resides, and that it was never returned by postmaster. _____ stated that _____ had not received the audit letter.

_____, President states in a phone call on February 26, 20XX that the organization was no longer operational, and it had ceased operations in mid-20XX.

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In a phone call on April 6, 20XX, _____, President confirmed receipt of my audit letter. Stated that _____ did not have the organization's bank statements, and that _____ would not provide them to _____ without a current account.

On April 16, 20XX, _____ provided the following documents:
Articles of Incorporation, Form 1023EZ, Corporate Profile, Bylaws, Minutes of 1st Meeting, Mission Statement _____ Ambassador Program & Job Requirements, Athlete application for child & commitment statement, Team Meetings – 2/12/XX, 2/26/XX, 4/21/XX, 5/7/XX, 6/11/XX, 7/16/XX.

A summons was issued by Agent _____ to _____, and a signed certified receipt was received on 4/23/20XX to provide bank statements for _____ for fiscal years ended December 31, 20XX and December 31, 20XX.

Upon receipt and review of _____ bank statements, it is apparent that many of the expenditures are personal in nature. **Exhibit A** for fiscal years ended December 31, 20XX and December 31, 20XX list the vendors, services rendered and total amounts for each year. For FYE 20XX total personal expenses for _____ was \$0. For FYE 20XX total personal expenses for _____ was \$0. No records were provided to substantiate exempt business purpose. These expenditures were determined by Agent _____ to be excess benefit transactions.

Bank Statements for fiscal year ended December 31, 20XX and December 31, 2016 reports ATM cash withdrawals of \$0 and \$0, respectively. **(Exhibit B)** No records were provided to substantiate exempt business purpose.

Bank Statements for fiscal year ended December 31, 20XX and December 31, 20XX reports electronic withdrawals for online payroll payments transmitted to account numbers but no names are associated with these withdrawals. **(Exhibit C)** For FYE 20XX four (4) Individuals were paid at least \$0. For FYE 20XX, one (1) individual was paid at least \$0. Agent's research reports that **no** W2 or F1099's were filed with the IRS for FYE 20XX and FYE 20XX. No records were provided to substantiate exempt business purpose. The lack of substantiation to support that these expenditures were for tax exempt purposes further supports our position for revocation.

Bank Statements for FYE 20XX report checks written to one individual who was paid \$0 for coaching. Bank Statements for FYE 20XX report checks written to one company who was paid \$0 for rent. Refer to **Exhibit D** for both years. Agent's research reports that no F1099 or W2 were filed with the IRS for FYE 20XX and FYE 20XX.

_____ provided a "Business Signature Card" that shows that _____ is the only signor on the checking account for _____

_____ was issued IDR #3 on 8/24/20XX and IDR#4 on 03/26/XX both these requests included copies of all bank statements for FYE 20XX and FYE 20XX. The organization has not responded to my request to provide supporting documents (receipt, invoices & bills) for expenditures reported on bank statements.

Agent has left numerous messages for _____, and _____ has not responded to my phone calls. Nor will schedule an audit with me to provide supporting documentation of financial records.

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Law:

Internal Revenue Code (Code) Section 501(c)(3) exempts from federal income tax organizations organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, educational purposes, to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals, provided that no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

Federal Tax Regulations (Regulations) Section 1.501(c)(3)-1(a)(1) 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.

Regulations Section 1.501(c)(3)-1(c)(1) provides that an organization will not be regarded as operated exclusively for exempt purposes if more than an insubstantial part of its activities is not in furtherance of exempt purposes.

Regulations Section 1.501(c)(3)-1(d)(l)(ii) provides that to meet the operational test, an organization must be engaged in activities furthering "public" purposes rather than private interests. It must not be operated for the benefit of designated individuals or the persons who created it.

IRC § 6001 provides that every person liable for any tax imposed by the IRC, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

IRC § 6033(a)(1) provides, except as provided in IRC § 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.

Treas. Reg. § 1.6001-1(a) in conjunction with Treas. Reg. § 1.6001-1(c) provides that every organization exempt from tax under IRC § 501(a) and subject to the tax imposed by IRC § 511 on its unrelated business income must keep such permanent books or accounts or records, including inventories, as are sufficient to establish the amount of gross income, deduction, credits, or other matters required to be shown by such person in any return of such tax. Such organization shall also keep such books and records as are required to substantiate the information required by IRC § 6033.

Treas. Reg. § 1.6001-1(e) states that the books or records required by this section shall be kept at all times 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.

Treas. Reg. § 1.6033-1(h)(2) 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 IRC § 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 IRC § 6033 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.

In accordance with the above cited provisions of the Code and regulations under IRC §§ 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.

IRC 4958(c)(1)(A) defines an excess benefit transaction as any transaction in which an economic benefit is provided by an applicable tax-exempt organization, directly or indirectly, to or for the use of any disqualified person, and the value of the economic benefit provided by the organization exceeds the value of the consideration (including the performance of services) received for providing such benefit. For purposes of the preceding sentence, an economic benefit shall not be treated as consideration for the performance of services unless such organization clearly indicated its intent to treat the benefit as payment for services.

IRC 4958(e) in part defines an applicable tax-exempt organization as any organization described in IRC 501(c)(3).

Taxpayer’s Position:

The Taxpayer’s position is not known at this time. _____ did not response to Agent requests to provide financial records to support their exempt activities for the years mentioned above.

Government’s Position:

Based on the above facts, _____ did not respond to verify that they are organized and operated exclusively for one or more of the purposes specified in IRC Section 501(c)(3). If an organization fails to meet either the organizational test or the operational test, it is not exempt.

In accordance with the above-cited provisions of the Code and regulations under sections 6001 and 6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the 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.

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Using the rationale that was developed in Revenue Ruling 59-95, failure to provide requested information should result in the termination of its exempt status.

Conclusion:

does not meet the requirements to be exempt under Code Section 501(c)(3) because it has not demonstrated that it is substantially operating for charitable purposes.

It is the IRS's position that the organization failed to meet the reporting requirements under IRC §§ 6001 and §§ 6033 to be recognized as exempt from federal income tax under IRC § 501(c)(3).

In addition, , President and Treasurer of used organization's funds for personal uses such as clothing, groceries, animal care, crafts, restaurants, gas, personal trainer, cosmetic surgery, cable, furniture, entertainment, alcohol and ATM Cash Withdrawals.

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.

Accordingly, the organization's exempt status is revoked effective January 1, 20XX.