



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

**TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION**

Number: **202052041**  
Release Date: 12/24/2020

UIL: 501.03-00

**Date: May 5, 2020**

**Taxpayer ID Number:**

**Form:**

**Tax Period(s) Ending:**

**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 Internal Revenue Code (IRC) Section 501(a) as an organization described in IRC Section 501(c)(3), effective July 1, 20XX. Your determination letter dated October 17, 20XX is revoked.

Our adverse determination as to your exempt status was made for the following reasons: Organizations described in IRC Section 501(c)(3) and exempt under Section 501(a) must be both organized and operated exclusively for exempt purposes. You have not demonstrated that you are operated exclusively for charitable, educational, or other exempt purposes within the meaning of 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. You have not established that you have operated exclusively for an exempt purpose.

As such, you failed to meet the requirements of IRC Section 501(c)(3) and Treasury Regulations 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.

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](http://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

US 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](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 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  
Exempt Organizations Examinations**

Date:  
June 20, 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

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
<b>Name of Taxpayer</b>		<b>Year/Period Ended</b>

**Issues:**

Whether the exempt status of \_\_\_\_\_ (henceforth referred to as "organization" "the Organization") should be revoked, effective July 1, 20XX because it is failed to meet the operational test under Internal Revenue Code (IRC) Section 501(c)(3)?

**Facts:**

**Application for Exemption:**

The organization applied for tax-exempt status by filing the Form 1023, *Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, on \_\_\_\_\_

In Part III of the Form 1023 the organization stated that they are organized and operated exclusively to further a charitable purpose and that they have not conducted and will not conduct prohibited activities that violate prohibitions and restrictions under section IRC 501(c)(3).

In Part VIII Line 22 of the Form 1023 the organization stated that it planned to provide scholarships, fellowships, educational loans, or other educational grants to individuals, including grants for travel, study, or other similar purposes.

**Articles of Incorporation:**

The organization incorporated on \_\_\_\_\_ and was approved, as a Nonprofit Corporation, under the laws of \_\_\_\_\_ State.

Article two of the Articles of Incorporation states that this corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the Nonprofit \_\_\_\_\_ Corporation Law for charitable purposes.

The specific purpose for which this corporation is organized are to provide hockey equipment and education of the game to children in \_\_\_\_\_ County.

Article Four(a) of the Articles of Incorporation states this corporation is organized and operated exclusively for charitable purposes within the meaning of section 501(c)(3) of the Internal Revenue Code.

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**Bylaws:**

The organization stated in its Bylaws, the organization was formed for the following purposes:

- To encourage and support the development of youth hockey and to help provide a structure for instruction and educate the public about the game. To engage in collection, refurbishment and redistribution of used hockey equipment to youth that have a need and to award scholarship to young hockey athletes.
- To provide hockey equipment and education of the game to children in county.

**Exemption Letter:**

The organization was granted tax-exempt status as a 501(c)(3) on \_\_\_\_\_, with an effective date of \_\_\_\_\_ as evidenced L947 issued to the organization on \_\_\_\_\_

**Form 990-EZ and Reported Activities:**

The Form 990-EZ, *Short Form Return of Organization Exempt from Income*, filed by the organization for the year beginning July 1, 20XX through June 30, 20XX' described the organizations primary exempt purpose as: to provide scholarships and equipment to young hockey athletes.

Form 990-EZ, Part III, line 28, describes the organizations primary exempt purpose as: to provide scholarships and equipment to young athletes. In the review of the Form 990-EZ there were no amounts identified as scholarships.

Per a review of the expenses listed on Form 990, no scholarship activities were conducted in the year of examination.

**Organization Response to IDR #1 and #2 on Activities**

In its response to the Information Document Request #1 and #2 the organization provides the following as to the activities conducted by the organization:

1. The organization described its activities in general as:

"We are a diverse and committed group of people who have joined together to form \_\_\_\_\_ . The goal is to support youth hockey and do good works in the community \_\_\_\_\_"

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in many different ways. We are structured as a 501(c)(3), nonprofit organization, and fund ourselves by the generosity of our individual members. We also accept matching corporate donations, and work with other sponsors who believe in and support our cause.

- The organization also stated that they conduct road trips as an organization to watch hockey games live and in-person. The organization provided the following with respect to the trips:

"Road trips are exactly what they sound like. We have a group of people who sign up and pay to go to these locations and watch hockey games."

- The organization stated they conduct a activity to collect used hockey equipment at various locations to refurbish it and prepare it for kids around the world that cannot afford to buy their own equipment to play hockey. The organization works with primarily ice rinks. These ice rinks have kid leagues of all different ages and skills. The organization works with several different coaches of these leagues to determine who needs help with getting equipment and that is primary how they know whom to offer the refurbished equipment. The income description summarized the noncash donations received from the : activities in the amount of \$0.

- The organization stated they have a scholarship program for students that are hockey players. The scholarships are awarded for equipment, hockey team and league expenses.

- The organization stated they conduct tail gate parties which are gatherings they have on Sundays before the Home games. The are the which are a professional ice hockey team. The organization conducted nine of these throughout the year. The organization provided the following with respect to the tail gate activities:

"Tail gate parties are gatherings we have on Sundays before the home games at on in ."

- The organization stated that they conduct watch parties to gather and watch the when they are traveling and playing hockey in various other cities. The gatherings are at local restaurants. The board members do the planning based on what the hockey schedule is each season. The organization conducted five of these throughout the year. The organization provided the following with respect to the watch party activities:

"Watch parties are gatherings we have to watch the when they are traveling and playing hockey in various other cities. We are holding these gatherings at either

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on in or and on in  
.”

The organization was asked to provide more detail regarding the road trip activities it conducted for the year. The organization stated that it conducted two of these road trips a year. That these activities place an emphasis on the sport of hockey. That they include people of all ages, 0 people total, two were under the age of 0, seven are members and the rest not. That the ages are from 0-0. The organization provided that all their trips include multi-generational participation and 2 or 3 family groups and that they are one big happy family”.

**Trial Balance:**

The Trial Balance provided by the organization in response to Information Document Request #1 listed road trip income of \$0 and Road Trip expense of \$0.

**CHART DELETED**

**Profit & Loss statement:**

The Profit & Loss statement provided by the organization in response to Information Document Request #1 listed road trip income of \$0 and Road Trip expense of \$0.

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Name of Taxpayer		Year/Period Ended

## CHART DELETED

### Law:

Internal Revenue Code (IRC) Section 501(c)(3) provides an exemption for any community chest, fund, or foundation, 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, 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, and which does not participate in, or intervene in, any political campaign on behalf of (or in opposition to) any candidate for public office.

Treasury Regulation Section 1.501(c)(3)-1(a)(1) states that in order to qualify under section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more exempt purposes. If an organization fails to meet either the organizational or operational test, it is not exempt.

Treasury Regulation Section 1.501(c)(3)-1(c)(1) provides that an organization will be regarded as operating exclusively for exempt purposes if it engages **primarily** in activities that accomplish exempt purposes specified in section 501(c)(3) of the code. An organization will not be so regarded if more than an **insubstantial** part of its activities is not in furtherance of an exempt purpose.

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Revenue Ruling 67-327, 1967-2 CB 187 - A nonprofit organization formed for the purpose of arranging group tours for students and faculty of a university to allow them to travel abroad and which has no other activities is not entitled to exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954.

In ***Better Business Bureau of Washington, D.C. v. United States, 326 U.S. 279 (1945)***, the Supreme Court determined that the presence of a single non-exempt purpose, if substantial in nature, will destroy exemption under Section 501(c)(3) regardless of the number or importance of any other exempt purposes.

In ***Haswell v. United States, 500 F.2d 1133, (Ct. Cl. 1974), cert denied, 419 US 1107 (1975)***, the court held that 16.6% to 20.5% over a two-year period was a strong indication of substantiality but that the method of measurement was only one acceptable method of measurement.

In ***Malat V. Riddle, 383 U.S. 569 (1966)***, the court held that the term "primary" means more than 50%.

#### Taxpayer's Position:

Taxpayer's position is unknown at this time.

#### Government's Position:

That the exempt status of \_\_\_\_\_ (henceforth referred to as "organization" "the Organization") should be revoked, effective July 1, 20XX because it is failed to meet the operational test under Internal Revenue Code (IRC) Section 501(c)(3).

Under IRC Section 501(c)(3) there are two main tests for qualification for exempt status: the operational test and the organizational test. In order to be exempt under this section, an organization must be organized and operated exclusively for purposes described in section 501(c)(3).

Internal Revenue Code (IRC) Section 501(c)(3) provides an exemption for any community chest, fund, or foundation, 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, or for the prevention of cruelty to children or animals

Treasury Regulation Section 1.501(c)(3)-1(c)(1) provides that an organization will be regarded as operating exclusively for exempt purposes if it engages **primarily** in activities that accomplish exempt purposes specified in section 501(c)(3) of the code.



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- Scholarships (\$0.00)
- Road Trips (\$0.00)
- Fundraising (\$0.00)
- Administrative Expenses (\$0.00)

Per review of the profit and loss statement of the organization the organization expended a total of \$0.00 for the year of examination.

Based on the financial information provided, the organization's exempt activities (second skate and scholarship activities) totaled 0.00% of its total activities. Alternatively, the government has calculated the organization's activities that are not in furtherance of an exempt purpose to be 0.00% of its total activities based on its expenditures.

As evaluated on an expenditure basis, the government has determined that the organization conducts more than an insubstantial amount of its activities that are not in furtherance of an exempt purpose amount of non-exempt activity and that its primary purpose no longer continues to be charitable in nature.

The government also reviewed the activities of the organization on the bases of the number of times they were conducted in the year of examination. As outlined above, the organization stated that it conducted the following activities in the year of examination:

- 
- Scholarships
- Road Trips
- Tailgate Parties
- Watch Parties

Per a review of the documentation provided by the organization throughout the audit, the organization conducted the following activities in the year of examination:

- (One event)
- Scholarships (Not conducted)
- Road Trips (Two Road trips)
- Tailgate Parties (Nine Tailgate Parties)
- Watch Parties (Five Watch Parties)

Based on the information provided, the organization conducted a total of 0 events throughout the year. The exempt activities that further an exempt purpose (second skate and scholarship activities) totaled 0.00% of its total activities. Alternatively, the government has calculated the organization's activities not in furtherance of an exempt purpose to be 0.00% of its total activities based on its expenditures.

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As evaluated on an event basis, the government has determined that the organization conducts more than an insubstantial amount of its activities that are not in furtherance of an exempt purpose and that its primary purpose no longer continues to be charitable in nature.

In order to take both expenditures for activities and number of events conducted into consideration in one calculation the government has averaged both the exempt and non-exempt figures calculated above to determine the overall percentage of charitable versus non-charitable functions as follows:

- Non-exempt: 0.00%
- Exempt: 0.00%

Here, the organization does not meet the requirements of Section 1.501(c)(3)-1(c)(1) of the regulations, which requires them to engage primarily in activities which accomplish one or more exempt purposes. Since the organization is operating substantially for social and recreational purposes (non-exempt purposes) and are not operating exclusively for charitable, educational, religious or scientific purposes.

Therefore, it is the position of the government that the organization failed the operational test under IRC Section 501(c)(3) and should have its exemption revoked effective July 1, 20XX.

#### **Conclusion:**

Based on the facts and information provided, \_\_\_\_\_ does not qualify for exemption under section 501(c)(3) of the Internal Revenue Code.

You failed to establish that you are organized and operated exclusively for exempt purposes within the meaning as set forth under IRC section 501(c)(3) as you failed to meet the operational test therein. During our examination we determined that you operate for a substantial non-exempt, social and recreational purpose, with minimal benefit to the general public.

Accordingly, your organization's exempt status is revoked effective July 1, 20XX. If you agree please sign, date, and return the attached Form 6018 by July 17, 20XX

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