



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

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

Number: 202110031
Release Date: 3/12/2021

UIL: 501.03-00

Date: September 18, 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 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 January 1, 20XX. Your determination letter dated September 2, 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 Regulation 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 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 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

U.S. Court of Federal Claims
717 Madison Place, NW
Washington, DC 20439

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

Enclosures:
Publication 892

Sincerely,



Sean E. O'Reilly
Director, Exempt Organizations Examinations



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

Date:
April 14, 2020
Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Manager's contact information:

Name:

ID number:

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 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 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,



for Maria Hooke
Director, Exempt Organizations
Examinations

Enclosures:
Form 886-A
Form 6018
Form 4621-A
Publications 892 & 3498-A
Administrative File

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended December 31, 20XX

Issues:

Whether _____ (the organization), which qualified for exemption from Federal income tax under Section 501(c)(3) of the Internal Revenue Code, should be revoked based on substantial private benefit activities?

Facts:

Organization applied for exemption with Form 1023-EZ, *Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, as a Public Charity Support 509(a)(2) on August 29, 20XX.

Organization received determination, granting exempt status under Section 501(c)(3), Public Charity Status 509(a)(2) on September 2, 20XX.

Organization's Articles of Incorporation state the purpose is "to promote and preserve the _____ area located in _____, _____. This will help stop the neighborhood and community deterioration and lessen neighborhood tensions. The association will promote the area to the community and tourists to attract additional businesses to the area to refurbish the area's deteriorating buildings. Excess funds will be distributed to area non-profits located in the area."

Organization membership is open to business patrons within the historic area. To be a member within the organization, said business patrons are required to pay a monthly membership assessment.

Organization purchases, publishes, and/or maintains directional and advertisement signs (billboards, pamphlets, etc.), promoting the area, and each member business, to the community and attracting tourists. Organization states this form of advertising is conducted 0 days per year, 0 hours per day.

Organization maintains an online website, advertising for each business within the historical area (both member and non-member businesses). Organization states this advertising is conducted 0 days per year, 0 hours per day.

Organization plans and executes 0 (zero) festivals annually to promote the area and each member business to the community and attract tourists. The festivals are free to the _____

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer		Year/Period Ended December 31, 20XX

public, funded by sponsorships and vendor booth fees. Organization provided that other local non-profit organizations conduct any activities for youth during these festivals. Organization provides advertising online and through billboards, entertainment, and a schedule of events for the festival. Any funds in excess of the festival expenses are donated to local non-profit organizations.

Organization does not directly preserve or maintain any historical buildings within the area.

Law:

Section 501(c)(3) of the Internal Revenue Code provides for recognition of exemption from Federal income tax of organizations which are organized and operated exclusively for, among other things, charitable or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that in order to be exempt as an organization described in section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more purposes specified in that section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of the 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.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized exclusively for any of the purposes specified in section 501(c)(3) unless it serves public, rather than private interests. Thus, an organization applying for tax exemption under section 501(c)(3) must establish that it is not organized or operated for the benefit of private interests.

Rev. Rul. 67-6 noted that combatting community deterioration through remedial action leading to the elimination of the physical, economic and social causes of such deterioration is "charitable."

Rev. Rul. 76-147 provides, in effect, that an organization with a purpose and activity of preserving the traditions, architecture, and appearance of a community, as described in Rev. Rul. 67-6, provides community benefit since such preservation combats community deterioration.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended December 31, 20XX

Rev. Rul. 77-111, 1977-1 C.B. 144, held that an organization formed to increase business patronage in a deteriorated area by providing information on the area's shopping opportunities, local transportation, and accommodations is not operated exclusively for charitable purposes and does not qualify for exemption under section 501(c)(3) of the Code.

Rev. Rul. 74-146 provides, to be incidental, the private benefit must be a necessary concomitant of the activity which benefits the public at large and accomplishes exempt purposes. In other words, the benefit to the public cannot be achieved without necessarily benefiting certain private individuals.

Rev. Rul 75-470, 1975-2 C.B. 207, held that a nonprofit organization formed to promote an appreciation of history through the acquisition, restoration, and preservation of homes, churches, and public buildings having special historical significance or architectural significance and to open the structures for viewing by the public qualifies for exemption under section 501(c)(3) of the Code.

Rev. Rul. 86-49, 1986-1 C.B. 243, held that an organization formed for the purpose of preserving the historic or architectural character of a community through the acquisition and occasional restoration of historically or architecturally significant properties, and subsequent disposition of these properties subject to restrictive covenants qualifies for exemption under section 501(c)(3) of the Code.

Taxpayers position:

The organization has stated their belief that the advertising activities that promote businesses helps preserve the historical area and lessen neighborhood deterioration.

Governments position:

Based on the law stated above, to qualify under Section 501(c)(3), an organization must be organized and operated exclusively for exempt purposes under Section 501(c)(3). These exempt purposes, with the specific regulations cited above, can include combatting community deterioration and/or historic preservation. The organization has not demonstrated, as detailed below, that their activities further the exempt purposes described in Section 501(c)(3).

The organization's primary activities consist of promoting a historical area through advertising and marketing strategies, which primarily benefits the businesses within the area. Such benefits serve a private, rather than a public, interest and are not incidental to further one or more of your exempt purposes.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended December 31, 20XX

In connection with promoting the historical area, the organization sponsored promotional festivals to draw consumers to the business district. These events are paid for through sponsorships of local businesses and vendor booth fees. Membership within the organization is also local businesses. Accordingly, these events are essentially paid for by local businesses benefitting local businesses.

Rev. Rul. 77-111 denied recognition of exemption to two organizations who, similar to the organization, promoted business patronage and sales which did not result in benefits to needy individuals.

Rev. Rul. 75-470 and Rev. Rul. 86-49 recognize that combatting community deterioration through historical preservation does qualify for exemption under Section 501(c)(3). However, the organization has failed to demonstrate that the activities conducted by the organization revitalize the neighborhood or preserve historical or architectural significance. The organization's activities promote the area business patrons, attracting new business patrons, serve a private rather than a public interest.

Accordingly, the organization has failed to establish that it is organized and operated exclusively for exempt purposes, under section 501(c)(3) of the Code, but rather for private interests, and therefore does not qualify for exemption under section 501(c)(3).

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 has failed to demonstrate that their activities further the exempt purposes described in Section 501(c)(3) of the Code. Furthermore, Section 1.501(c)(3)-1(c)(1) state an organization will be operated exclusively for exempt purposes if their activities are in direct furtherance of the exempt purposes and Section 1.501(c)(3)-1(d)(1)(ii) states the organization must serve a public, rather than a private, interest.

Based on the law and regulations above, the organization's exempt status is revoked effective January 1, 20XX.

Form 1120, *U.S. Corporation Income Tax Return*, should be filed for the tax period beginning January 1, 20XX and all periods thereafter.