



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

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

Number: **202113008**
Release Date: 4/2/2021

UIL: 501-03.00

Date: May 8, 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 May 1, 20XX. Your determination letter dated June 22, 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) of the Code 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.

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., 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 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:
May 22, 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 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
Pub 892
Pub 3498-A

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

ISSUES

Whether the exempt status of _____ (the Organization) under IRC § 501(c)(3) should be revoked, effective May 1, 20XX because it is not organized and operated exclusively for exempt purposes within the meaning of section 501(c)(3) and Treas. Reg. § 1.501(c)(3)-1(b)?

FACTS

Organizational Test

_____ filed Form 1023-EZ, *Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, on May 1, 20XX. In a determination letter dated June 22, 20XX, the Internal Revenue Service granted _____ tax exempt status under IRC § 501(c)(3) as a public charity as described in IRC § 170(b)(1)(A)(vi).

An organization is organized exclusively for one or more exempt purposes only if its articles of organization limit the purposes of such organization to one or more exempt purposes and do not empower them 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.

_____ attested that their organizing document contains the dissolution provision required under § 501(c)(3) or that they did not need an express dissolution provision in their organizing document because they rely on the operation of state law in the state in which they are formed for their dissolution provision. _____ checked the box to attest that they have the organizing document necessary for the organizational structure indicated above.

The Articles of Incorporation the Tax Compliance Officer (TCO) obtained from _____ do not limit the purpose of the organization to one or more exempt purposes. The organization was established for private benefit and offers no public purpose. Their articles of incorporation state “the corporation is organized as a charitable organization that will provide financial assistance for medical treatment, personal circumstances and other related matters to the families of _____ who are suffering from financial hardships on account of medical or other needs and to raise awareness of the diseases, their causes, effects and treatments which might affect its members.”

Membership is limited to members _____ and their families. Membership is not open to the public.

Operational Test

Charitable organizations must show that they engage in activities which accomplish its exempt purpose, its net earnings do not inure to the benefit of private shareholders or individuals, and it does not expend a substantial part of its resources attempting to influence legislation or political campaigns, and it serves a valid purpose that confers public benefit.

_____ failed to establish their activities accomplish an exempt purpose. _____ failed provide documentation to prove no

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private shareholders or individuals benefitted from the earnings of the organization. failed to establish the public benefits from their organization's activities.

Correspondence and Information Document Requests (IDR)

Charitable organizations are required to keep sufficient records to establish the amount of gross income, deductions, credits, or other matters required to be shown on a tax return. They are required to submit them to the IRS upon request.

- February 13, 20XX: Letter 3606 was sent with IDR #1. The due date was March 16, 20XX. The TCO requested organizing documents, meeting minutes, detailed description of all activities conducted, records of gross receipts, workpapers used to prepare the return, and a copy of the general ledger. The TCO stated, "the following documentation does not need to be provided immediately. Please be prepared to provide them, as they may be requested at a future date." The items listed were calendar of events for all fundraisers, volunteer information, contract and payment information, raffle payouts, records of payments received, source documents to include receipts, statements, invoices, cancelled checks, credit card statements, bank statements, documentation regarding possible political contributions, records for grants issued, and documentation establishing how the awards were granted.
- February 25, 20XX: Letter 5798 was sent. The negotiated due date was April 30, 20XX.
- April 16, 20XX: Fax received from _____, the Power of Attorney for _____. "Regarding the Information Document Request, following are: Organizing documents, minutes of board meetings from 5/20XX to 4/20XX, Description of specific purpose for which the organization was formed."
 - The minutes of board meetings was actually a summary of meeting minutes, not the contemporaneous records.
- April 29, 20XX: Fax received from _____. "Following please find: Description of activities, information regarding contributions, profit and loss balance sheet, tie-in to tax return, general ledger."
 - The description of activities was a brief outline.
 - _____ provided a handwritten document of last names with a number written beside them. Per _____, these are the contributions members make directly from their checking account.
- May 1, 20XX: Letter 5077-B was sent with IDR #2. The due date was for May 16, 20XX. The TCO requested meeting minutes, records of gross receipts, a written explanation along with supporting documentation for possible political contributions, records for fundraising events, and records for raffles conducted.
 - _____ provided a written statement explaining the possible political contributions were donations made to the organization from various political campaigns.

failed to provide the actual meeting minutes, records of gross receipts, volunteer information, contracts, payment information, raffle gross receipts and payouts, records of grants awarded, and proof of exempt activities.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
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LAW

IRC § 501(c)(3)

Corporations, and 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 (but only if no part of its activities involve the provision of athletic facilities or equipment), 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 (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office shall be exempt from taxation.

IRC § 509(a)(2)

an organization which--(A) normally receives more than one-third of its support in each taxable year from any combination of -- (i) gifts, grants, contributions, or membership fees, and (ii) gross receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities, in an activity which is not an unrelated trade or business (within the meaning of section 513), not including such receipts from any person, or from any bureau or similar agency of a governmental unit (as described in section 170(c)(1)), in any taxable year to the extent such receipts exceed the greater of \$5,000 or 1 percent of the organization's support in such taxable year, from persons other than disqualified persons (as defined in section 4946) with respect to the organization, from governmental units described in section 170(c)(1), or from organizations described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)), and (B) normally receives not more than one-third of its support in each taxable year from the sum of--(i) gross investment income (as defined in subsection (e)) and (ii) the excess (if any) of the amount of the unrelated business taxable income (as defined in section 512) over the amount of the tax imposed by section 511.

IRC § 170(v)(1)(A)(vi)

an organization referred to in subsection (c)(2) which normally receives a substantial part of its support (exclusive of income received in the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501(a)) from a governmental unit referred to in subsection (c)(1) or from direct or indirect contributions from the general public.

Treasury Regulation § 1.501(c)(3)-1

(b) Organizational test—(1) In general. (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 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.

(c) Operational test—(1) Primary activities. 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.

(2) Distribution of earnings. An organization is not operated exclusively for one or more exempt purposes if its net

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
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earnings inure in whole or in part to the benefit of private shareholders or individuals.

Treasury Regulation § 1.501(a)-1

(c) Private shareholder or individual defined. The words private shareholder or individual in section 501 refer to persons having a personal and private interest in the activities of the organization.

Treasury Regulation § 1.6001-1

(a) In general. Except as provided in paragraph (b) of this section, any person subject to tax under subtitle A of the Code (including a qualified State individual income tax which is treated pursuant to section 6361(a) as if it were imposed by chapter 1 of subtitle A), or any person required to file a return of information with respect to income, shall keep such permanent books of account or records, including inventories, as are sufficient to establish the amount of gross income, deductions, credits, or other matters required to be shown by such person in any return of such tax or information.

(c) Exempt organizations. In addition to 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.

(e) Retention of records. 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 so long as the contents thereof may become material in the administration of any internal revenue law.

Rev. Rul. 59-95, 1959-1 C.B. 627

An exempt organization 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.

COURT CASES

For organization to pass operational test in order to obtain tax exempt status, it must engage primarily in activities which accomplish one or more of exempt purposes, organization's net earnings may not inure to benefit of private shareholders or individuals, organization must not expend substantial part of resources attempting to influence legislation or political campaigns, and organizations seeking exemption from taxes must serve valid public purpose and confer public benefit. *Nationalist Movement v. C.I.R.*, 1994, 37 F.3d 216, certiorari denied 115 S.Ct. 1256, 513 U.S. 1192, 131 L.Ed.2d 136.

The requisite purpose of tax-exempt status does not consist simply of a charitable motive, i.e., a desire that

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

charitable benefit ultimately result from the organization’s activities, but rather requires that the organization is operated to accomplish that purpose. *Partners in Charity, Inc. v. Commissioner of Internal Revenue, No. 1701-11X. August 26, 2013.*

If an organization fails to meet either the organizational test or the operational test, it is not exempt for purposes of section 501(a). Furthermore, the burden of proof is on petitioner to overcome the grounds set forth in respondent's notice of determination. *Gen. Conf. of the Free Church v. Commissioner, 71 T.C. 920, 926 (1979), Hancock Academy of Savannah, Inc. v. Commissioner, supra at 492.*

TAXPAYER’S POSITION

1. Taxpayer’s position is unknown at this time.

GOVERNMENT’S POSITION

That _____ doesn’t meet the definition of a public charity described in IRC § 170(b)(1)(A)(vi) or IRC § 509(a)(2) and the tax-exempt status should be revoked for all years beginning on or after May 1, 20XX.

Under Treasury Regulation § 1.501(c)(3)-1:

- a. An organization is organized exclusively for one or more exempt purposes only if its articles of organization limit the purposes of such organization to one or more exempt purposes; and do not expressly empower the 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.
- b. 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.
- c. An organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

_____ bears the burden of proving entitlement to their tax-exempt status. They failed to do so. _____ failed to substantiate they meet the organizational and operational tests. They failed to substantiate inurement does not exist within the organization.

Therefore, it is the government’s position _____ does not meet the definition of a public charity as described in IRC § 170(b)(1)(A)(vi) or IRC § 509(a)(2) and their tax-exempt status should be revoked.

CONCLUSION

Based on the foregoing reasons, _____ does not qualify for exemption under IRC § 501(c)(3) and its tax-exempt status should be revoked.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
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It is the IRS's position that the organization failed to establish that it meets the reporting 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 May 1, 20XX.

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