



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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date. October 07, 2019

Number. **202150018**
Release Date: 12/17/2021

EIN:

Person to Contact:

Identification Number:

Telephone Number:

UIL: 501.03-00

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 (the "Code") section 501(a) as an organization described in Code section 501(c)(3), effective January 1, 20XX. Your determination letter dated April 23, 20XX is revoked.

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

You have failed to provide documents to establish that you are operated exclusively for exempt purposes within the meaning of Internal Revenue Code 501(c)(3), and that no part of your net earnings inure to the benefit of private shareholders or individuals. You failed to respond to repeated reasonable requests to allow the Internal Revenue Service to examine your records regarding your receipts, expenditures or activities as required by I.R.C. Sections 6001, 6033(a)(1) and Rev. Rul. 59-95, 1959-1 C.B. 627.

As such, you failed to meet the requirements of I.R.C. § 501(c)(3) and Treasury Regulation § 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 section 170 of the Internal Revenue Code.

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 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 rules and the appropriate forms for filing petitions for declaratory judgment. Please refer to the enclosed Publication 892 for additional information. 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 Internal Revenue Code.

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.

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,

Maria Hooke

Enclosures:
Publication 892

Maria Hooke
Director, EO Examinations



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

Date: **May 28, 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(a) 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
Administrative File
Publication 892
Publication 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 20XX

Date of Notice: May 28, 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 due to its failure to produce records?

Facts:

applied for tax-exempt status by filing the Form 1023-F7, *Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, on February 2, 20XX, and was granted tax-exempt status as a 501(c)(3) on April 28, 20XX with an effective date of January 26, 20XX.

An organization exempt under 501(c)(3) needs to be organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes and to foster national and amateur sports competition.

The organization was selected for audit to ensure that the activities and operations align with their approved exempt status.

The organization failed to respond to the Internal Revenue Service attempts to obtain information to perform an audit of Form 990-EZ for the tax year December 31, 20XX.

The organization has not filed a Form 990 series return for the tax year ending December 31, 20XX.

The Form 1023-EZ application list the phone number of for the president of

Per the State of web-site, it lists the organization as active and contained a copy of the Articles of Incorporation. The Articles of Incorporation contain appropriate purpose, powers, and dissolution clauses.

Correspondence for the audit was as follows:

- Letter 3606 (Rev. 6-2012) with attachments, was mailed to the organization on March 6, 20XX with a response date of April 5, 20XX. This letter was not return by the post office as being undeliverable.
- Letter 3844-A (Rev. 12-2015) with attachments, was mailed certified to the organization on April 16, 20XX, with a response date of May 7, 20XX, Article Number . A signature of receipt was received dated April 23, 20XX.

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
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Telephone contact for the audit was as follows:

- March 20, 20XX, Tax Compliance Officer (TCO) called the phone number listed on the Form 1023-FZ application for the President of _____ and received VMS. I left a message for an officer to return my call.
- March 26, 20XX, TCO called the phone number listed on the Form 1023-EZ application for the President of _____. TCO spoke with the receptionist who stated President was out of office. Receptionist stated she would have President contact TCO.
- April 5, 20XX, TCO spoke with President at _____. President stated audit would be handled by the accountant directly. TCO indicated a Form 2848 was necessary to discuss audit with the accountant. President asked that I call and explain that to the accountant. President provided phone number of _____.
- April 5, 20XX, TCO spoke with accountant at _____. TCO stated the President had asked me to contact accountant and inform her of the Form 2848. Accountant stated she would get the form faxed to TCO and follow up within a week.
- April 12, 20XX, TCO contacted accountant to inform Form 2848, if faxed, had not been received. Accountant stated she is in the middle of the busy tax season and had forgotten to fax the information.
- April 16, 20XX, TCO attempted to contact accountant, as no fax had been received. TCO received VMS but did not leave a message as the accountant was not yet authorized.
- May 5, 20XX, TCO received Form 2848 for a different EIN with a similar name. TCO contacted accountant and informed her that the form was not acceptable, and we still could not discuss the account in question.
- May 6, 20XX, TCO received a VM from accountant asking for a call back, provided two phone numbers _____ or _____.
- May 7, 20XX, TCO called accountant back with no success, left VM to call back.
- May 8, 20XX, TCO left a second message for accountant to call back.
- May 10, 20XX, TCO attempted outcall to confirm receipt of Form 2848, unable to leave a VM on either phone number provided _____ or _____.
- May 14, 20XX, TCO attempted another outcall to confirm receipt of Form 2848, unable to leave a VM on either phone number provided _____ or _____.
- May 14, 20XX, Accountant contacted TCO and stated they are working on the items requested. She further stated that they did not have any income or expenses to send. TCO questioned if the organization was still in operation. Accountant stated that the non-profit side, after receiving exemption, never did anything with it. They have never had activities or cash flow of any kind. TCO and accountant discussed possible termination or revocation of exempt status. Accountant would discuss the options with President.
- May 21, 20XX, TCO contacted accountant to discuss status of response. Accountant stated they have no information to send, there is absolutely no activities, meeting minutes, financials of any kind, and they are unable to gain access to the articles of incorporation. Accountant asked how we would move forward with the audit. TCO discussed possible revocation and accountant felt that would be the best option. Accountant stated the President would be agreeable to that, as she has not done anything with the non-profit to this point.

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Law:

Internal Revenue Code (IRC) §501(c)(3) of the Code provides that an organization organized and operated exclusively for charitable or educational purposes is exempt from Federal income tax, provided no part of its net earnings inures to the benefit of any private shareholder or individual.

IRC §6001 of the Code provides that every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title.

IRC §6033(a)(1) of the Code provides, except as provided in section 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.

Treasury Regulations (Regulation) 1.501(c)(3)-1 In order to be exempt under §501(c)(3) the organization must be both organized and operated exclusively for one or more of the purposes specified in the section. (religious, charitable, scientific, testing for public safety, literary or educational).

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

Regulation 1.501(c)(3) 1(c)(1) of the regulations provides that an organization will not be regarded as "operated exclusively" for one or more exempt purposes described in section 501(c)(3) of the Code if more than an insubstantial part of its activities is not in furtherance of a 501(c)(3) purpose. Accordingly, the organization does not qualify for exemption under section 501(c)(3) of the Code.

Regulation §1.6001-1(c) of the Code provides that 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.

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Regulation §1.6001-1(e) of the Code provides that the books or records required by this section shall be kept at all time 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.

Regulation §1.6033-1(h)(2) of the regulations 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 section 6033.

Regulation §1.61-1 of the regulations provides that Gross Income means all income from whatever source derived, unless excluded by law. Gross income includes income realized in any form, whether in money, property, or services. Income may be realized, therefore, in the form of services, meals, accommodations, stock, or other property, as well as in cash.

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 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.

Organization's Position

Taxpayer has recommended that since there has not been any activity with the above-mentioned entity, and there are no documents to provide for an audit, the exempt status be revoked.

Government's Position

Based on the above facts, the organization 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, the Organization's failure to provide requested information should result in the termination of exempt status.

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 failed to establish that it meets the reporting requirements under IRC Sections 6001 and 6033 to be recognized as exempt from federal income tax under IRC Section 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 January 1, 20XX.

Based on the lack of income and expenses reported on the Form 990-EZ, a Form 1120, *U.S. Corporation Income Tax Return*, is not required to be filed.