



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
TEGE EO Examinations Mail Stop 4920 DAL
1100 Commerce St.
Dallas, Texas 75242

Date: November 30, 2018

Number: 202151012
Release Date: 12/23/2021

Tax Year Ending:

Taxpayer Identification Number:

Person to Contact:

Employee Identification Number:

Employee Telephone Number:

UIL: 501.03-00

CERTIFIED MAIL – RETURN RECEIPT

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 December 12, 20XX is revoked.

The revocation of your exempt status was made for the following reason(s):

Organizations described in section 501(c)(3) of the Internal Revenue Code and exempt from tax under section 501(a) must be both organized and operated exclusively for exempt purposes. You have failed to respond sufficiently to establish that you are operated exclusively for exempt purposes and that no part of your net earnings inure to the benefit of private shareholders or individuals. You failed to respond sufficiently to allow the Internal Revenue Service to examine your records regarding your receipts, expenditures, or activities as required by sections 6001 and 6033(a)(1) and the regulations thereunder.

Contributions to your organization are no longer deductible under IRC §170 after January 1, 20XX.

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 letter 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, N.W.
Washington, D.C. 20217

U.S. Court of Federal Claims
717 Madison Place, N.W.
Washington, D.C. 20439

U.S. District Court for the District of Columbia
333 Constitution Ave., N.W.
Washington, D.C. 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.

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 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
Director, EO Examinations

Enclosure:
Publication 892



Department of the Treasury
 Internal Revenue Service
 Tax Exempt and Government Entities Division
 Exempt Organizations Examination

Date: 08/14/2018
 Taxpayer ID number:
 Form:
 Tax periods ended:
 Person to contact:
 Employee ID number:
 Telephone number:
 Fax:
 Manager's contact information:
 Employee ID number:
 Telephone number:
 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.

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,

Carol Ann Hooke

for Maria Hooke
Director, Exempt Organizations Examinations

Enclosures:

Form 6018

Form 4621-A Report of Examination

Form 886-A

Publication 892

Publication 3498-A

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

Date of Notice: August 14, 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 respond and produce records to substantiated that the organization is meeting the operational test?

Facts:

applied for tax-exempt status by filing the Form 1023-EZ, *Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, on December 05, 20XX, and was granted tax-exempt status as a 501 (c)(3) on December 12, 20XX, with an effective date of October 31, 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 fully respond to the Internal Revenue Service attempts to obtain all the necessary information to perform an audit of Form 990-N for the tax year ending December 31, 20XX.

The Form 1023-EZ application lists the phone number of for the Executive Director of

attested on Form 1023-EZ, Part III, that the organization would be organized and operated exclusively to further charitable and religious purposes.

By marking "yes" on Form 1023-EZ, Part III, questions 5, 6, and 11,

indicated that the organization would pay compensation to officers, directors, or trustees; donate funds to or pay expenses for individuals; and provide disaster relief.

Letter 3606 (Rev. 6-2012) with attachments, was mailed to the organization on January 16, 20XX with a response date of February 16, 20XX. This letter requested the organization's organizing documents, a detailed description of each of their activities, minutes, and financials. Form 4564, *Information Document Request*, (IDR) also asked

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questions about what was marked as "yes" on the Form 1023-EZ, Part III.

A response was received from organization on February 8, 20XX. The response indicated that the organization would be dissolving the week of February 14, 20XX and does not wish to maintain their exempt status. It also stated all activities ended December 31, 20XX.

Per the State of _____ web-site, it lists the organization as dissolved as of December 01, 20XX. See the attached copy from state website.

Another response was received from the organization on April 06, 20XX which was responding to the information requested in Letter 3606. It stated that business income for the 20XX tax year was cash donations from four individuals that totaled \$0. The expenses listed were \$0 for funds allocated for charitable activities, \$0 was listed for expenses for 20XX and \$0 for vehicle purchase. The organization further broke down the expenses listed as \$0 for charitable purposes as \$0 for Eviction Prevention paid February 10, 20XX, \$0 for Eviction Prevention paid May 20, 20XX, Utility Shut off Prevention for \$0 paid June 12, 20XX and Food Emergency for \$0 paid August 19, 20XX. No receipts, invoices, canceled checks, or documentation was included in the response as to the individual and/or business who received the funds. The organization does not have any bank statements.

The response explained that the executive director would receive the donations by cash when a recipient's need arises and then she would travel directly to pay the recipients emergency. The response went on to state that, "0% of

time is spent on maintaining the company in order to provide our non-profit services to others. This maintenance includes: maintaining website, grant writing & applying for grants, Graphic Design/Marketing & Outreach Material/Publishing, Research & other Office activities (data entry, clerical, copying/faxing, phone calls & emails, local travel. 0% of time is spent on the actual Charitable Activities of responding/interacting with recipients in need i.e. phone calls, traveling to their location, traveling to obtain funds, making the assistance transactions and accounting. During the year of _____ did not publicize our chartable activities. We are still a young company and cannot assist the number of community residents we would like to. We do however maintain our website where we outline our endeavors."

The organization responded to the compensation questions with this statement, "No Compensation was allocated for 20XX. All finances went to overhead and charitable activities. _____ will not compensate it's members until after public fundraising and outreach activities begin; which will be in 20XX."

The response also addressed the questions about donating funds to or paying expenses for individuals. Form 4564 asked the organization to describe in detail the purpose of the

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funds and/or the types of goods they distributed during the year(s) under examination and how the funds and/or goods were used by the individual recipients. The organization replied with a breakdown of their expenses.

The initial letter also asked the organization to describe their organization's recipient selection process, including the criteria that was used to determine the recipients of the funds and/or goods. The organization's response was that the recipients become aware of their services through word of mouth or website. The response also went on to explain that the recipient contacts the organization and then must verify their emergency and low-income status by way of documents. The recipient is then approved or denied based on ability to verify their emergency and low-income status. There were no examples/samples of applications and what type documents were reviewed for the organization to make their determination.

Letter 3844-B (Rev. 11-2015) with attachments, was mailed certified to the
on July 25, 20XX, with a response date of August 8, 20XX, Article
Number . It included a copy of Form 1023-EZ, Letter 5436,
Form 990-N for the tax period ending December 31, 20XX, and Form 4564.

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 §511 of the Internal Revenue Code imposes a tax at corporate rates under section 11 on the unrelated business taxable income of certain tax-exempt organizations.

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

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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.

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 §1.6033-2(a)(1) of the Regulations provides, in part, that, except for certain exceptions not here applicable, every organization exempt from taxation under section

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501(a) shall file an annual information return specifically setting forth its items of gross income, gross receipts and disbursements, and such other information as may be prescribed in the instructions issued with respect to the return.

Regulation §1.6033-2(i)(2) of the Regulations provides, in part, that every organization which is exempt from tax, whether or not it is required to file an annual information return, shall submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into its exempt status and administering the provisions of subchapter F, chapter 1 of subtitle A of the Code, section 6033, and chapter 42 of subtitle D of the Code.

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's position is unknown at this time.

Government's Position

During the examination, the organization did not respond fully 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. The books and records are not adequate to permit the Internal Revenue Service to verify that the funds and activities were used for an exempt purpose. The organization did not maintain original source documents to support your transactions. Specifically, we cannot determine how and under what circumstances funds were distributed. Also, we cannot confirm the recipients of the charitable distributions, and whether they were charitable organizations or of a charitable class. Consequently, we cannot ascertain whether the organization's assets were dedicated exclusively for charitable purposes in order to justify continued recognition of tax-

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exempt status under IRC 501(c)(3) of the Code.

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 of enabling the Internal Revenue Service to inquire further into its exempt status.

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' 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 January 1, 20XX.

Form 1120, *U.S. Corporation Income Tax Return*, should be filed for the tax periods after December 31, 20XX.