



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

Date: February 26 2021

Taxpayer ID number:

Form:

Tax periods ended:

Person to contact.

Name:

ID number:

Telephone:

Fax:

**Release Number: 202221014**

**Release Date: 5/27/2022**

**UIL Code: 501.03-00**

**CFRTIFIED MAIL - RETURN RECEIPT REQUESTED**

Dear :

**Why we are sending you this letter**

This is a final determination that you don't 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, 20 . Your determination letter dated March 23, 20 , 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 from tax under IRC Section 501(a) must be both organized and operated exclusively for exempt purposes. You have failed to produce documents or otherwise demonstrate 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 to repeated requests to allow the Internal Revenue Service to examine your records regarding your receipts, expenditures, or activities as required by IRC Sections 6001 and 6033(a)(1) and the regulations thereunder.

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).

Contributions to your organization are no longer deductible under IRC Section 170.

**What you must do if you disagree with this determination**

If you want to contest our final determination, you have 90 days from the date this determination letter was mailed to you to file a petition or complaint in one of the three federal courts listed below.

**How to file your action for declaratory judgment**

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.

Please contact the clerk of the appropriate court for rules and the appropriate forms for filing an action for declaratory judgment by referring to the enclosed Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status. 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).

**Information about the IRS Taxpayer Advocate Service**

The IRS office whose phone number appears at the top of the notice can best address and access your tax information and help get you answers. However, you may be eligible for free help from the Taxpayer Advocate Service (TAS) if you can't resolve your tax problem with the IRS, or you believe an IRS procedure just isn't working as it should. TAS is an independent organization within the IRS that helps taxpayers and protects taxpayer rights. Contact your local Taxpayer Advocate Office at:

Internal Revenue Service  
Taxpayer Advocate Office

Telephone.

Fax:

Or call TAS at 877-777-4778. For more information about TAS and your rights under the Taxpayer Bill of Rights, go to [taxpayeradvocate.irs.gov](http://taxpayeradvocate.irs.gov). Do not send your federal court pleading to the TAS address listed above. Use the applicable federal court address provided earlier in the letter. Contacting TAS does not extend the time to file an action for declaratory judgment.

**Where you can find more information**

Enclosed are Publication 1, Your Rights as a Taxpayer, and Publication 594, The IRS Collection Process, for more comprehensive information.

Find tax forms or publications by visiting [www.irs.gov/forms](http://www.irs.gov/forms) or calling 800-TAX-FORM (800-829-3676).

If you have questions, you can call the person shown at the top of this letter.

If you prefer to write, use the address shown at the top of this letter. Include your telephone number, the best time to call, and a copy of this letter.

Keep the original letter for your records.

Sincerely,



Sean E. O'Reilly

Director, Exempt Organizations Examinations

Enclosures:

Publication 1

Publication 594

Publication 892

\*\*\*This report supersedes report dated



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

**Date:**  
May 11, 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**

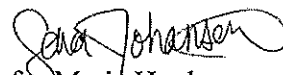
The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit [www.taxpayeradvocate.irs.gov](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,



for Maria Hooke  
Director, Exempt Organizations  
Examinations

Enclosures:

Form 886-A

Form 6018

Form 4621-A

Publication(s) 892 & 3498-A

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

**Date of Notice: May 11, 20**

**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?

Whether (the organization) meets the organizational and operational test for exemption from federal income tax under Section 501(c)(3) of the Internal Revenue Code?

**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 March 16, 20 , and was granted tax-exempt status as a 501(c)(3) on March 23, 20 , with an effective date of September 4, 20 .

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 states their purpose is to support families with disabled children offering them financial support to access the therapies they need for their children's development.

During the year under examination the organization provided funds in the amount of \$ to individuals, and . The organization has failed to provide financial records to support the amounts distributed to each individual. is the daughter of the organization's founder/President, and therefore is a disqualified individual.

The organization was asked to describe their recipient selection process. The response received October 4, 20 specifically states they do not have an established process and they "just share the funds with children of family and friends".

The organization failed to provide any financial records requested during the audit of for the tax year ending .

The organization has not filed a series return for the tax year ending

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. Tax Compliance Office (TCO) solicited 20 in Information Document Request dated September 5, 20 . The organization provided an unsigned and has failed to provide a signed copy of the return for processing.

The organization filed Articles of Incorporation with Secretary of State of , which did not contain a dissolution clause as required by Section 501(c)(3). The organization responded with a copy of the fillable form required by Secretary of State of and a copy of a check written out to State of . The Secretary of State of website does not show an amendment has been filed or accepted.

- Correspondence for the audit was as follows:
  - Letter 3606 (Rev. 6-2012), *EO Examination Appointment and Information Document Request Transmittal*, with attachments, was mailed to the organization on June 21, 20 , with a response date of July 9, 20 . The organization was requested to provide details regarding their organizational and operational activities, as well as books and records to reconcile . The organization was also asked to amend the Articles of Incorporation to include a dissolution clause and provide a complete for the delinquent tax year ending . This letter was returned by the post office as being undeliverable on August 7, 20 .
  - Letter 3844-A (Rev. 12-2015), *Correspondence Audit Follow Up*, with attachments, was mailed certified to the organization on July 22, 20 with a response date of August 6, 20 Article Number . Per the United States Postal Service (USPS) tracking, this was returned to on August 20, 20 .
  - Letter 3844-A (Rev. 12-2015), *Correspondence Audit Follow Up*, with attachments, was mailed certified to the president of the organization on July 22, 20 with a response date of August 6, 20 Article Number . Per the United States Postal Service (USPS) tracking, this was delivered August 13, 20 .
  - Letter 3844-A (Rev. 12-2015), *Correspondence Audit Follow Up*, with attachments, was mailed certified to a different address found on tax return for the organization on August 8, 20 with a response date of September 6, 20 Article Number . Per the United States Postal Service (USPS) tracking, this was delivered August 19, 20 .
  - Letter 5798 (Rev. 10-2016), *Extension Notice*, with Information Document Request, was mailed to the organization September 10, 20 with a response date of September 27, 20 .

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- TCO received response from organization October 4, 20 . The response was reviewed and TCO determined the response was incomplete. The items missing included financial books and records, signed copy of for delinquent tax year 20 , and the amended organizing document.
- Letter 5077-B (Rev. 1-2017), *TE/GE IDR Delinquency Notice*, with original Information Document Request, Administrative File, and Explanation of Items (detailing the organizational requirements) was mailed to the organization on October 31, 20 with a response date of November 22, 20 Article Number . Per USPS tracking, this item has not been delivered.
- Letter 5077-B (Rev. 1-2017), *TE/GE IDR Delinquency Notice*, with original Information Document Request, Administrative File, and Explanation of Items (detailing the organizational requirements) was re-mailed to the organization due to non-receipt of previously mailed letter on November 26, 20 with a response date of December 17, 20 Article Number . Per USPS tracking, this item was delivered on December 6, 20 .
- Letter 5798 (Rev. 10-2016), *Extension Notice*, with attachments, was mailed to the organization January 7, 20 with a response date of January 28, 20 .
- Telephone contact for the audit was as follows:
  - July 9, 20 - TCO attempted phone call to number found on for tax year ending . Phone call was answered by voicemail service without any identifying information. TCO left generic voicemail asking for a call back.
  - July 12, 20 – TCO attempted second phone call to the above number and again reached voicemail service and left a generic message. TCO researched Form 1023-EZ and found phone number and again reached voicemail service without identifying information and left a generic voicemail.
  - July 19, 20 – TCO attempted third phone call to and left another generic voicemail asking for a call back.
  - August 16, 20 – TCO received a voicemail from ( ). TCO attempted to call back and left generic voicemail to

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please call back.

- o August 21, 2010 – TCO attempted again to reach ( ) and left a voicemail to call back. ( ) called back same day and confirmed she is the current president of the organization. TCO and president discussed the Information Document request in detail and president confirmed she could respond by due date September 6, 2010 .
- o September 6, 2010 – TCO received voicemail from president stating they were dealing with a hurricane in ( ) and she would need additional time to respond. TCO contacted president to confirm extension request had been elevated for manager approval.
- o September 10, 2010 – TCO contacted EO to confirm extension was granted with new due date of September 27, 2010 .
- o October 1, 2010 – TCO received voicemails from president asking if she could email the response. TCO called back and advised cannot email, can mail or fax the documents.
- o October 11, 2010 – TCO called president and left a voicemail to please call back.
- o October 29, 2010 – TCO received voicemail from president. TCO called back and explained the missing items from the initial response. President did not understand what “dissolution clause” was needed. TCO explained the organizational requirements of Section 501(c)(3).
- o November 26, 2010 – TCO received voicemail from president that she had not received the letter discussed on October 29, 2010 . TCO called back and left a message advising a new letter would be mailed out.
- o December 10, 2010 – TCO received voicemail from president. She stated she is still confused about what information is needed. TCO called back and left a voicemail attempting to explain the items needed.
- o December 17, 2010 – TCO received a voicemail from president stating she still does not understand what is required. She also states she is leaving the country and will not return until January 9, 2011 .
- o January 28, 2011 – TCO contacted president. President still does not seem to understand amending the organizing document. TCO had a coworker who speaks Spanish (presidents first language) explain the



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items needed, in case the language barrier was causing the confusion. President advised coworker she would get the amendment done.

- o February 5, 20 – TCO received another voicemail from president stating she does not know how to amend the organizing document.
- o February 19, 20 – TCO called President and left voicemail stating she would need to contact her state in order to amend the organizing document and to please call back if any further questions.

**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.

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**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 §1.61-1** 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.

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In **Wendy L. Parker Rehabilitation Foundation, Inc. v. C.I.R., T.C. Memo. 1986-348**, the Tax Court upheld the Service's position that a foundation formed to aid coma victims, including a family member of the founders, was not entitled to recognition of exemption. Approximately 30% of the organization's net income was expected to be distributed to aid the family coma victim. The Court found that the family coma victim was a substantial beneficiary of the foundation's funds. It also noted that such distributions relieved the family of the economic burden of providing medical and rehabilitation care for their family member and, therefore, constituted inurement to the benefit of private individuals.

**Taxpayers position:**

Taxpayer's position is unknown at this time.

**Government's Position:**

Based on the above facts, the organization failed 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.

Similar to the organization described in **Wendy L. Parker Rehabilitation Foundation, Inc. v. C.I.R., T.C. Memo. 1986-348**, has provided financial medical assistance to a family member. Furthermore, the organization has failed to provide documentation to show that this assistance was insubstantial in nature and has failed to demonstrate that the distribution of funds benefitted a public, rather than a private, interest.

Using the rationale that was developed in Revenue Ruling 59-95, the Organization's failure to provide requested information should result in the revocation of exempt status.

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**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 §§ 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, 20 .

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