



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

Date: February 25, 2022

Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Number: **202244017**
Release Date: 11/4/2022

UIL: 501.03-00

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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 . Your determination letter dated , is revoked.

Our adverse determination as to your exempt status was made for the following reasons: You are not described in section 501(c)(3) of the Code because you are not organized and operated exclusively for exempt purposes within the meaning of Internal Revenue Code section 501(c)(3) and Treasury Regulations sections 1.501(c)(3)-1(b)(1) and 1.501(c)(3)-1(c)(1). You do not engage primarily in activities that accomplish one or more of the exempt purposes specified in section 501(c)(3) and Treasury Regulations section 1.501(c)(3)-1(d).

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.

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:

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. 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.

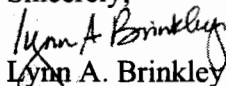
Find tax forms or publications by visiting www.irs.gov/forms or calling 800-TAX-FORM (800-829-3676).

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,



Lynn A. Brinkley

Acting Director, Exempt Organizations Examinations

Enclosures:

Publication 1

Publication 594

Publication 892



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

Date:
June 8, 2021
Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:
Name:
ID number:
Telephone:

Fax:
Address:

Manager's contact information:
Name:
ID number:
Telephone:
Response due date:

CERTIFIED MAIL – Return Receipt Requested

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,

Sean E. O'Reilly
Director, Exempt Organizations
Examinations

Enclosures:
Form 886-A
Attachments 1 and 2
Form 6018
Form 4621-A
Publication 892
Publication 3498

Form 886-A	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended

ISSUE:

Whether or not _____, hereinafter referred to as _____, is operating to further its tax-exempt purposes as described under Section 501(c)(3) of the Internal Revenue Code.

ALTERNATIVE ISSUE:

If _____ does continue to qualify as a Section 501(c)(3) organization, should it be reclassified as a private foundation for foundation classification purposes?

FACTS

_____ is a not-for-profit corporation formed under the laws of the _____ on _____ . The stated purpose of the corporation is to provide _____ to _____

_____ was granted exemption as an IRC section 501(c)(3) public charity under IRC section 509(a)(1) and 170(b)(1)(A)(vi).

On _____, _____ was created. The _____ stated purpose is to operate as a coffee shop with all proceeds benefitting _____. On _____, _____ purchased the building at _____ and began operating the café in _____. The café sells _____ – a _____ pastry.

In _____, the café underwent a \$ _____ expansion which expanded its _____ square-foot shop by _____ square feet, increasing indoor seating from _____ to _____.

In _____, in order to increase their income, _____ rented out its new addition to an individual who operated the space as a _____ shop. Since then, _____ rented the addition to various individuals. _____ primary income was from renting out the addition, an annual _____ and a _____ fundraiser. None of these activities are considered tax-exempt activities.

During the years leading up to the fiscal tax year ending _____, _____ continued to sell _____ but had ceased the _____ distribution activity. As a result of _____ ceasing to distribute _____, Information Document Request (IDR) Two was issued on _____ which asked why it should continue as a section 501(c)(3) public charity. _____ responded that instead of its _____ distribution tax-exempt activity, it provided baked goods at no cost to charities, bought raffle tickets to benefit a _____ shelter and donated gift baskets and gift cards to community organizations.

In response to IDR 4, issued on _____, which questioned why _____ was reported as an independent contractor rather than an employee, _____, detailed the work _____ performed as the primary individual operating _____. Through a telephone conversation with _____, it was determined that _____ spent _____ each day on the organization's activities. Approximately _____ and _____ (_____) was spent on café work (prepping dough, preparing and cooking _____ and cleaning), _____ minutes (_____) advertising (explaining _____ mission and their activities, sending posts and Facebook messages), _____ minutes (_____) shopping for supplies for its fundraisers or café, _____ minutes (_____) for _____ banking, _____ minutes (_____) for _____ bookkeeping

Form 886-A	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended

and filing, and minutes () for fundraisers (e.g. looking for people to help – looking at post-it boards, offering baskets for silent auctions and basket raffles, offering). None of time was spent for the rental property or for the

For the reasons stated above, was informed that its exempt status was in jeopardy of being revoked. In response, founder, , issued a letter on stating that for the past worked with a shipping company () to store in its warehouse and deliver the . The founder also stated that had personally delivered to the in , and that had delivered via to an in . Furthermore, he was in contact with manufacturers to deliver damaged cartons to the shipping company for delivery to is

As a result of the Founder's letter, an Information Document Request 11 (IDR 11) was furnished on which requested documentation to substantiate the information provided in the Founder's letter. complied with the IDR and furnished documentation on . The documentation showed:

1. On pounds was purchased from
2. On confirmed it had received from however, the amount of was not indicated.
3. On pounds of was purchased from
4. On confirmed it had received from however, the amount of was not indicated.
5. On contacted Shipping via email. Shipping responded that it would contact soon.
6. On contacted to determine whether it would donate damaged goods. responded that it does not donate damaged goods.
7. On contacted who provided with a case number and informed that it would be in contact soon.
8. On received and email from stating that it does not donate damaged product but does offer wholesale pricing for organizations that qualify.

Documentation was not presented to demonstrate that the Founder traveled, and hand delivered to the in , or that had delivered to an in as stated in letter. Furthermore, it appears, from the documentation presented, that the shipping company () was not contacted until . The Founder stated in his letter of that had been working with Shipping for the years.

was not liable for filing a Form or Form because its gross receipts are normally \$ or less annually. It filed a Form Postcard for the fiscal year ending books and records for the fiscal year ending indicated that it received total gross receipts of \$: \$ in café sales, \$ in rental income, \$ from the and \$ in donations. Its reported expenses were \$ for sales tax, \$ for expenses, \$ in salaries, \$ of baking supplies, \$ for telephone, \$ for insurance, \$ to repay loans made by the Founder to the organization, \$ in mortgage payments and \$ in air conditioner unit repairs. Reported

Form 886-A	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended

expenses totaled \$. The following table presents revenues and expenses for the fiscal year ending

<u>Income</u>	<u>Amount</u>
Café sales	\$
Rental Income	\$
	\$
Donations	\$
Total	\$
<u>Expenses</u>	
Sales Tax	\$
Expenses	\$
Salaries	\$
Baking Supplies	\$
Phone	\$
Insurance	\$
Loans –	\$
Mortgage	\$
A/C Unit Repairs	\$
Total	\$
Net Profit (Loss)	\$

The above table of revenues and expenses show that did not use any of its revenues for charitable purposes.

With respect to the section 509(a)(1)/170(b)(1)(A)(vi) public support test for the fiscal tax years ending through , public support percentage was % of total support. See Attachment 1 of this report, which shows the calculations that determined the % public support percentage.

With respect to the section 509(a)(2) support test, for the fiscal tax years ending through , public support percentage was %. Per Attachment 2 of this report, which shows the calculations that determined the % public support percentage, failed the public support test. Furthermore, % income is derived from investment income which exceeds the percentage allowable for investment income. As such, fails the 509(a)(2) public support test as well.

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

Form 886-A	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended

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.

IRC 502(a) states: "An organization operated for the primary purpose of carrying on a trade or business for profit shall not be exempt from taxation under section 501 on the ground that all of its profits are payable to one or more organizations exempt from taxation under section 501."

Tax Reg. § 1.501(c)(3)-1(d)(i) states that an organization may be exempt as an organization described in 501(c)(3) if it is organized and operated exclusively for one or more of the following purposes: religious, charitable, scientific, testing for public safety, literary, educational, or prevention of cruelty to children or animals.

Tax Reg. § 1.501(c)(3)-1(a)(1) of the regulations provides that in order to be exempt as an organization described in section 501(c)(3) of the Code, the organization must be one that is both organized and operated exclusively for one or more of the purposes specified in that section.

Tax Reg. § 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3)

Treas. Regs. 1.501(c)(3)-1 Organizations organized and operated for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals.

(a) Organizational and operational tests.

(1) 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.

(2) The term exempt purpose or purposes, as used in this section, means any purpose or purposes specified in section 501(c)(3), as defined and elaborated in paragraph (d) of this section.

(b) Organizational test--(1) In general. (i) An organization is organized exclusively for one or more exempt purposes only if its articles of organization (referred to in this section as its articles) as defined in subparagraph (2) of this paragraph:

(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.

(ii) In meeting the organizational test, the organization's purposes, as stated in its articles, may be as broad as, or more specific than, the purposes stated in section 501(c)(3). Therefore, an organization which, by the terms of its articles, is formed for literary and scientific purposes within the meaning of section 501(c)(3) of the Code shall, if it otherwise meets the requirements in this paragraph, be considered to have met the organizational test. Similarly, articles stating that the organization is created solely to receive contributions and pay them over to organizations which are described in section 501(c)(3) and exempt from taxation under section 501(a) are sufficient for purposes of the organizational test. Moreover, it is sufficient if the articles set for the purpose of the organization to be the operation of a school for adult education and describe in detail the manner of the operation of such school. In addition, if the articles state that the organization is formed for charitable purposes, such articles ordinarily shall be sufficient for purposes of the organizational test (see subparagraph (5) of this paragraph for rules relating to construction of terms).

(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

Form 886-A	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended

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.

Rev. Rul. 76-33, 1976-1 C.B.169, stated that an organization that provided living accommodations with a wholesome and decent environment to young persons contributes importantly to the organization's purpose of providing for the welfare of young people. In addition, by making its rental facilities available at minimum cost to low income persons, regardless of their age, the organization is assisting a recognized charitable class in a manner compatible with its exempt purpose.

Rev. Rul. 58-617, 1958-2 CB 260, (Jan. 01, 1958) Rulings and determinations letters granting exemption from federal income tax to an organization described in section 501(a) of the Internal Revenue Code of 1954, to which contributions are deductible by donors in computing their taxable income in the manner and to the extent provided by section 170 of the Code, are effective only so long as there are no material changes in the character of the organization, the purposes for which it was organized, or its methods of operation. Failure to comply with this requirement may result in serious consequences to the organization for the reason that the ruling or determination letter holding the organization exempt may be revoked retroactively to the date of the changes affecting its exempt status, depending upon the circumstances involved, and subject to the limitations on retroactivity of revocation found in section 503 of the Code.

Section 501(a) exempts from Federal income tax any organization which meets the requirements set forth in section 501(c), and section 501(c)(3) provides that an organization must satisfy three requirements if it seeks to qualify as an exempt organization under such section. Specifically, the organization must be (1) organized and operated exclusively for exempt purposes; (2) no part of its net earnings may inure to the benefit of any private shareholder or individual; and (3) no substantial part of its activities may be devoted to political or lobbying activities. The first requirement, specifically the operational test, is the only one at issue in this case, and the taxpayer bears the burden of proving that it meets such requirement. Dumaine Farms v. Commissioner, 73 T.C. 650, 663 (1980); Hancock Academy of Savannah, Inc. v. Commissioner, 69 T.C. 488, 492 (1977).

Section 1.501(c)(3)-1(d)(2), Income Tax Regulations, defines the term "charitable" and provides, in part:

The term "charitable" is used in section 501(c)(3) in its generally accepted legal sense and is, therefore, not to be construed as limited by the separate enumeration in section 501(c)(3) of other tax-exempt purposes which may fall within the broad outlines of "charity" as developed by judicial decisions. Such term includes: organizations designed (i) to lessen neighborhood tensions; (ii) to eliminate prejudice and discrimination; (iii) to defend human and civil rights secured by law; or (iv) to combat community deterioration and juvenile delinquency.

A taxpayer satisfies the operational test only if it engages primarily in activities which accomplish one or more exempt purposes. Treasury Regulations section 1.501(c)(3)-1(c). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. Treasury Regulations section 1.501(c)(3)-1(c); Better Business Bureau v. United States, 326 U.S. 279, 283 (1945); B.S.W. Group, Inc. v. Commissioner, 70 T.C. 352, 356-357 (1978). The regulations and the cases contemplate that a single activity may be carried on for more than one purpose. However, the Tax Court has held that a single substantial non-exempt purpose will disqualify an organization under section 501(c)(3) regardless of the number of truly exempt purposes served. Copyright Clearance Center, Inc. v. Commissioner, 79 T.C.(1982); Federation Pharmacy Services v. Commissioner, 72 T.C. 687 (1979), affd. 625 F. 2d 804 (8th Cir. 1980); est of Hawaii v. Commissioner, 71 T.C. 1067 (1979), affd. without pub. opinion 647 F. 2d 170 (9th Cir. 1981). If there is no substantial non-exempt purpose, the income from a trade or business may be exempt where the activity is carried out in furtherance of an exempt purpose. See, e.g., Industrial Aid for the Blind v. Commissioner, 73 T.C. 96 (1979); Peoples Translation Service v. Commissioner, 72 T.C. 42 (1979). Section 1.501(c)(3)-1(e)(1), Income Tax Regulations, provides, in part: An organization may meet the requirements of section 501(c)(3)

Form 886-A	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended

although it operates a trade or business as a substantial part of its activities, if the operation of such trade or business is in furtherance of the organization's exempt purpose or purposes. See Plumstead Theatre Society v. Commissioner, 74 T.C. 1324 (1980), *affd. per curiam* 675 F. 2d 244 (9th Cir. 1982); Aid to Artisans, Inc. v. Commissioner, 71 T.C. 202, 211 (1978). In determining whether an organization is exempt, the focus is on the purpose for engaging in the activity, not the nature of such activity. North American Sequential Sweepstakes v. Commissioner, 77 T.C. 1087, 1093 (1981); Ohio Teamsters Trust Fund v. Commissioner, 77 T.C. 189 (1981). The pertinent inquiry is whether an organization's exempt purpose transcends the profit motive rather than the other way around. Elisian Guild, Inc. v. United States, 412 F. 2d 121, 124 (1st Cir. 1969).

Treasury Regulations § 1.170A-9(f) provides the definition of a section 170(b)(1)(A) organization.

(1) In general. An organization is described in section 170(b)(1)(A)(vi) if it - (i) Is referred to in section 170(c)(2) (other than an organization specifically described in paragraphs (b) through (e) of this section); and (ii) Normally receives a substantial part of its support from a governmental unit referred to in section 170(c)(1) or from direct or indirect contributions from the general public ("publicly supported").

For purposes of this paragraph (f), an organization is publicly supported if it meets the requirements of either paragraph (f)(2) of this section (33 1/3 percent support test) or paragraph (f)(3) of this section (facts and circumstances test). Paragraph (f)(4) of this section defines "normally" for purposes of the 33 1/3 percent support test and the facts and circumstances test, and for new organizations in the first five years of the organization's existence as a section 501(c)(3) organization. Paragraph (f)(5) of this section provides for determinations of foundation classification and rules for reliance by donors and contributors. Paragraphs (f)(6), (f)(7), and (f)(8) of this section list the items that are included and excluded from the term support. Paragraph (f)(9) of this section provides examples of the application of this paragraph.

Types of organizations that, subject to the provisions of this paragraph (f), generally qualify under section 170(b)(1)(A)(vi) as "publicly supported" are publicly or governmentally supported museums of history, art, or science, libraries, community centers to promote the arts, organizations providing facilities for the support of an opera, symphony orchestra, ballet, or repertory drama or for some other direct service to the general public.

(2) Determination whether an organization is "publicly supported"; 33 1/3 percent support test. An organization is publicly supported if the total amount of support (see paragraphs (f)(6), (f)(7), and (f)(8) of this section) that the organization normally (see paragraph (f)(4)(i) of this section) receives from governmental units referred to in section 170(c)(1), from contributions made directly or indirectly by the general public, or from a combination of these sources, equals at least 33 1/3 percent of the total support normally received by the organization. See paragraph (f)(9), Example 1 of this section.

(3) Determination whether an organization is "publicly supported"; facts and circumstances test. Even if an organization fails to meet the 33 1/3 percent support test described in paragraph (f)(2) of this section, it is publicly supported if it normally (see paragraph (f)(4)(i) of this section) receives a substantial part of its support from governmental units, from contributions made directly or indirectly by the general public, or from a combination of these sources, and meets the other requirements of this paragraph (f)(3). In order to satisfy the facts and circumstances test, an organization must meet the requirements of paragraphs (f)(3)(i) and (f)(3)(ii) of this section. In addition, the organization must be in the nature of an organization that is publicly supported, taking into account all pertinent facts and circumstances, including the factors listed in paragraphs (f)(3)(iii)(A) through (f)(3)(iii)(E) of this section.

(i) Ten-percent support limitation. The percentage of support (see paragraphs (f)(6), (f)(7) and (f)(8) of this section) normally received by an organization from governmental units, from contributions made directly or indirectly by the general public, or from a combination of these sources, must be substantial. For purposes of this paragraph (f)(3), an organization will not be treated as normally receiving a substantial amount of

Form 886-A	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended

governmental or public support unless the total amount of governmental and public support normally received equals at least 10 percent of the total support normally received by such organization.

(ii) Attraction of public support. An organization must be so organized and operated as to attract new and additional public or governmental support on a continuous basis. An organization will be considered to meet this requirement if it maintains a continuous and bona fide program for solicitation of funds from the general public, community, or membership group involved, or if it carries on activities designed to attract support from governmental units or other organizations described in section 170(b)(1)(A)(i) through (b)(1)(A)(vi).

In determining whether an organization maintains a continuous and bona fide program for solicitation of funds from the general public or community, consideration will be given to whether the scope of its fundraising activities is reasonable in light of its charitable activities. Consideration will also be given to the fact that an organization, in its early years of existence, may limit the scope of its solicitation to persons deemed most likely to provide seed money in an amount sufficient to enable it to commence its charitable activities and expand its solicitation program.

(iii) In addition to the requirements set forth in paragraphs (f)(3)(i) and (f)(3)(ii) of this section that must be satisfied, all pertinent facts and circumstances, including the following factors, will be taken into consideration in determining whether an organization is "publicly supported" within the meaning of paragraph (f)(1) of this section. However, an organization is not generally required to satisfy all of the factors in paragraphs (f)(3)(iii)(A) through (f)(3)(iii)(E) of this section. The factors relevant to each case and the weight accorded to any one of them may differ depending upon the nature and purpose of the organization and the length of time it has been in existence.

(A) Percentage of financial support. The percentage of support received by an organization from public or governmental sources will be taken into consideration in determining whether an organization is "publicly supported." The higher the percentage of support above the 10 percent requirement of paragraph (f)(3)(i) of this section from public or governmental sources, the lesser will be the burden of establishing the publicly supported nature of the organization through other factors, including those described in this paragraph (f)(3), while the lower the percentage, the greater will be the burden.

If the percentage of the organization's support from public or governmental sources is low because it receives a high percentage of its total support from investment income on its endowment funds, such fact will be treated as evidence of an organization being "publicly supported" if such endowment funds were originally contributed by a governmental unit or by the general public. However, if such endowment funds were originally contributed by a few individuals or members of their families, such fact will increase the burden on the organization of establishing that it is "publicly supported" taking into account all pertinent facts and circumstances, including the other factors described in paragraph (f)(3)(iii) of this section.

(B) Sources of support. The fact that an organization meets the requirement of paragraph (f)(3)(i) of this section through support from governmental units or directly or indirectly from a representative number of persons, rather than receiving almost all of its support from the members of a single family, will be considered evidence of an organization being "publicly supported." In determining what is a "representative number of persons," consideration will be given to the type of organization involved, the length of time it has been in existence, and whether it limits its activities to a particular community or region or to a special field which can be expected to appeal to a limited number of persons.

(C) Representative governing body. The fact that an organization has a governing body which represents the broad interests of the public, rather than the personal or private interests of a limited number of donors (or persons standing in a relationship to such donors which is described in section 4946(a)(1)(C) through (a)(1)(G)), will be considered evidence of an organization being "publicly supported."

Form 886-A	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended

An organization will be treated as having a representative governing body if it has a governing body (whether designated in the organization's governing instrument or bylaws as a Board of Directors, Board of Trustees, or similar governing body) which is comprised of public officials acting in their capacities as such; of individuals selected by public officials acting in their capacities as such; of persons having special knowledge or expertise in the particular field or discipline in which the organization is operating; of community leaders, such as elected or appointed officials, clergymen, educators, civic leaders, or other such persons representing a broad cross-section of the views and interests of the community; or, in the case of a membership organization, of individuals elected pursuant to the organization's governing instrument or bylaws by a broadly based membership.

(D) Availability of public facilities or services; public participation in programs or policies.

(1) The fact that an organization generally provides facilities or services directly for the benefit of the general public on a continuing basis (such as a museum or library which holds open its building or facilities to the public, a symphony orchestra which gives public performances, a conservation organization which provides educational services to the public through the distribution of educational materials, or an old age home which provides domiciliary or nursing services for members of the general public) will be considered evidence that such organization is "publicly supported."

(2) The fact that an organization is an educational or research institution which regularly publishes scholarly studies that are widely used by colleges and universities or by members of the general public will also be considered evidence that such organization is "publicly supported."

(3) The following factors will also be considered evidence that an organization is "publicly supported":

(i) The participation in, or sponsorship of, the programs of the organization by members of the public having special knowledge or expertise, public officials, or civic or community leaders.

(ii) The maintenance of a definitive program by an organization to accomplish its charitable work in the community, such as combating community deterioration in an economically depressed area that has suffered a major loss of population and jobs.

(iii) The receipt of a significant part of its funds from a public charity or governmental agency to which it is in some way held accountable as a condition of the grant, contract, or contribution.

Internal Revenue Code § 509 - Private foundation defined

(a) General rule. For purposes of this title, the term "private foundation" means a domestic or foreign organization described in section 501(c)(3) other than—

(1) an organization described in section 170(b)(1)(A) (other than in clauses (vii) and (viii));

(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;

Form 886-A	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended

(3) an organization which—

- (A) is organized, and at all times thereafter is operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more specified organizations described in paragraph (1) or (2),
- (B) is— (i) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2), (ii) supervised or controlled in connection with one or more such organizations, or (iii) operated in connection with one or more such organizations, and
- (C) is not controlled directly or indirectly by one or more disqualified persons (as defined in section 4946) other than foundation managers and other than one or more organizations described in paragraph (1) or (2); and (4) an organization which is organized and operated exclusively for testing for public safety.

TAXPAYER'S POSITION

indicated that it did not agree with revocation of its tax-exempt status.

GOVERNMENT'S POSITION

is no longer fulfilling its exempt purpose. As referenced above in Treas. Reg. § 1.501(c)(3)-1(a)(1), in order to be exempt as an organization described in Section 501(c)(3), the organization must be one that is both organized and operated exclusively for one or more of the purposes specified in that section.

ceased distribution activities over the last years. It recently began distributing in response to the potential revocation (see results from review of IDR 11 above). Its primary activity, operating a café to raise funds is neither charitable nor educational. Its primary sources of revenue are from renting its building addition and its . Both activities were performed to raise funds none of which were used for charitable purposes as demonstrated by the table of revenues and expenses displayed above.

As illustrated in Rev. Rul. 76-33, 1976-1 C.B. 169, the organization described in the ruling provided low income housing by renting its facilities at a minimum cost to low-income persons which benefitted a charitable class. As such, the rental activity was considered a charitable activity. For the year under examination, your organization received rental income and operated in a commercial manner in order to obtain revenues which does not qualify as a charitable purpose.

As referenced above in IRC section 502, an organization's primary purpose is to operate a trade or business for profit is not exempt from taxes on the grounds that its profits are payable to one or more exempt organizations.

As such, is operated for a substantial non-exempt purpose and therefore does not qualify for exemption under § 501(c)(3).

An organization with a foundation classification as a public charity under Section 509(a)(1) and 170(b)(1)(A)(vi) normally receives a substantial part of their support from governmental units or from direct or indirect contributions from the general public.

received only % of its gross receipts from gifts, grants and contributions for the fiscal years ending through . If an organization's public support is at least % and less than %, a facts and circumstances test is performed. failed the facts and circumstances test because it

Form 886-A	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended

has had a limited number of donors, mostly businesses, and a limited governing body. There are no public facilities or services and limited public participation in programs of the organization. is not a membership organization and the solicitation of revenue is limited to a select few individuals and businesses. Therefore, they cannot continue to qualify as a 509(a)(1)/170(b)(1)(A)(vi) organization.

It also cannot qualify as a 509(a)(2) organization because its public support percentage is less than and % of total support test is derived from investment income which cannot exceed the maximum limit of %. Therefore cannot qualify as a 509(a)(2) organization.

If revocation is not sustained, the Alternative Issue of whether it should be classified as a private foundation should be addressed.

CONCLUSION

has failed to establish that it is operating to further tax-exempt purposes under Section 501(c)(3) of the Internal Revenue Code. tax-exempt status under section 501(c)(3) of the Internal Revenue Code is to be revoked effective , which is the first day of the period for which records were requested.

Furthermore, if does continue to qualify as a Section 501(c)(3) organization, it should be reclassified as a private foundation.