



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

Date:
December 7, 2021
Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:
Name:
ID number:
Telephone:
Fax:

Number: 202244019
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: Organizations described in IRC Section 501(c)(3) and exempt under IRC Section 501(a) must be both organized and operated exclusively for exempt purposes. You have not demonstrated that you are organized and operated exclusively for charitable, educational, or other exempt purposes within the meaning of IRC Section 501(c)(3).

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,

Sean E. O'Reilly
Director, Exempt Organizations Examinations

Enclosures:
Publication 1
Publication 594
Publication 892



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

Date:
August 4, 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

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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.

Enclosures:
Form 886-A
Form 6018
Form 4621-A
Publication 892
Publication 3498

Form 886-A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (last 4 digits)	Year/Period ended

ISSUES:

- 1) Does _____ (the Foundation) conduct activities that satisfy the operational test requirement for the purposes of exemption under §501(c)(3) of the Internal Revenue Code ("Code")?
- 2) Should the taxpayer continue to be recognized as tax exempt under §501(a) of the Code as an organization described in §501(c)(3)?

FACTS

The _____, hereinafter referred to as the Foundation, was incorporated under the laws of the state of _____ as a nonprofit corporation on _____. In a determination letter dated _____, it was held to be exempt from federal income tax as an organization described in Code §501(c)(3) and classified as a public charity described in Code §509(a)(3).

The Foundation's purpose as stated in its Articles of Incorporation is to conduct or support activities for the benefit of or to carry out the purposes of _____.

In its original application for exemption, the Foundation stated that its primary activity would be the investment of corporate assets in order to generate income and capital which may be used in support of the _____, or such other qualified §501(c)(3) exempt organizations as may subsequently be designated as the organization which the corporation is to support. The corporation would also provide financial support for other educational and charitable organizations, which may either be affiliated with or unaffiliated with the _____.

On _____, the Foundation submitted a letter stating that they were intended to support only the _____ and provided amended articles and bylaws to remove the provision referencing the support of other organizations.

The Board of Directors controls the organization. Based on the Bylaws, there are to be two classes of board membership: Federation Class and Donor Class. Federation Class Directors are elected by the _____. The Donor Class Directors are elected by the Foundation. _____ stated that the Foundation had no board members that were elected by or otherwise affiliated with the _____. The board members consisted of _____ family members, including _____, _____, and _____. Review of the Secretary of State filing on _____ list also _____ as a board member. The combined voting power of board members that are disqualified persons as defined under 4946(a) is _____ %.

The net income from operations for the years ending _____, _____, and _____, as reported on the Forms _____ *Short Form Return of Organization Exempt From Income Tax*, which the organization filed to the Service, was as follows:

	REVENUES		
	Form	Form	Form
Contributions, gifts, grants:	\$	\$	\$
TOTAL REVENUE	\$	\$	\$
	EXPENSES		
	Form	Form	Form
Other Expenses:	\$	\$	\$
TOTAL EXPENSE	\$	\$	\$
	NET INCOME		
	Form	Form	Form
NET INCOME or (LOSS)	\$	\$	\$

After review of the organization's books and records for the period ending _____, the Service found that the sources of income, expenditures, and net income for the period, based on the brokerage statements, was as follows:

	REVENUES	
	Per Form	Per Audit
Contributions, gifts, grants:	\$	\$ -
Investment Income	\$	\$
Gross amount from sale of assets	\$	\$
Less cost or other basis of sales expenses	\$	\$
Other Revenue	\$	\$
TOTAL REVENUE	\$	\$
	EXPENSES	
	Per Form	Per Audit
Bank Fees	\$	\$
TOTAL REVENUE	\$	\$
	NET INCOME	
	Per Form	Per Audit
NET INCOME or (LOSS)	\$	\$

The Foundation declared on their Form _____ filed for the periods ending _____ through _____ that they were excluded from private foundation status as a Type III non-functionally integrated supporting organization. Forms _____, Schedule A, Part V-*Type III Non-Functionally Integrated 509(c)(3) Supporting Organization* prepared and submitted by the Foundation shows a Distributable Amount of \$ _____ for the period ending _____ and \$ _____ for the period ending _____. The _____ for the period ending _____ did not contain a computation for the required distributable amount. Based on the Form _____ instructions, the organization's distributable amount for the current tax year is ordinarily the greater of _____ % of its adjusted net income for the prior tax year or its minimum asset amount for the prior tax year, less income taxes imposed on the organization during the prior tax year. During the years under examination, the Foundation did not make any distributions to any organization, including the _____.

On _____, _____, President, was interviewed regarding the organization's operations. During the interview, the following facts were established:

1. The current board members were all appointed by _____.
2. No current board member serves on the board of the _____.
3. There is no close and continuous working relationship with the officers, directors or trustees of the _____.
4. No written notice of support or copy of the _____ is sent to the supported organization.
5. No charitable distributions have been made for the last _____ to _____ years.
6. The organization does not have plans to provide future support to the supported organization.

LAW

Code §501(c)(3) exempts from federal income tax organizations organized and operated exclusively for charitable, educational, and other purposes, provided that no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

Code §509(a)(3) includes in the definition of an organization described under §501(c)(3) an organization which 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), operated in connection with one or more such organizations, and is not controlled directly or indirectly by one or more disqualified persons other than foundation managers and other than one or more organizations described in paragraph (1) or (2).

Section 1.501(c)(3)-1(a) of the Income Tax Regulations (Treas. Reg.) provides that in order to be exempt as an organization described in Code §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.

Treas. Reg. §1.501(c)(3)-1(c)(1) 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 Code §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.

Treas. Reg. §1.509(a)-4(b)(1) provides that in order to qualify as a supporting organization, an organization must be both organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of (hereinafter referred to in this section as being organized and operated to support or benefit) one or

more specified publicly supported organizations. If an organization fails to meet either the organizational or the operational test, it cannot qualify as a supporting organization.

Treas. Reg. §1.509(a)-4(e) establishes the requirements of the operational test to include permissible beneficiaries and permissible activities. It provides that a supporting organization will be regarded as operated exclusively to support one or more specified publicly supported organizations only if it engages solely in activities which support or benefit the specified publicly supported organizations. Such activities may include making payments to or for the use of, or providing services or facilities for, individual members of the charitable class benefited by the specified publicly supported organization.

Treas. Reg. §1.509(a)-4(i)(1) provides that for each taxable year, a supporting organization is operated in connection with one or more supported organizations (that is, is a "Type III supporting organization") only if it is not disqualified by reason of paragraph (f)(5) or paragraph (i)(10) of this section, and it satisfies the notification requirement, which is set forth in paragraph (i)(2) of this section; the responsiveness test, which is set forth in paragraph (i)(3) of this section; and the integral part test, which is satisfied by maintaining significant involvement in the operations of one or more supported organizations and providing support on which the supported organization(s) are dependent. In order to satisfy this test, the supporting organization must meet the requirements either for (A) Functionally integrated Type III supporting organizations set forth in paragraph(i)(4) of this section; or (B) Non-functionally integrated Type III supporting organizations set forth in paragraph(i)(5) of this section.

Revenue Ruling (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 §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 §503 of the Code

ISSUE #1 – Does the Foundation conduct activities that satisfy the operational test requirement for the purposes of exemption under §501(c)(3) of the Code?

TAXPAYER’S POSITION

Based on the conversation with _____ by phone on _____, the taxpayer agrees with the government’s position.

GOVERNMENT’S POSITION

It has been determined that the Foundation did not operate for the benefit of, perform the functions of, or carry out the purposes of its specified publicly supported organization, as required under §509(a)(3). Furthermore, the Foundation does not qualify for exemption as an organization described in Code § 501(c)(3) because it does not meet the operational test under Code §501(c)(3) and Treas. Reg. §1.501(c)(3)-1(a)(1). It does not meet the operational test because it is not operated exclusively for a §501(c)(3) purpose as required by Treas. Reg. §1.501(c)(3)-1(c)(1). It is not operated exclusively for a §501(c)(3) purpose because it does not engage in activities that accomplish and exempt purpose, and its sole activity is not in the furtherance of an exempt purpose.

Based on _____ testimony by phone on _____, the Foundation has not engaged in any activities with _____ for the last _____ to _____ years. During the periods under examination, there were no distributions made to the supported organization or any other beneficiaries. There were no activities conducted for the benefit of the supported organization. In addition, the Foundation is directly controlled by disqualified persons, as defined in Code §4946. No written notice describing the type and amount of support for the taxable year has been provided to the supported organization. No officers, directors or trustees of either organization are elected or appointed by the other. There is no close or continuous working relationship between the organizations. As such, the Foundation fails to pass the tests required of supporting organizations under Treas. Reg §1.509(a)-4, specifically the organizational, operational, control, and relationship test, or the additional tests required of Type III supporting organizations, which are the notification requirement, responsiveness and integral part tests. Therefore, under the guidance of Treas. Reg. §1.509(a)-4(b)(1), the Foundation would not qualify as a supporting organization.

Furthermore, as there are no exempt activities, the Foundation fails to meet the statutory requirements to continue its exemption status under Code §501(c)(3). As previously discussed, the Foundation does not engage in any exempt activity and per _____ statement on _____, has been dormant for _____ to _____ years. The sole activity is investment in securities, specifically the trading of stocks on the open market. This activity is not in furtherance of an exempt purpose. As such, the organization is not regarded as "operated exclusively" for one or more exempt purposes because it has no activity that accomplishes one or more of such exempt purposes specified in Code §501(c)(3). Its sole activity of investment is not in the furtherance of an exempt purpose.

As demonstrated in Rev. Rul. 58-617, an organization’s exempt status will remain in effect 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. In the case of the Foundation, the organization has ceased the support of _____ and does not operate as an exempt organization. Therefore, the Foundation no longer operates for the purposes for which it was originally organized and does not operate exclusively for charitable, religious, or other exempt purposes. It is concluded that the Foundation does not conduct activities that satisfy the operational test requirement for the purposes of exemption under §501(c)(3) of the Code.

ISSUE #2 – Should the taxpayer continue to be recognized as tax exempt under §501(a) of the Code as an organization described in §501(c)(3)?

TAXPAYER'S POSITION

Based on the conversation with _____ by phone on _____, the taxpayer agrees with the government's position.

GOVERNMENT'S POSITION

The Foundation should not continue to be recognized as tax exempt under §501(a) of the Code as an organization described in §501(c)(3) because it does not meet the operational test under Code §501(c)(3) and Treas. Reg. §1.501(c)(3)-1(a)(1). The Foundation fails the operational test because it does not engage in any activities that accomplish an exempt purpose, and more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

CONCLUSION

The Foundation is not an organization described in Code § 501(c)(3) and therefore is not exempt from federal income tax. The government will propose revocation of exemption on the first day of the tax year in which the noncompliant activities were substantiated, which is the first period under examination. Therefore, the effective date of revocation is _____. Forms _____, *U.S. Corporate Income Tax Return*, should be prepared and filed by the organization for the period of examination forward.