



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

Date: May 30, 2023

Taxpayer ID number (last 4 digits):

Form:

Tax periods ended:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Last day to file petition with United States
Tax Court:

Number: 202334017

Release Date: 8/25/2023

UIL: 501.03-00

CERTIFIED 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 . 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) must be both organized and operated exclusively for exempt purposes. You have not demonstrated that you are both organized and operated exclusively for charitable, educational, or other exempt purposes within the meaning of IRC Section 501(c)(3). Furthermore, you failed to show that you met the operational test for an IRC Section 501(c)(3) organization for the year under examination. In order to meet the operational test, you must show that you engage primarily in activities which accomplish one or more of such exempt purposes specified in IRC Section 501(c)(3). Your grant or scholarship program cannot require the recipient to perform services for the exempt organization in return for awarding the grant or scholarship. *Miss Georgia Scholarship Fund, Inc. v. Commissioner*, 72 TC 267 (1979); IRC Section 117(c).

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 [IRS.gov](https://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 can file an action for declaratory judgment under the provisions of Section 7428 of the Code in either:

- The United States Tax Court,
- The United States Court of Federal Claims, or
- The United States District Court for the District of Columbia

You must file a petition or complaint in one of these three courts within 90 days from the date we mailed this determination letter to you. You can download a fillable petition or complaint form and get information about filing at each respective court's website listed below or by contacting the Office of the Clerk of the Court at one of the addresses below. Be sure to include a copy of this letter and any attachments and the applicable filing fee with the petition or complaint.

You can eFile your completed U.S. Tax Court petition by following the instructions and user guides available on the Tax Court website at ustaxcourt.gov/dawson.html. You will need to register for a DAWSON account to do so. You may also file your petition at the address below:

United States Tax Court
400 Second Street, NW
Washington, DC 20217
ustaxcourt.gov

The websites of the U.S. Court of Federal Claims and the U.S. District Court for the District of Columbia contain instructions about how to file your completed complaint electronically. You may also file your complaint at one of the addresses below:

US Court of Federal Claims
717 Madison Place, NW
Washington, DC 20439
uscfc.uscourts.gov

US District Court for the District of Columbia
333 Constitution Avenue, NW
Washington, DC 20001
dcd.uscourts.gov

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.

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 [IRS.gov/forms](https://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.

You may fax your documents to the fax number shown above, using either a fax machine or online fax service. Protect yourself when sending digital data by understanding the fax service's privacy and security policies.

Keep the original letter for your records.

Sincerely,



Lynn A. Brinkley

Director, Exempt Organizations Examinations

Enclosures:

Publication 1

Publication 594

Publication 892

cc:



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

Date:
March 24, 2023
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

Dear _____ :

Why you're receiving this letter

We enclosed a copy of our audit report, Form 886-A, Explanation of Items, explaining that we propose to revoke your tax-exempt status as an organization described in Internal Revenue Code (IRC) Section 501(c)(3).

If you agree

If you haven't already, please sign the enclosed Form 6018, Consent to Proposed Action, and return it to the contact person shown at the top of this letter. We'll issue a final adverse letter determining that you aren't an organization described in IRC Section 501(c)(3) for the periods above.

After we issue the final adverse determination letter, we'll announce that your organization is no longer eligible to receive tax deductible contributions under IRC Section 170.

If you disagree

1. Request a meeting or telephone conference with the manager shown at the top of this letter.
2. Send any information you want us to consider.
3. File a protest with the IRS Appeals Office. If you request a meeting with the manager or send additional information as stated in 1 and 2, above, you'll still be able to file a protest with IRS Appeals Office after the meeting or after we consider the information.

The IRS Appeals Office is independent of the Exempt Organizations division and resolves most disputes informally. If you file a protest, the auditing agent may ask you to sign a consent to extend the period of limitations for assessing tax. This is to allow the IRS Appeals Office enough time to consider your case. For your protest to be valid, it must contain certain specific information, including a statement of the facts, applicable law, and arguments in support of your position. For specific information needed for a valid protest, refer to Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status.

Fast Track Mediation (FTM) referred to in Publication 3498, The Examination Process, generally doesn't apply now that we've issued this letter.

4. Request technical advice from the Office of Associate Chief Counsel (Tax Exempt Government Entities) if you feel the issue hasn't been addressed in published precedent or has been treated inconsistently by the IRS.

If you're considering requesting technical advice, contact the person shown at the top of this letter. If you disagree with the technical advice decision, you will be able to appeal to the IRS Appeals Office, as explained above. A decision made in a technical advice memorandum, however, generally is final and binding on Appeals.

If we don't hear from you

If you don't respond to this proposal within 30 calendar days from the date of this letter, we'll issue a final adverse determination letter.

Contacting the Taxpayer Advocate Office is a taxpayer right

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 877-777-4778.

Additional information

You can get any of the forms and publications mentioned in this letter by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676).

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

Sincerely,

Patrick Maiville

for Lynn A. Brinkley
Director, Exempt Organizations Examinations

Enclosures:

Form 886-A

Form 6018, Form 4621-A, Pub. 892, and Pub. 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. Do (Organization) activities meet the organizational and/or operational test?
2. Given the Organization's operations, does the Organization continue to qualify for exemption under Internal Revenue Code (IRC) Section (Sec.) 501(c)(3)?

Facts:

The Organization filed for exemption via Form 1023-EZ. Via Letter 947, dated [SIC], the Organization was determined to be a tax-exempt organization as described in IRC Sec. 501(c)(3); and, further, under IRC Sec. 509(a)(2). The Organization's exemption status was effective

Per the Form 1023-EZ, the Organization's purpose is to provide

The Organization filed Form 990-EZ, *Short Form Return of Organization Exempt From Income Tax*, for the period ending (). Per the , Form 990-EZ, Part I, the Organization's reported income and expenses were \$ and \$, respectively. Per financial records, the Organization's income was generated from services performed (like using volunteers to) at . Also, most (if not all) expenses were attributed to scholarships which the Organization distributed to volunteers.

The Organization's Operations

The "About Us" page of the Organization's website states:

"...

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Per records, the Organization:

- only makes scholarships to volunteers.
- must approved Scholarships. However, approval is contingent on volunteers carrying out the work arranged between the Organization and

The General Ledger (GL) also shows that scholarships are only paid to volunteers (directly and/or indirectly).

The Revenue Agent held an interview with the Organization's President as well as the Treasurer on . During the interview, the President reiterated that volunteers and those who received scholarships are one and the same. The President then explained that only those that volunteer can apply for scholarships and that, if an individual hasn't volunteered, that individual can't apply for a scholarship. The President stated the Organization interprets "member" and "volunteer" the same way, and that, to be a scholarship recipient, a potential recipient must become a member and work the concession stands.

Form 1023-EZ Responses Noted

The Government noted the following Form 1023-EZ responses from the Organization:

- Per Part II, Question 6, the Organization selected the check box, attesting their activities would be in furtherance of one or more exempt purposes.
- Per Part III, Question 4, the Organization selected the check box, attesting they haven't and will not violate certain prohibitions and restrictions to qualify for exemption as a 501(c)(3) organization.

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- Per Part III, Question 7, the Organization marked “No” when ask whether they do or will donate funds to or pay expenses for individuals.

Other Activities

The Organization didn't provide any evidence showing that it conducted any other substantial activities, other than: Obtaining volunteers to work its _____ and then distributing scholarships to/for volunteers who worked the Organization's _____.

Law:

IRC Sec.

IRC Sec. 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 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.

Treasury Regulations (Treas. Reg.) Sec.

Treas. Reg. Sec. 1.501(c)(3)-1(a) states in part that in order to be exempt as an organization described in Code section 501(c)(3), the 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. The term “exempt purpose or purposes”, as used in this section, means any purpose or purposes specified in section 501(c)(3).

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Treas. Reg. Sec. 1.501(c)(3)-1(b)(4) states in part that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, for example, if, upon dissolution, such assets would, by reason of a provision in the organization's articles or by operation of law, be distributed for one or more exempt purposes, or to the Federal government, or to a State or local government, for a public purpose, or would be distributed by a court to another organization to be used in such manner as in the judgment of the court will best accomplish the general purposes for which the dissolved organization was organized. However, an organization does not meet the organizational test if its articles or the law of the State in which it was created provide that its assets would, upon dissolution, be distributed to its members or shareholders.

Treas. Reg. Sec. 1.501(c)(3)-1(c)(1) provides that an organization will not be regarded as operated exclusively for exempt purposes if more than an insubstantial part of its activities is not in furtherance of exempt purposes.

Taxpayer's position:

The Taxpayer position is not known.

Government's position:

1. Do the Organization's activities meet the organizational and/or operational test?

It is the Government's position that the Organization's activities do not meet the operational tests.

Under IRC Sec. 501(c)(3), to meet the organizational test, an organization must establish on the basis of its articles that it was organized exclusively for one or more exempt purposes, without reference to its operations. In addition, an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities that accomplish exempt purposes specified in

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section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities does not further an exempt purpose. Also see Treas. Reg. Sec. 1.501(c)(3)-1(a), Treas. Reg. Sec. 1.501(c)(3)-1(b)(4), Treas. Reg. Sec. 1.501(c)(3)-1(c)(1).

Here, per financial records and/or oral testimony, the Organization generated income from an arrangement it had with . According to the , the Organization provided working volunteers in return for payment from . In return for working , the Organization distributed scholarships to the volunteers. The Organization had to approve scholarship distributions. This is because payments were contingent that the said volunteers worked . Thus, according to the Organization, a volunteer must work to receive a scholarship. So, payments to members/volunteers are conditional. This is opposed to the belief that a volunteer is someone who provides a service for no consideration to any financial benefit. Furthermore, the Organization's activities are also inconsistent with their responses on the Form 1023-EZ. For example, despite generally distributing funds as scholarships, the Organization is paying expenses for individuals. Thus, the Organization's activities are contradictory to their responses on the Form 1023-EZ. Given the above, by only distributing scholarships to volunteers who worked, the Organization didn't operate exclusively for one or more exempt purposes.

Therefore, the Organization's activities didn't meet the operational test.

2. Given the Organization's operations, does the Organization continue to qualify for exemption under IRC Sec. 501(c)(3)?

It is the Government's position that the Organization doesn't continue to qualify for exemption under IRC Sec. 501(c)(3).

Under IRC Sec. 501(c)(3) an organization must be organized exclusively for one or more exempt purposes. An organization will not be so regarded if more than an insubstantial part of its activities does not further an exempt purpose. Also see Treas. Reg. Sec. 1.501(c)(3)-1(a), Treas. Reg. Sec. 1.501(c)(3)-1(b)(4), Treas. Reg. Sec. 1.501(c)(3)-1(c)(1).

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Here, as identified in the Government's position, item 1, the Organization doesn't meet the operational test. To be exempt under IRC Sec. 501(c)(3), an organization must meet both the organizational test and operational test.

Therefore, the Organization doesn't continue to qualify for exemption under IRC Sec. 501(c)(3).

Conclusion:

Based upon the facts and circumstances as presented during this audit and as stated above, as well as, the Law and Rulings cited above, the Organization doesn't qualify for exemption under IRC Sec. 501(c)(3). Accordingly, we propose to revoke the Organization's exempt status under IRC Sec. 501(c)(3), effectively, beginning

As a result, the Organization is required to file Form 1120, *U.S. Corporation Income Tax Return*, for any year thereafter the tax year ending _____, if Organization remains subject to Federal Income Tax. Note: Other filing requirements may also apply.