



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

Date:
10/26/2023
Taxpayer ID number (last 4 digits):

Form:

Tax periods ended:

Release Number: 202408008
Release Date: 2/23/2024
UIL Code: 501.03-00

Person to contact:
Name:
ID number:
Telephone:
Fax:
Last day to file petition with United States
Tax Court:

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: You have not demonstrated that you are operated exclusively for one or more exempt purposes as required by section 501(c)(3). You do not meet the operational test under Treas. Reg. § 1.501(c)(3)-1(c)(1) because your involvement with acquisition and disposition of real estate makes up more than an insubstantial part of your activities, does not further an exempt purpose, and benefits private interests. You also operated for the benefit of private individuals by directing payments from various fundraising events to be used by selected individuals for personal use. Your tax exempt status under section 501(c)(3) of the Internal Revenue Code is thus revoked, effective from

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:

Internal Revenue Service
Taxpayer Advocate Office

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.

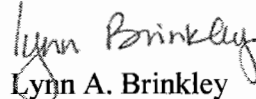
Find tax forms or publications by visiting [IRS.gov/forms](https://www.irs.gov/forms) or calling 800-TAX-FORM (800-829-3676). If you have questions, you can call the person shown at the top of this letter.

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



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

Date:
06/09/2023
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:
July 10, 2023

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.

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,

Lynn A Brinkley by lm

Lynn Brinkley
Director, Exempt Organizations
Examinations

Enclosures:
Form 886-A
Form 6018

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) Whether _____ is operated exclusively for exempt purposes described within Internal Revenue Code (IRC) §501(c)(3)?
 - a. Whether _____ is engaged primarily in activities that accomplish an exempt purpose?
 - b. Whether _____ is operated to serve a public rather than a private interest?

- 2) Should _____ continue to be recognized as tax exempt under IRC §501(a) as an organization described in IRC §501(c)(3)?

FACTS

_____, hereinafter referred to as _____, was incorporated under the laws of the state of _____ as a nonprofit corporation on _____, and subsequently under the laws of the state of _____ as a nonprofit corporation on _____.

On _____, the Internal Revenue Service (Service) received _____'s **Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code**, signed on _____. The application listed the following in the narrative of past, present and planned activities:

" _____ activities include _____ for the furtherance of the _____, etc.

Both Articles of Incorporation dated _____, and _____, provided that the organization was created for _____, and _____.

After the review of the Form 1023 and the original Articles of Incorporation, the Service determined that _____ was created for the advancement of _____, which is considered _____ and therefore is an exempt purpose under IRC §501(c)(3). The organization must be organized and operated exclusively for exempt purposes and serve the public interests rather than private interest by law. On _____, Letter 1045 was issued indicating that _____ could reasonably expect to be classified as a public charity described in IRCs §509(a)(1) and §170(b)(1)(A)(vi) after an advance ruling period beginning _____, and ending December 31, _____.

ACTIVITIES

's Profit and Loss Statement recorded the largest sources of income for the periods under examination as follows:

	<u>20</u>	<u>20</u>	<u>20</u>
1.	Fundraising- . % \$,	Fundraising- . % \$,	Fundraising- . % \$,
2.	Donations- . % \$,	Conference Income- . % \$,	Income- . % \$,
3.	Conference Income- . % \$,	Income- . % \$,	Non-Profit Income- . % \$,

's Form recorded the largest sources of income for the periods under examination as follows:

	<u>20</u>	<u>20</u>	<u>20</u>
1.	Fundraising- . % \$,	Fundraising- . % \$,	Fundraising- . % \$,
2.	Program Revenue- . % \$,	Program Revenue - . % \$,	Program Revenue - . % \$,
3.	Membership Dues- . % \$,	Membership Dues - . % \$,	Membership Dues - . % \$,

Per the Form filed for the periods under examination, described its most significant activity to be . The Statement of Revenue, Part VIII lists the sources of revenue to include events and revenue. Statement of Functional Expenses, Part IX, lists functional expenses to include employee and non-employee and other expenses. reported as "other expenses" payments to expenses and "all other expenses."

Purported Primary Activity-

During the period under examination, oversaw the of an and process, which it called ". Additionally, it offered and for the affiliated with and similar paid to enroll in a to complete the ", which entailed by and who successfully completed an through the would be considered a ". could then apply for their organization to become an " and would be required to . Based on received " to the & within their respective ". would then the at their organizations and refer their " to participate in various activities.

As determined during the examination, income from the & and was \$, in 20 , \$ in 20 and \$, in 20 which represents . %, % and . % of income, respectively. Actual received was \$ in 20 , \$, in 20 , and \$ in 20 which represents %, % and . % of income, respectively. The -year average of income from and is . %. This equates to the largest source of income and not the

Fundraising- and Event

entered into with various and companies. The organization states that the purpose of this activity was to to and pay for . The activity was suggested by an as a means of making money to offset the charged by the group to the was required to provide a specific number of " " to during in exchange for a to the number of and hours . The organization recorded these activities as " " and utilized the 's , of , and as the and paid as and expenses were provided to the to attend these events.

As determined during the examination, income from the was \$ in , \$ in and \$, in which represents . %, % and . % of income, respectively. The average of income from is . %. This equates to the largest source of income.

Donations- IRC §

participated in the and of in IRC § transactions. contracted with , (hereinafter referred to as), a and company specializing in providing and the nonprofit sector with services including , and , purchased , most of which were from and for a in for the equivalent to the " " of the created (s) for the and of the and was the sole member of these . It would then of the to other or for a that was often than the stated " " and and/or from the . During the periods of , assumed the and income, which was paid on its behalf to pursuant to the . All income including income, and were held by and against and i , and would receive a after representing the net income. The net income, including received in prior periods, was reported in the period of the disposition as " ."

Between , and , completed a total of and/ or transactions encompassing the and/ or of . Public records indicate that additional transactions occurred prior and subsequent to the periods under examination. During the initial interview with , President of (hereafter referred to as President) conducted on & , the organization stated that it began participating in transactions in and concluded participation in

The _____ were purchased for a total of \$ _____, and sold for a total of \$ _____. The total proceeds from the transactions were \$ _____, of which \$ _____, or _____% was paid to _____, \$ _____, or _____% was paid to others for _____, and \$ _____, or _____% was retained by _____. See detail below.

Income as a Percentage		
	Profit	%
	\$ _____	_____%
	\$ _____	_____%
Other	\$ _____	_____%
Total	\$ _____	_____%

Income as a Percentage		
	Profit	%
	\$ _____	_____%
	\$ _____	_____%
Other	\$ _____	_____%
Total	\$ _____	_____%

Income as a Percentage		
	Profit	%
	\$ _____	_____%
	\$ _____	_____%
Other	\$ _____	_____%
Total	\$ _____	_____%

Income as a Percentage		
	Profit	%
	\$ _____	_____%
	\$ _____	_____%
Other	\$ _____	_____%
Total	\$ _____	_____%

entered into _____ with _____ (hereafter referred to as _____) or its assignees totaling \$ _____ for the purposes of funding the _____ . Per the _____, and _____ were _____% - _____% with _____ ranging from _____ days to _____ months. Depending on the _____ date, some _____ allowed for _____ between _____ days and _____ months of _____. Some _____ also required _____.

As determined during the examination, income from the IRC § _____ and related was \$ _____ in _____, \$ _____ in _____ and \$ _____ in _____, less cost or other basis. This represented _____%, _____% and _____% of income, respectively. The _____-year average of income from IRC § _____ and related _____ is _____%. Net of expenses, this equates to the _____ largest source of income, but is the _____ source of gross income.

A summary of sources of income earned by _____ during the periods under examination follows:

	Revenues				As a %
				Total	
	\$	\$	\$	\$	%
	\$	\$	\$	\$	%
All other Contributions	\$	\$	\$	\$	%
	\$	\$	\$	\$	%
	\$	\$	\$	\$	%
Less Cost or other Basis and	\$	\$	\$	\$	
Gross Income from s \$	\$	\$		\$	%
Less				\$	
Other revenue	\$	\$		\$	%
TOTAL REVENUE	\$	\$	\$	\$	%

For each transaction, _____ provided a signed, written statement on letterhead to the _____ listing their name, date and amount of donation, totaling _____, _____ also signed an incomplete **Form 8283, Noncash Charitable Contribution** for each property, which is required for the _____ to _____ the charitable deduction of properties exceeding \$500. The forms were incomplete, in that they did not include the Name or Identifying Number of the _____ at the time of signature. In Part IV, Donee Acknowledgement, _____ checked "No" affirming that the organization did not intend to use the _____ for an unrelated use. When the _____ was _____ did not file to the Service or furnish to the original donor **Form 8282, Donee Information Return** as required.

A schedule detailing the _____, _____, stated _____ and _____ - _____ is as follows:

No	Date of Letter				
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
Totals					

ANNUAL RETURN FILINGS

For the periods ending _____, _____, _____, and _____, _____ timely filed Form _____, *Return of Organization Exempt From Income Tax*. For the _____ period under examination:

- The Form _____, Part I *Summary*, Line 1 did not list Fundraising to be among the organization's most significant activities.
- The Form _____, Part IV *Checklist of Required Schedules*, Line 2 was checked " " to indicate that the organization was _____ required to complete **Schedule B, Schedule of Contributions**. The organization did not complete Schedule B to disclose the receipt of contributions totaling \$5,000 or more from contributors.
- The Form _____, Part IV *Checklist of Required Schedules*, Line 18 was checked " " to indicate that the organization did _____ report more than \$15,000 total fundraising event gross income and contributions on Part VIII, lines 1c and 8a, and that **Schedule G, Supplemental Information Regarding Fundraising or Gaming Activities** was not required. Form _____, Line 1c listed \$ _____ in income from fundraising events. Schedule G was not completed by the organization.
- The Form _____, Part IV *Checklist of Required Schedules*, Line 29 was checked " " to indicate that the organization was _____ required to complete **Schedule M, Noncash Contributions** to disclose the receipt of more than \$25,000 in non-cash contributions. Schedule M was not completed to disclose the receipt of non-cash contributions.
- The Form _____, Part IV *Checklist of Required Schedules*, Line 34 was checked " " to indicate that the organization did _____ have related taxable entities and was not required to attach **Schedule R, Related Organizations and Unrelated Partnerships**. The organization did not complete Schedule R to disclose the existence of the 100% controlled LLCs.

The Form _____ for the subsequent periods included similar misstatements and omissions. Form _____ for all periods did not disclose the related organizations, the assets or ownership of the _____, _____, or _____ and _____. Form _____ was not filed in any period to report the unrelated business income or pay the unrelated business income taxes.

The Service conducted an examination of _____ Form _____ for the period ending _____, _____ and found that the return was incomplete because all gross receipts and expenditures were not reported. On _____, _____, Letter 3609, No Change Advisory, was issued to notify _____ of the requirement to file complete returns and the consequences of filing incomplete returns. The organization filed Form _____ for the period ending _____, _____, on _____, _____ and filed Form _____ for the period ending _____, _____ on _____, _____, both after receipt of the Letter 3609.

LAW

IRC §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.

Treasury Regulations (Treas. Reg) §1.501(a)-1(c). The words "private shareholder or individual" in §501 refer to persons having a personal and private interest in the activities of the organization.

Treas. Reg. §1.501(c)(3)-1(a)(1) provides that in order to be exempt as an organization described in IRC §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 IRC §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. §1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (i) of this subparagraph unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Treas. Reg. §1.501(c)(3)-1(d)(1)(iii), Example 3, describes an organization that is deemed to violate the restriction on private benefit due to its arrangement with a related for-profit entity, regardless of whether the payments to the related for-profit entity are reasonable.

Treas. Reg. §1.501(c)(3)-1(d)(2) defines "Charitable" to include; relief of the poor and distressed or of the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments, or works; lessening of the burdens of government; and promotion of social welfare by organizations designed to accomplish any of the above purposes, or (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.

Treas. Reg. §301.7701-2(c)(2) defines "Wholly Owned" Business Entities. In General, except as otherwise provided in this paragraph (c), a business entity that has a single owner and is not a corporation under paragraph (b) of this section is disregarded as an entity separate from its owner.

Revenue Ruling (Rev. Rul.) 56-403, 1956-2 C.B. 307, holds that awarding scholarships by a foundation solely to undergraduate members of a designated fraternity will not preclude the foundation from exemption under IRC 501(c)(3).

Rev. Rul. 67-367, 1967-2 C.B. 188, holds an organization that pays scholarships to pre-selected, specifically named individuals designated by subscribers, is serving private interests rather than public charitable and educational interests contemplated under IRC §501(c)(3) and does not qualify for exemption.

In Better Business Bureau of Washington, D.C. v. U.S., 326 U.S. 279 (1945), the Supreme Court held that "the presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes."

In est of Hawaii v. Commissioner, 71 T.C. 1067 (1979), several for-profit est organizations exerted significant indirect control over est of Hawaii, a nonprofit entity, through contractual arrangements. The Tax Court concluded that the for-profits were able to use the nonprofit as an "instrument" to further its for-profit purposes. The question for the Tax Court was not whether petitioner's payments to the for-profits were excessive but whether the for-profits benefited substantially from petitioner's operations. The Tax Court noted that petitioner provided a substantial private benefit to the for-profit corporations. Petitioner "was simply the instrument to subsidize the for-profit corporations and not vice versa and had no life independent of those corporations." Accordingly, the Tax Court held that est of Hawaii did not qualify for exemption under IRC §501(c)(3).

In American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), the Tax Court determined that the American Campaign Academy, a training program for political campaign professionals, operated for the private benefit of the Republican party because its curriculum was tailored to Republican interests, its graduates worked for Republican candidates and incumbents, and it was financed by Republican sources. The Tax Court defined private benefit as "nonincidental benefits conferred on disinterested persons that serve private interests." Private benefits included "advantage; profit; privilege; gain; [or] interest."

In University Hill Foundation v. Commissioner, 446 F.2d 701 (9th Cir. 1971), *rev'g* 51 T.C. 548 (1969), *cert. den.*, 405 U.S. 965 (1972), the court held an organization that engaged in several transactions to provide funds for an exempt university to be nonexempt under IRC §501(c)(3). The court concluded that the organization was engaged in the business of purchasing and selling businesses and was thus trading on its purported tax exemption. The court also noted that the business was engaged in solely to produce a profit for disbursement to the university and none of the acquired businesses were in any way related to the university's exempt purposes.

In Capital Gymnastics Booster Club, Inc. v. C.I.R., 106 T.C.M. (CCH) 154 (2013), the Tax Court held that a gymnastics booster club did not satisfy the requirements of IRC §501(c)(3) because its fundraising programs operated in a manner that allowed substantial private inurement and promoted private, non-public interests.

ISSUE #1 Whether _____, is operated exclusively for exempt purposes described within IRC §501(c)(3)?

- a. Whether _____ is engaged primarily in activities that accomplish an exempt purpose?
- b. Whether _____ is operated to serve a public rather than a private interest?

TAXPAYER’S POSITION

The Taxpayer’s position is unknown.

GOVERNMENT’S POSITION

It has been determined that _____ is not operated exclusively for an exempt purpose because it is engaged primarily in activities that do not accomplish an exempt purpose. _____ has not demonstrated that its primary activity is advancement of _____. It has also been determined that _____ is not operated exclusively for an exempt purpose because it operates to serve a private interest. Therefore, it does not meet the operational test under Treas. Reg. §1.501(c)(3)-1(a)(1).

PRIMARY ACTIVITY- _____ and _____ (Recorded as _____)

The _____ and _____ serves the private interests of the _____ and not a public interest because the benefits received were for fundraising activities done on their own behalf. _____ received a benefit equivalent to their _____ to reduce their personal financial liabilities, while _____ and _____ received direct payment for the _____ of the _____.

_____ reported this activity as its primary activity on its books and on Form _____. For “_____,” _____ contracted with various companies whose stated purpose was to provide _____ to _____ groups. As observed on _____ on _____, _____ posted registration forms for various “_____” _____, such as the _____, and the _____. The website listed a separate _____ for _____ and an increased pay rate for _____. Interested individuals were able to complete an Form and list which _____ they were interested in _____, and identify themselves as _____, _____ or _____ provided _____, _____ and _____ during the events for _____.

Per the language in the _____ that _____ made with the _____ companies, _____ was to provide “_____” who would “_____ for and to the benefit of _____ (_____) without expectation of _____.” The company would, in turn, pay a “_____” to _____ equal to a set rate per _____. Despite the terms of the agreement with the _____ groups, _____ directed the payments to the benefits of the _____.

In most cases, _____ paid the _____ a payment equivalent to the hours worked by its _____. In response to an Information Document Request received by the Service on _____, _____ explained that “_____ holds the funds for the _____ and is responsible for paying _____ and _____ for the _____.” It further stated that, “(t)he _____’s _____ are not required to pay any certain expenses from the funds paid. Each _____ has their own leadership and has accepted the funds as a _____. However, most _____ do use the funds donated by _____ to pay expenses of the _____ who volunteered their service at the event from which the funds were donated to the _____.”

statement establishes that the funds were held in trust toward the individual for and expenses. During the examination, written statements were identified detailing the names of the , the total hours , the and the total payment. These statements were forwarded with the checks to the . This further supports the determination that payments were itemized for the benefits of the individuals.

Rev. Ruls. illustrate the distinction between serving the public interest and serving a private interest. Rev. Rul. 56-403, 1956-2 C.B. 307, holds that awarding scholarships by a foundation solely to undergraduate members of a designated fraternity will not preclude the foundation from exemption under IRC 501(c)(3). It notes the fact that the foundation's scholarships are limited to a particular group would not preclude its exemption as an educational organization in as much as there is no specific designation of persons eligible for scholarships and the purposes of the foundation are not so personal, private, or selfish in nature as to lack the elements of public usefulness and benefit which are required of organizations qualifying for exemption under IRC 501(c)(3).

In contrast, Rev. Rul. 67-367, 1967-2 C.B. 188, holds an organization that pays scholarships to pre-selected, specifically named individuals designated by subscribers, is serving private interests rather than public charitable and educational interests contemplated under IRC §501(c)(3) and does not qualify for exemption.

activities are analogous to the organization described in Rev. Rul. 67-367 and distinguished from the organization described in Rev. Rul. 56-403 because the payments are for the benefit of specifically named individuals who performed services in connection with the payments.

The situation in which funds or income is directed to benefit specific individuals is also analyzed in Capital Gymnastics Booster Club, Inc. v. C.I.R., 106 T.C.M. (CCH) 154 (2013). In Capital Gymnastics Booster Club, the organization provided inurement to the parent member insiders who fundraised (by providing to those insider's relief from an economic burden in the form of "points" applied to their assessments) and thereby conferred an impermissible substantial private benefit to the child athletes of those parents only (as opposed to all child athletes generally). The organization authorized parent members to raise funds for their own benefit but under the name of Capital Gymnastics and trading on its tax-exemption ruling. The organization rigorously assured parents that its fundraising did not generally benefit all the child athletes in its programs but rather benefited only the children of parents who did the fundraising. In fact, the fundraising activity conducted in the Capital Gymnastics case is analogous to the fundraising activity conducted by . The fundraising income is not paid in cash to the for which income and employment taxes would have been paid, but instead is turned over to the to be earmarked for their own personal , , and for which they would have borne themselves. Directing funds or income to be earmarked for the use of pre-selected individuals to be used for their personal use is serving private interests and does not qualify for exemption under IRC 501(c)(3).

PRIMARY ACTIVITY- IRC

(Recorded Net as Donations)

The Service finds that the income received from recorded as donations were not indeed donations but instead were proceeds from activities. The activities including the and acquired through IRC is a primary activity based on income. This activity was the largest source of income before expenses, and the largest net of expenses. This activity does not accomplish an exempt purpose. Analogous to the organization in University Hill Foundation v. Commissioner, engaged in the business of and for tax benefits only available under IRC and was thus trading on its purported tax exemption which is found to be nonexempt activity under IRC §501(c)(3).

Additionally, substantial engagement in this non-exempt activity conferred more than a nonincidental private benefit on disinterested parties. Treas. Reg. §1.501(c)(3)-1(c)(1) provides that an organization will be regarded as operated exclusively for exempt purposes only if it engages primarily in activities which accomplish one or more exempt purposes. 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. §1.501(c)(3)-1(d)(1)(ii) provides that an organization is not operated exclusively for exempt purposes unless it serves a public rather than a private interest. Thus, even if an organization has many activities which further exempt purposes, exemption may be precluded if it serves a private interest.

Exclusive Contract and Less than Arms-Length Relationship

entered into an exclusive contract to , and through . Additionally, it obtained financing exclusively through . Typically, an entity looking to purchase and would deal with a number of different entities. In this case, chose to exclusively participate in such activities with and and did not question whether the terms of the agreements were favorable to the exempt organization. the President indicated that it did not conduct such transactions with other because no one else presented them with contracts. When asked why the were not of in any other method, he stated that he saw the transactions as “ .” This statement indicates that was contented with the proportion of income it received in contrast with the proportion of income received by .

Further, it is noted that had a less than arms-length relationship with of and , were also members of board. meeting minutes dated , records , who was also , suggesting the organization become involved in IRC and . It states, in part, that he: “feels that he can bring \$ to without any cost to . The only problem is that it's a conflict of interest because (he's) on the . (He) can serve in an advisory rather than a . (He) would have to so that he's not on paper but serve as an .”

Meeting minutes dated , record the and , a , due to the potential perception of a conflict of interest. The same meeting minutes recorded the board's approval to begin the purchase of through . Further, as specified in the meeting minutes, was available to serve “as an ” and likely continued his prior relationship and influence within the organization and with its decision makers. These facts lend to the determination that participation in the activities may have been motivated by the relationship with and therefore, less concern may have been given to whether the transactions would serve a private rather than public interest.

During the initial interview, the President explained that he would receive “ ” although many of them would not result in an or . After the interview, the power of attorney sought to clarify that the President was exaggerating, and that the number of contracts would more accurately be described as “ .” The President was responsible for reviewing and signing documents for both potential and actual transactions. The President received a salary for his work done on behalf of . Additionally, the organization's books show expenditures for “() ” and “() .” Whether or , the Service concludes that participation in the was a substantial activity that involved a considerable amount of the President's time and attention, and that resources were being allocated toward this purpose.

Limited Liability Companies formed for Non-Exempt Purposes

established at least Limited Liability Corporations (LLCs) that were disregarded as business entity separate from its owner, as defined in Treas. Reg. 301.7701-2(c)(2). Evidence indicates that additional LLCs were established either before and/or after the periods under examination. Once the were in the name of the charity, often transferred the to its LLCs, which were established using the name of each . During ownership, earned may have been paid to either the LLCs or , based on the circumstances of the transactions. When the was , it was often in the name of the LLC. When asked the purpose of the LLCs, the President explained that they were established “due to the volume of transactions.”

These LLCs were created for non-exempt purposes. As evidenced in the language in the Operating Agreement for , LLC, “(t)he Company is formed for purpose of, and the nature of the business to be conducted and promoted by the Company is, the , and ultimate , and engaging in any and all activities necessary or incidental to the foregoing”. These purposes are not purposes specified in IRC §501(c)(3) and instead are commercial in nature. was the of the LLCs. Per the agreements, the allocation of net profits, tax credits and tax losses were to the member.

Each LLC was formed in the . The website shows that the corporation types were declared as “A - General – Type.” General refers to a legal entity with no special attributes such as nonprofit or religious. The LLCs filed for and received Tax Identification Numbers (TINs) from the Service with NAICS code -- . These filings provide insight into the intended purposes of the LLCs and confirm that they were not organized to promote exempt purposes of advancement of

Research of the Service’s payer and payee filing system shows that the LLCs filed and received information returns reporting payments and income. For example, in , LLC filed a Form **1099-INT**, *Interest Income* to report a , payment to an . The Service has not been provided information about the nature of this payment; however, it further provides evidence of the scope of transactions outside the organization’s stated purposes. Additionally, **Forms 1099-S**, *Proceeds from Real Estate Transactions* and **1099-MISC**, *Miscellaneous Income* for rents were received by the entities. In total, approximately Form 1099 returns were located during the periods for these entities. These information returns indicate that the scope of the activities conducted were not insubstantial. The activities were not reported on the Form , no Form were filed, no tax was paid, and Schedule R was not completed to disclose the existence of the entities. As these entities were wholly owned entities that were not regarded as separate from the owner, was required to report all activities and income on its returns.

After consideration of the number of LLCs established, the non-exempt purposes of the LLCs per its Operating Agreements, the type of entity as declared in the Certificates of Formation, and the scope of the activities conducted, it is determined that the organization and operation of the wholly owned LLCs was for a primary activity that did not accomplish an exempt purpose. The Service also notes that failed to provide notice of the existence of the LLCs and the gross income earned on Form , and no individual tax returns were filed for the entities. As the LLCs obtained TINs, and filed and received information returns, the failure to report the non-exempt activities and taxable income does not appear inadvertent. Additionally, was provided notice by the Service on , via Letter 3609 of the consequences of filing incomplete returns, and still did not comply when filing the Forms for the period endings , and ,

Additionally, the terms of the agreement allowed for [redacted] to collect all [redacted] on behalf of the organization. When asked to provide accounting of the [redacted], [redacted] explained it did not know how much was collected and from whom, indicating it released all control of the income to [redacted]. [redacted] relied on [redacted] to properly credit them for all income collected and is not in fact able to determine if it did. During the examination, the Service determined that [redacted] checks paid to [redacted] wholly owned LLCs were in fact deposited into a checking account in the name of [redacted]. [redacted] then retained the [redacted] and netted against its fees, thus allowing [redacted] income to inure to the benefit of the for-profit entity.

[redacted] entered into [redacted] agreements with [redacted], that were unusual and highly unfavorable to the non-profit organization. Some [redacted] amounts were unreasonable based on the price of the [redacted]. For example, the [redacted] price for the [redacted] was \$ [redacted], however, the [redacted] to [redacted] was \$ [redacted], and required [redacted] % interest payments of \$ [redacted] for [redacted] months. There is no benefit to the organization to incur debt of that amount or enter into such repayment terms for a \$ [redacted]. The benefit for this agreement is to the [redacted], as the amount in excess of the principle was secured to pay the excessive fees.

Between [redacted] and [redacted], the National Average [redacted] ranged from [redacted] % to [redacted] %. Historically, short-term mortgages typically come with lower interest rates than [redacted]. In the case of [redacted], the [redacted] showed rates between [redacted] % and [redacted] %. Additionally, some agreements stipulated a prepayment penalty of interest despite the initial expectations to not hold the [redacted] for the full term. In many cases, buyers for the [redacted] of the [redacted] were already identified when the [redacted] were signed. Such was the case with the [redacted] & [redacted], where the [redacted] for its [redacted] was signed effective [redacted], and the [redacted] agreement for its [redacted] was signed on [redacted]. Further, this [redacted] specified the [redacted] of the [redacted] to [redacted] LLC, another [redacted] of [redacted] and hereafter referred to as [redacted], which confirms that all parties were aware of the pending transaction. [redacted] also agreed to pay [redacted] % of the amount of the [redacted] on some [redacted], including \$ [redacted] fee for the \$ [redacted], on the [redacted], and the \$ [redacted] fee for the \$ [redacted], on the [redacted]. Taking together into consideration that the [redacted] was the subsidiary of [redacted] who also controlled every other aspect of the transaction including price, the above market interest rates, and the terms related to prepayment of the [redacted], it is determined that these financing transactions serve the private interest of [redacted] and his [redacted], and not a public interest.

For-Profit Company's Income reported as paid to

After [redacted] was [redacted] to [redacted], [redacted] income was reported to the Service as paid to [redacted]. In the case of the [redacted] & [redacted], [redacted] acquired the [redacted] on [redacted], and transferred it to [redacted], on the same day. On [redacted], [redacted], the [redacted] was [redacted] by [redacted] to [redacted]. However, information returns were filed by [redacted] for [redacted] made to [redacted], LLC in [redacted], and for a period in [redacted]. Public records indicate that the [redacted] was owned by [redacted] until [redacted]. If [redacted] no longer owned the [redacted], having income reported to the Service under its TIN transfers the tax return filing requirement from the actual owners to [redacted]. It is unknown if [redacted] filed or paid tax related to this income, however the arrangement serves the private interest of the owner, and not that of the public.

For-Profit Company's Possession of Non-Profit Income

In some cases, [redacted] allowed [redacted] to maintain possession of its income beyond a reasonable period. In the case of the [redacted] & [redacted], [redacted] the [redacted] and [redacted] it to a wholly owned subsidiary, [redacted], LLC, on [redacted]. On the same day, the [redacted] was to [redacted]. A profit and loss statement dated [redacted] was prepared by [redacted] indicating a profit of \$ [redacted]. However [redacted] did not receive distribution until after the [redacted] was [redacted] by [redacted] on [redacted]. This indicates that [redacted] retained control of [redacted]'s profit for an additional [redacted] months beyond [redacted] of ownership with no plausible need to continue the management of the funds. In fact, no distribution was made until the [redacted] disposed of the [redacted] from its ownership. During the period of the [redacted] ownership the amount due to [redacted] did not increase, which indicates that no [redacted] was paid by [redacted] to [redacted] for the use of the funds. A similar fact pattern exists with the [redacted] & [redacted], [redacted] on [redacted], the [redacted] on [redacted], and the [redacted] on [redacted], all of which did not receive disbursement until [redacted]. This arrangement is questionable, and serves the private interest of [redacted], and not that of the public.

Donor Deductions

The structure of the [redacted] involved a [redacted] who would [redacted] to [redacted] for a value below the appraised amount, treat the difference between the FMV and the sales price as a non-cash contribution, and claim a charitable deduction under IRC [redacted] (a) based on the appraised FMV of the [redacted] at the time of the [redacted]. In this case, [redacted] found the donor and connected them with a tax-exempt entity willing to participate in the transaction. [redacted] signed Letters of Intent, which detailed the terms of the [redacted] and marketed to the donor the benefits based on the tax savings and not the sales price. Specifically, the Letter of Intent would list the Current List Price, the IRC [redacted] of Value Price, the Federal Tax-Free Contributions Tax Savings at [redacted] %, the State Tax-Free Contributions Tax Savings @ [redacted] %, the Total Cash Benefit and the resulting Equivalent Selling Price. This structure allowed the donor to compare traditional sales with the benefit they received for entering into the [redacted] agreement.

The FMV was determined by an appraiser who was chosen from a list of preferred appraisers provided by [redacted]. Because [redacted] controlled the selection of the appraiser, and the fee structures were based on the amount of the appraisal, the possibility existed that the appraisal could provide an inflated FMV. During the initial interview, the President stated that they were minimally involved in the appraisal process, and never met with or talked to the appraiser. Nevertheless, [redacted] provided a signed, written statement for each transaction on letterhead to the donor listing their name, date and amount of donation, based on the potentially overstated FMV, totaling \$ [redacted]. He further stated that at the time of [redacted], [redacted] did not doubt the valuation of the [redacted], but at the time of the initial interview, did not agree with the accuracy of the valuations.

Additionally, [redacted] indicated on the Form 8283 that the [redacted] would be used for a related, exempt purpose. However, the intention was to use the [redacted] for an unrelated non-exempt purpose. If [redacted] correctly checked " [redacted]" to indicate the expectation that the donated [redacted] were to be used for an unrelated purpose, the donor's deduction would have been limited. [redacted] also did not file the required Form 8282 to report the sale of the asset. If the Form 8282 was correctly furnished to the original donor, a recapture of the donor's prior year contribution deduction may have been required. By not disclosing the true, non-exempt nature of the donation on Form 8283, failure to file and furnish Form 8282 and providing charitable contribution documentation with questionable FMV, [redacted] provided for an excess benefit to be received by the donor in the form of deductions that were not allowable. This serves a private benefit, and not the benefit of the public at large.

activity involving the [redacted] and [redacted] as apart of [redacted] transactions served the private interests of [redacted] and the [redacted] of the [redacted]. Private benefit has been defined as "nonincidental benefits conferred on disinterested persons that service private interests." American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989). "Prohibited private benefit may include an 'advantage; profit; privilege; gain; [or] interest.'" In analyzing the factors of the transactions against the factors observed by the courts, the Service considered the benefit conferred and whether that benefit was qualitatively and quantitatively incidental. Qualitatively incidental means that the private benefit is a mere byproduct of the public benefit. For private benefit to be quantitatively incidental, it must be insubstantial in amount. The private benefit must be compared to the public benefit of the specific activity in question, not the public benefit provided by all the organization's activities.

The benefits received by [redacted] and the donors were not a mere byproduct of a benefit received by the public. The [redacted] were not related to the [redacted] exempt purpose, or any activity carried on to fulfill that exempt purpose. [redacted] involvement was purely for [redacted] purposes with the goal of generating capital. [redacted] status as a tax-exempt organization was used to facilitate the [redacted]. In its absence, no charitable deduction could be claimed. The [redacted]' sole purpose of participating in the transaction was to receive the inflated charitable deduction and reduce their taxable income, as evidenced in the Letter of Intent. [redacted] purpose for conducting the transaction was to maximize fee revenue. The activity had no direct benefits to the public at large. Therefore, the benefit was not qualitatively incidental.

The benefits received by [redacted] and the [redacted] were not insubstantial. The fee schedules of the transactions were structured so that the EO retained very little profit and [redacted] and its related [redacted] ([redacted], etc.) received the largest benefit from the transactions. The [redacted] in fees paid to [redacted] for the facilitation of the [redacted] transactions, as well as the [redacted] in charitable deduction documentation given to the [redacted] are substantial amounts. On average, [redacted] retained [redacted] % of the proceeds and [redacted] retained [redacted] % of the proceeds. Additionally, [redacted] in [redacted], above [redacted] rates of [redacted] % and excessive prepayment penalties were not insubstantial. Therefore, the benefit was not quantitatively incidental.

EXEMPT ACTIVITY- Ministry

activities to fulfill its exempt purpose of advancement of included conducting conference calls, sending email and providing to enrollees of the programs, hosting conferences and retreats, facilitating peer groups, on-site program assessment, and referring to colleges for testing. During the and years under examination, the EO conducted an annual International and held monthly and quarterly conference calls, however the conferences ceased in due to the pandemic. It also conducted program-related travel and received new applications and maintained the existing for and . The average of income from and is .%.

The presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes. Better Business Bureau of Washington, D.C. v. U.S., 326 U.S. 279 (1945). In the case of , evidence indicates that two of the primary activities fulfill non-exempt purposes. Like the ruling in Capital Gymnastics Booster Club, conferred an impermissible substantial private benefit to the workers by transferring the equivalent of funds raised during fundraising activities to affiliates to reduce the workers' personal expenses, and therefore is not operated exclusively for exempt purposes. Like the ruling in est of Hawaii v. Commissioner, the for-profit entities were able to use as an "instrument" to further its for-profit purposes. allowed for-profit entities and individuals to receive substantial private benefit from the arrangements. As such, fails the operational test under Treas. Reg. §1.501(c)(3)-1(c)(1) and Treas. Reg. §1.501(c)(3)-1(d)(1)(ii) as it engaged primarily in activities that served private interests, and therefore more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

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

TAXPAYER'S POSITION

On _____, _____, Power of Attorney, _____ provided a copy of a page on website stating that the organization dissolved on _____, _____. No copies of the Intent to Dissolve or Articles of Dissolution documents were provided but are referenced on the print.

GOVERNMENT'S POSITION

It has been determined that _____ does not qualify for exemption as an organization described in IRC §501(c)(3) because it does not meet the operational test under Treas. Reg. §1.501(c)(3)-1(a)(1). _____ fails the operational test because it is not operated exclusively for exempt purposes, as it is engaged primarily in activities that do not accomplish an exempt purpose and more than an insubstantial part of its activities serves a private rather than a public benefit.

The organization should not continue to be recognized as tax exempt under IRC §501(a) as an organization described in IRC §501(c)(3).

CONCLUSION

_____ is not an organization described in IRC §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 _____ period under examination. Therefore, the effective date of revocation is _____, _____. Forms 1120, *U.S. Corporate Income Tax Return*, should be prepared and filed by the _____ for the period of examination forward to dissolution.