

Internal Revenue Service
Appeals Office
1000 South Pine Island Road
Suite 350
Plantation, FL 33324

Release Number: 201039042
Release Date: 10/1/10
Date: March 5, 2009
UIL Code: 7428.00-00

A = Taxpayer Name

B = Taxpayer Address

Department of the Treasury

Person to Contact:

Employee ID Number: 0316042

Tel:

Fax:

Refer Reply to:

In Re:

Employer Identification Number:

Form Required to be Filed:

Tax Period(s) Ended:

December 31, 20XX

Last Day to File a Petition with the

United States Tax Court: JUN 03 2009

Certified Mail

Dear

This is a final adverse determination as to your exempt status under section 501(c)(3) of the Internal Revenue Code (IRC). It is determined that you do not qualify as exempt from Federal income tax under IRC Section 501(c)(3) effective January 1, 20XX.

Our adverse determination was made for the following reason(s): A substantial part of your activities consists of providing down payment assistance to home buyers. To finance the assistance, you rely on home sellers and other real-estate related businesses that stand to benefit from these down payment assistance transactions. Your receipt of a payment from the home seller corresponds to the amount of the down payment assistance provided in substantially all of your down payment assistance transactions. The manner in which you operate demonstrates you are operated primarily to further your insiders' business interests. Therefore, you are operated for a substantial nonexempt purpose. In addition, your operations further the private interests of the persons that finance your activities. Accordingly, you are not operated exclusively for exempt purposes described in section 501(c)(3).

Contributions to your organization are not deductible under Code section 170.

You are required to file Federal income tax returns on the form indicated above. You should file these returns within 30 days from the date of this letter, unless a request for an extension of time is granted. File the returns in accordance with their instructions, and do not send them to this office. Processing of income tax returns and assessment

of any taxes due will not be delayed because you have filed a petition for declaratory judgment under Code section 7428.

If you decide to contest this determination under the declaratory judgment provisions of Code section 7428, a petition to the United States Tax Court, the United States Court of Claims, or the district court of the United States for the District of Columbia must be filed within 90 days from the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for filing petitions for declaratory judgment. To secure a petition form from the United States Tax Court, write to the United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217.

We will notify the appropriate State officials of this action, as required by Code section 6104(c). You should contact your state officials if you have any questions about how this determination may affect your state responsibilities and requirements.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

CHARLES FISHER
TEAM MANAGER

Internal Revenue Service
Appeals Office
1000 South Pine Island Road
Suite 350
Plantation, FL 33324

Date: **MAR 05 2009**

A = Taxpayer Name

B = Taxpayer Address

Department of the Treasury

Person to Contact:

George Poskitt
Employee ID Number: 0316042
Tel: 954-423-7936
Fax: 954-693-4008

Refer Reply to:

AP:Area 4:Team 5:GP

In Re:

EO Revocation

Employer Identification Number:

C = EIN

Form Required to be Filed:

1120

Tax Period(s) Ended:

December 31, 20XX

Last Day to File a Petition with the

United States Tax Court: JUN 03 2009

Certified Mail

Dear

This is a final adverse determination as to your exempt status under section 501(c)(3) of the Internal Revenue Code (IRC). It is determined that you do not qualify as exempt from Federal income tax under IRC Section 501(c)(3) effective January 1, 20XX.

Our adverse determination was made for the following reason(s): A substantial part of your activities consists of providing down payment assistance to home buyers. To finance the assistance, you rely on home sellers and other real-estate related businesses that stand to benefit from these down payment assistance transactions. Your receipt of a payment from the home seller corresponds to the amount of the down payment assistance provided in substantially all of your down payment assistance transactions. The manner in which you operate demonstrates you are operated primarily to further your insiders' business interests. Therefore, you are operated for a substantial nonexempt purpose. In addition, your operations further the private interests of the persons that finance your activities. Accordingly, you are not operated exclusively for exempt purposes described in section 501(c)(3).

Contributions to your organization are not deductible under Code section 170.

You are required to file Federal income tax returns on the form indicated above. You should file these returns within 30 days from the date of this letter, unless a request for an extension of time is granted. File the returns in accordance with their instructions, and do not send them to this office. Processing of income tax returns and assessment



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
Internal Revenue Service
TE/GE: E/O Examinations
1100 Commerce Street
Dallas TX 75242

ORG
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear SIR

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Marsha A. Ramirez
Director, E/O Examinations

Enclosures:

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer: ORG EIN:		Year/Period Ended December 31, 20XX

LEGEND

ORG = Organization name XX = Date XYZ = State President = president Secretary = secretary
 Donor-1 = 1st donor website = website HS-1 thru HS-5 = 1st thru 5th Home sellers
 IND-1 thru IND-20 = 1st thru 20th Individual CO-1 thru CO-40 = 1st thru 40th Companies
 HB-1 thru HB-131 = 1st thru 131st home buyers

ISSUES

- 1) Whether ORG (ORG) exempt status under Internal Revenue Code § 501(c)(3) should be revoked because it has not established that it qualifies for tax exempt status and that it is operated exclusively for tax exempt purposes.
- 2) Whether ORG has failed to establish that it is operated exclusively for one or more exempt purposes and whether it is operated for the benefit of private interests such as the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

FACTS

Organizing Documents:

- E/O was requested but did not provide a copy of its Form 1023, Application for Recognition of Exemption available for inspection by the general public as required by IRC § 6104.
- E/O provided a copy of its Determination Letter dated February 24, 20XX, recognizing ORG as a tax exempt Private Foundation described in § 501 (c)(3) of the Internal Revenue Code.
- E/O provided State of XYZ Articles of Incorporation dated September 9, 19XX. The articles stated ORG was organized as a Not-For-Profit Corporation under the non profit laws of the State of XYZ.

Articles of Incorporation:

ORG articles of incorporation were filed with XYZ’s Secretary of State on September 9, 19XX #N.

General Purpose:

ORG is a non profit XYZ Corporation organized as a Private Operating Foundation solely for educational, religious, scientific, and general charitable and eleemosynary purposes.

- as provided under the provisions of § 617 of the XYZ Statutes and all acts amendatory thereto.
- within the meaning of § 170(c)(2) and § 501(c)(3) of the Internal Revenue Code of 19XX, as amended (hereinafter referred to as the “Code”) or the corresponding provision of any future United States Internal Revenue Law.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer:	ORG EIN:	Year/Period Ended December 31, 20XX

Specific Purpose:

- To support the local church through grants, gifts and ministry participation.
- To minister to missionaries and pastors in their retirement years.
- To actively assist other ministries in development and execution of fundraising campaigns, and the professional administration of their resources.
- To minister to college students through scholarships.
- To minister to migrant students through educational assistance.
- To minister to children through preschool programs.
- To minister throughout the world through mission projects.

Officers/Incorporators:

Incorporators, Relationship per Articles:

President
Secretary, spouse of President

Officers, Relationship per Form 990PF, Return of Private Foundation:

President, President
Secretary, Secretary, spouse of President

Board Minutes:

Minutes of board meetings were in support of the organizations exempt purposes. Minutes also reflected the board's awareness of changing ORG's sources of support, character, purpose and methods of operation.

Activities

Overview:

Form 1023:

On December 21, 19XX, ORG submitted Form 1023, Application for Recognition of Exemption, requesting exemption from Federal income tax under § 501(c)(3) of the Internal Revenue Code. The application was signed by President, president. The Form 1023 application was received by the Service in December, 19XX.

In Part II, Activities and Operational Information, ORG described its past, present, and planned activities as follows:

- To support the local church through grants, gifts and ministry participation.
- To minister to missionaries and pastors in their retirement years.
- To actively assist other ministries in development and execution of fundraising campaigns, and the professional administration of their resources.
- To minister to college students through scholarships.
- To minister to migrant students through educational assistance.
- To minister to children through preschool programs.
- To minister throughout the world through mission projects.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer:	ORG EIN:	Year/Period Ended December 31, 20XX

Part II, Question 2 the foundation described ORG's primary sources of support would be from contributions from its board of directors. President was classified as a disqualified person in Question 4d because he was a substantial contributor. In the audited year, President held positions within the foundation as president and director.

Determination Letter

On February 24, 20XX, based on the information ORG provided in its application for exemption it was recognized a tax exempt organization as described in § 501(c)(3) of the Internal Revenue Code.

Form 990PF:

On April 12, 20XX ORG was notified by the Internal Revenue Service of its receipt of their Form 990 for tax year ending December 31, 20XX. The letter stated ORG was classified as a "private foundation" and as such should file a Form 990PF each year. In October, 20XX "TEGE" secured copy of ORG's 20XX Form 990 PF. The amounts originally reported on ORG, Inc. 20XX Form 990 corresponded to amounts reported on their 20XX Form 990PF.

Income Statement:

Revenue:

Contribution, Gifts, Grants	\$ \$	
Interest on savings/temp investments	\$	
Total Revenue:		\$ \$

Expenses:

Grants and allocations	\$ \$	
Professional Fees – Accounting	\$	
Other Professional Fees – Financial	\$	
Taxes	\$	
Travel & Conferences	\$	
Printing & Publications	\$	
Other Expenses	\$	
Total Expenses:		\$ \$ ¹
Excess or (deficit)		\$ \$

¹ An error in addition amounting to \$\$ was noted on Form 990PF, page 1, line 26, "Total Disbursements and Expenses".

Balance Sheet: (Book Value) Assets:

Cash	\$	\$
Savings		\$

* * * *

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer:	ORG EIN:	Year/Period Ended December 31, 20XX

	Grants Receivable	\$	
	Investments (FMV \$)	\$	
Total Assets		\$	\$
Liabilities:		\$	0.00
Equity:			
	Unrestricted	\$	\$
	Total Net Assets or Fund Balances	\$	\$
Total liabilities and Net Assets/Fund Balances		\$	\$

Checks Written to Other Organization's:

In 20XX, ORG disbursed approximately \$\$ in checks to other organizations. CO-1 an organization established by President received \$\$0.00 in 20XX. During the determination process, however, the organization did not respond to additional information requests by the Internal Revenue Service and as a result it was not granted exempt status.

Checks were also written to CO-2 for \$\$; the CO-3 received \$\$; CO-4 received a check in the amount of \$\$; CO-5 received \$1,\$; CO-6 received \$\$; CO-7 received a check for \$\$; CO-8, \$\$; CO-9 received \$\$; CO-10 received \$\$; CO-11 received a check for \$\$; CO-12 was given a check for \$\$; CO-13 received \$\$.

Website:

ORG is also known as Organization. The organization's websites, website and website support for-profit and commercial interests. Information contained on copies of web pages provided by President follows. In order to receive gift-funds homebuyers must:

- Be able to qualify for a mortgage loan that allows alternate sources of down payment.
- Purchase a property where the seller agrees to enroll their home with Organization, because the requirement enables the subject property to be purchased by homebuyers utilizing gift funds from participating charitable organizations.

The Lenders Page advertises that gift funds are available to ANY homebuyer where the home purchase consists of the following:

- The mortgage loan used to purchase the home allows the homebuyer gift funds as a minimum cash investment.
- Sellers voluntarily contribute a portion of the proceeds of the sale to our program to replenish gift funds for future gifts.

The Gift Fund Letter includes a statement that, the gift funds were not made available to the donor(s) from any person or entity with an interest in the sale of the property including the seller, real estate agent, or broker, builder, loan officer, or any entity associated with them.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer: ORG EIN:		Year/Period Ended December 31, 20XX

The Real Estate Professionals Page advertises:

- Realtors can sell homes faster and at the full price when the seller assists the buyer with the down payment and closing costs.
- Your sellers benefit because their home sells faster, and for the full asking price.
- Realtors sell more homes, and they earn larger commissions
- Additionally, you can advertise your homes as having a “FREE Down Payment Grant”.

The Home-sellers Page advertises:

- As sellers you can determine the amount of down payment assistance you want a homebuyer to be able to use to purchase your property.
- Most sellers choose to allow 3%-5% of the purchase price.
- You will be asked to add a small administrative fee to your donation.
- The home-seller donation pledged shows an administrative fee of \$\$.

The Brochure:

Organization – Feeling Left Out

The brochure states donations to the E/O are tax deductible; everybody qualifies; combined support from Sellers, Realtors, Lenders or Builders make their program possible; Organization’s team helps you qualify to buy a home. Gift funds come from a pre-existing pool of funds in the form of tax deductible contributions from corporations, individuals, government and other charities.

The brochure defines the qualification process where the homebuyer:

- Selects a participating home.
- Submits financial information to a participating mortgage lender.
- Upon approval of the mortgage loan, the mortgage lender will submit their Organization Gift Application to the E/O.

The brochure further states if the homebuyer qualifies for the loan, they will qualify for ORG’s gift funds.

Down Payment Assistance Program Overview:

ORG began its down payment assistance program in September 20XX. The organization provides down payment assistance to individuals who would like to become homeowners. President, president, stated that homeowners are referred to mobile home dealers for home purchases. The mobile home dealers provide all the funds used in the organization’s down payment assistance program and the donations are reported on their Form 990PF. The program does not have any 1st time homebuyer restrictions, income restrictions or housing restrictions. According to President, if a homebuyer qualifies for a loan and if the lender permits the use of down payment assistance funds for down payment or for closing costs, the property and homebuyer qualify for their DPA program. President also stated that funds are provided by donors and not by participating home-sellers; donations are voluntary and their program does not use funds from home-sellers specifically to purchase their

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer:	ORG EIN:	Year/Period Ended December 31, 20XX

home; home-sellers voluntarily participate in his program; there are no contractual relationships between home-sellers and ORG; and that the organization's down payment assistance program is not seller funded.

Audit Scope Defined:

Our audit included reviewing ORG's detailed general ledger, the use of a website database known as Accurint to help us in our research to identify organization donors participating as home-sellers, when organization books and records were inadequate or unclear. We also used official title company closing statements (HUD -1) to further identify organization donors participating as home-sellers and to determine ORG's non-compliance with Revenue Ruling 20XX-27. ORG provided their detailed general ledger and title company documents to the TEGE division, at our request, during the course of our audit. The website used for our research is also available to the general public.

Internal Controls: Review of Books & Records & HUD-1 Closing Statements:

The HUD-1 closing statements show that ORG's books and records omitted significant amounts of information about their DPA program's activities including:

- the method and timing of donations received
- donations base on home sales
- substantial related party transactions between donors and home-sellers.
- circular flow of funds
- seller funding

ORG's DPA program's reliance on seller funding and its creation of a circular flow of funds has adversely impacted its basis for continued exemption under § 501(c)(3) of the Internal Revenue Code. Insufficient internal controls contributed to the organization's inability to document and identify DPA program transactions more clearly in their books and records. See Treas. Reg. 1.6033-2.

Book and Records Detailed General Ledger

On March 12th 20XX the TEGE Division received a copy of ORG's detailed general ledger providing information about its down payment assistance program. The document, consisting of 5 pages, provided the following information:

- transaction dates
- organization donors
- amounts of donation
- home-sellers (including mobile home dealers)
- methods of payment (EFT transfer, check etc)
- grant recipients
- amounts of DPA grants
- grant recipient's social security numbers
- property addresses, city & state

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer: ORG EIN:		Year/Period Ended December 31, 20XX

Overview: Down Payment Assistance Transactions:

The following transactions identify organization donors participating as home-sellers within ORG's DPA program. Our examination shows the E/O's DPA program being seller funded, supporting a circular flow of funds based on home sales, and one where private interests and not public interests are served. Our review of HUD -1 closing statements shows donations were based on successful home sales. Each document identifies an organization donor also participating as a home-seller. Gift funds are paid from a pre-existing pool of funds for homebuyer closing costs. The document also identifies donations returned from the home-seller's closing proceeds replenishing ORG's existing pool of funds and thus supporting a circular flow of funds. Additionally the HUD -1 closing statements also show that amounts returned to ORG, from each home closing, exceed homebuyer gift funds by an average of \$. The HUD -1 statements identify ORG's 20XX DPA Program as non-compliant with Revenue Ruling 20XX-27 for the reasons cited above.

Donor Facts:

Organization documents show CO-14 donated \$ to ORG in the audited year. According to President, the monies were voluntary donations, from unrelated parties.

ORG's books and records show IND-1, apparently an individual home-seller and an unrelated party, selling three homes to three different DPA grant recipients. The transactions appear to be independent and unrelated to

Further analysis using independent web-based research, however, identifies IND-1 as a manager employed by CO-14. As a result, the same transactions are actually related party transactions because CO-14 is an organization donor as well as a home-seller.

Donor Grouping: Factual Presentation of Down Payment Assistance Program Transactions:

As the table below shows ORG's down payment assistance program is seller funded and based on successful homes sales. The program supports a circular flow of funds and is non-compliant with Revenue Ruling 20XX-27.

CO-14

Work Paper #ORG-1

Trans Date	Donor/Home-seller	Related Party	Homebuyer	Donation Amt	DPA Grant
4/16/20XX	IND-1	Manager, related party	HB-1		\$\$
4/20/20XX	CO-14			\$\$	
5/28/20XX	IND-1	Manager, related party	HB-2		\$\$
6/1/20XX	CO-14			\$\$	
7/8/20XX	CO-14			\$\$	See Hud #1
7/28/20XX	IND-1	Manager, related party	HB-3		\$\$

Explanation of Items

Name of Taxpayer:

ORG EIN:

Year/Period Ended

December 31, 20XX

8/3/20XX	CO-14				\$\$
9/29/20XX	CO-14				\$\$
10/7/20XX	CO-14		HB-4		\$\$
11/23/20XX	CO-14				\$\$
	Totals				\$\$

IND-2

Trans Date	Donor/Home-seller	Related Party	Homebuyer	Donation Amt	DPA Grant
4/14/20XX	IND-2		HB-5		\$\$
4/15/20XX	IND-2			\$\$	
	Totals			\$\$	\$\$

CO-15:

Trans Date	Donor/Home-seller	Related Party	Homebuyer	Donation Amt	DPA Grant
1/13/20XX	CO-15			\$\$	
9/1/20XX	CO-15		HB-6		\$\$
8/27/20XX	CO-15		HB-7	\$\$	
8/30/20XX	CO-15				\$\$
	Totals			\$\$	\$\$

CO-16

Work-Paper #JM-2

Trans Date	Donor/Home-seller	Related Party	Homebuyer	Donation Amt	DPA Grant
5/27/20XX	IND-3	Manager, related party	HB-131		\$\$
6/2/20XX	CO-16			\$\$	
8/3/20XX	CO-16		HB-9		\$\$
8/23/20XX	CO-16			\$\$	
11/24/20XX	CO-16		MHB-10		\$\$
12/3/20XX	CO-16			\$\$	
	Totals			\$\$	\$\$

IND-4

Trans Date	Donor/Home-seller	Related Party	Homebuyer	Donation Amt	DPA Grant
3/10/20XX	IND-4		HB-11		\$\$
3/16/20XX	IND-4			\$\$	
	Totals			\$\$	\$\$

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer: ORG EIN:		Year/Period Ended December 31, 20XX

IND-5					
Trans Date	Donor/Home-seller	Related Party	Homebuyer	Donation Amt	DPA Grant
5/11/20XX	IND-5		HB-12		\$\$
5/13/20XX	IND-5			\$	
	Totals			\$	\$\$

CO-17		Work Paper ORG-4			
Date	Donor/Home-seller	Related Party	Homebuyer	Donation Amt	DPA Grant
6/10/20XX	IND-6	President	HB-13		\$\$
6/14/20XX	CO-17			\$\$	
	Totals			\$\$	\$\$

CO-18		Work Paper ORG-5			
Trans Date	Donor/Home-seller	Related Party	Homebuyer	Donation Amt	DPA Grant
4/6/20XX	IND-7	Manager	HB-14		\$\$
4/9/20XX	CO-18			\$\$	
	Totals			\$\$	\$\$

CO-19		Work Paper ORG-6			
Trans Date	Donor/Home-seller	Related Party	Homebuyer	Donation Amt	DPA Grant
1/21/20XX	IND-8	Related party	HB-15		\$\$
1/27/20XX	CO-19			\$\$	
	Totals			\$\$	\$\$

CO-20					
Trans Date	Donor/Home-seller	Related Party	Homebuyer	Donation Amt	DPA Grant
1/26/20XX	CO-20		HB-16		\$\$
1/29/20XX	CO-20		HB-17		\$\$
1/30/20XX	CO-20			\$\$	
3/30/20XX	CO-20		HB-18	Unrecorded	\$\$
3/31/20XX	CO-20			\$\$	Unrecorded
4/19/20XX	CO-20		HB-19		\$\$
4/21/20XX	CO-20		HB-19		\$\$
4/23/20XX	CO-20s	CO-20		\$\$	
7/7/20XX	CO-20		HB-20		\$\$

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer: <p style="text-align:center;">ORG EIN:</p>		Year/Period Ended December 31, 20XX

7/7/20XX	CO-20s	CO-20		\$\$	
10/5/20XX	CO-20		HB-21		\$\$
10/6/20XX	CO-20		HB-22		\$\$
10/19/20XX	CO-20		HB-23		\$\$
10/20/20XX	CO-20			\$\$	
10/28/20XX	CO-20s	CO-20		\$\$	
	Totals			\$\$	\$\$

IND-9

Trans Date	Donor/Home-seller	Related Party	Homebuyer	Donation Amt	DPA Grant
5/28/20XX	IND-9		HB-24		\$\$
6/8/20XX	IND-9			\$\$	
	Totals			\$\$	\$\$

CO-21

Work Paper ORG-7

Trans Date	Donor/Home-seller	Related Party	Homebuyer	Donation Amt	DPA Grant
5/11/20XX	CO-21	President	HB-25		\$\$
5/27/20XX	CO-21			\$\$	
8/9/20XX	CO-21		HB-26		\$\$
8/11/20XX	CO-21			\$\$	
9/29/20XX	CO-21		HB-27		\$\$
10/6/20XX	CO-21		HB-28		\$\$
10/22/20XX	CO-21			\$\$	
12/17/20XX	CO-21	Director	HB-29		\$\$
12/28/20XX	CO-21			\$\$	
	Totals			\$\$	\$\$

CO-22

Trans Date	Donor/Home-seller	Related Party	Homebuyer	Donation Amt	DPA Grant
3/5/20XX	CO-22		HB-30		\$\$
3/12/20XX	CO-22		HB-31		\$\$
3/16/20XX	CO-22			\$\$	
	Totals			\$\$	\$

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer: ORG EIN:		Year/Period Ended December 31, 20XX

CO-23		Work Paper ORG-8			
Trans Date	Donor/Home-seller	Related Party	Homebuyer	Donation Amt	DPA Grant
1/29/20XX	IND-10	President	HB-32		
2/11/20XX	IND-11	Related Party			
3/26/20XX	CO-24		HB-33		
3/30/20XX	CO-23				
4/5/20XX	IND-10	President	HB-34		
4/15/20XX	IND-10	President	HB-35		
4/20/20XX	CO-23				
6/23/20XX	CO-24		HB-36		
6/29/20XX	CO-23				
	Totals				

CO-25		Work Paper ORG-9			
Trans Date	Donor/Home-seller	Related Party	Homebuyer	Donation Amt	DPA Grant
1/30/20XX	IND-12	Chairman	HB-37		
2/4/20XX	CO-25s				
6/9/20XX	IND-13	Related Party	HB-38		
6/10/20XX	CO-25s				
8/9/20XX	IND-12	Chairman	HB-39		
8/14/20XX	CO-25s				
	Totals				

CO-26		Work Paper ORG-10			
Trans Date	Donor/Home-seller	Related Party	Homebuyer	Donation Amt	DPA Grant
2/19/20XX	IND-14	President	HB-40		
2/20/20XX	CO-26				
5/6/20XX	IND-14	President	HB-41		
5/11/20XX	IND-14	President	HB-42		
5/13/20XX	CO-26				
6/18/20XX	IND-14	President	HB-43		
6/18/20XX	IND-14	President	HB-44		

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer: ORG EIN:		Year/Period Ended December 31, 20XX

6/21/20XX	CO-26				
7/29/20XX	IND-14	President	HB-45		
7/29/20XX	IND-14	President	HB-46		
8/9/20XX	CO-26				
8/20/20XX	IND-14	President	HB-47		
12/20/20XX	IND-14	President	HB-48		
12/28/20XX	CO-26				
	Totals				

CO-27

Work Paper ORG-11

Trans Date	Donor/Home-seller	Related Party	Homebuyer	Donation Amt	DPA Grant
3/24/20XX	IND-15	Finance Manager	HB-49		
3/24/20XX	IND-15	Finance Manager	HB-50		
3/29/20XX	CO-27				
4/14/20XX	IND-15	Finance Manager	HB-51		
4/16/20XX	CO-27				
4/29/20XX	IND-15	Finance Manager	HB-52		
5/4/20XX	CO-27				
5/25/20XX	IND-15	Finance Manager	HB-53		
5/26/20XX	CO-27				
8/31/20XX	IND-15	Finance Manager	HB-54		
9/15/20XX	CO-27				
	Totals				

CO-28

Trans Date	Donor/Home-seller	Related Party	Homebuyer	Donation Amt	DPA Grant
2/2/20XX	CO-28		HB-55		
2/6/20XX	CO-28				
3/10/20XX	CO-28		HB-56		
3/15/20XX	CO-28				
4/2/20XX	CO-28		HB-57		
4/14/20XX	CO-28		HB-58		
4/14/20XX	CO-28				

Explanation of Items

Name of Taxpayer:

ORG EIN:

Year/Period Ended

December 31, 20XX

5/19/20XX	CO-28		HB-59		
5/25/20XX	CO-28				
6/10/20XX	CO-28		HB-60		
6/11/20XX	CO-28				
6/30/20XX	CO-28		HB-61		
7/7/20XX	CO-28				
7/21/20XX	CO-28		HB-62		
7/23/20XX	CO-28		HB-63		
8/4/20XX	CO-28				
8/9/20XX	CO-28				
8/18/20XX	CO-28		HB-64		
8/23/20XX	CO-28				
8/24/20XX	CO-28		HB-65		
8/25/20XX	CO-28				
9/29/20XX	CO-28		HB-66		
10/6/20XX	CO-28		HB-67		
10/11/20XX	CO-28		HB-68		
10/12/20XX	CO-28				
10/22/20XX	CO-28		HB-69		
10/24/20XX	CO-28		HB-70		
10/26/20XX	CO-28				
11/15/20XX	CO-28		HB-71		
12/2/20XX	CO-28				
12/8/20XX	CO-28		HB-72		
12/27/20XX	CO-28		HB-73		
12/29/20XX	CO-28				
	Total				

CO-29

Trans Date	Donor/Home-seller	Related Party	Homebuyer	Donation Amt	DPA Grant
3/30/20XX	CO-29		HB-74		
4/8/20XX	CO-29		HB-75		
4/9/20XX	CO-29				

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer: <p style="text-align:center;">ORG EIN:</p>		Year/Period Ended December 31, 20XX

4/26/20XX	CO-29		HB-76		
5/3/20XX	CO-29				
5/28/20XX	CO-29		HB-77		
5/28/20XX	CO-29		HB-78		
6/3/20XX	CO-29				
6/14/20XX	CO-29		HB-79		
6/16/20XX	CO-29				
6/30/20XX	CO-29		HB-80		
7/2/20XX	CO-29				
7/6/20XX	CO-29		HB-81		
7/7/20XX	CO-29				
7/23/20XX	CO-29		HB-82		
7/29/20XX	CO-29		HB-83		
7/30/20XX	CO-29				
8/6/20XX	CO-29		HB-84		
8/25/20XX	CO-29		HB-85		
8/26/20XX	CO-29				
9/20/20XX	CO-29		HB-86		
10/1/20XX	CO-29				
11/1/20XX	CO-29		HB-87		
11/5/20XX	CO-29				
12/14/20XX	CO-29		HB-88		
12/16/20XX	CO-29				
12/22/20XX	CO-29		HB-89		
12/29/20XX	CO-29				
	Totals				

CO-30					
Trans Date	Donor/Home-seller	Related Party	Homebuyer	Donation Amt	DPA Grant
1/30/20XX	CO-30		HB-90		
2/4/20XX	CO-30				
2/20/20XX	CO-30		HB-91		

Explanation of Items

Name of Taxpayer:

ORG EIN:

Year/Period Ended

December 31, 20XX

2/25/20XX	CO-30				
2/27/20XX	CO-30		HB-92		
3/2/20XX	CO-30				
3/11/20XX	CO-30		HB-93		
3/11/20XX	CO-30		HB-94		
3/16/20XX	CO-30				
3/29/20XX	CO-30		HB-95		
3/31/20XX	CO-30				
4/20/20XX	CO-30		HB-96		
4/23/20XX	CO-30				
7/2/20XX	CO-30		HB-97		
7/16/20XX	CO-30				
8/20/20XX	CO-30		HB-98		
8/24/20XX	CO-30				
10/25/20XX	CO-30		HB-99		
11/5/20XX	CO-30		HB-100		
11/23/20XX	CO-30				
	Totals				

IND-16

Trans Date	Donor/Home-seller	Related Party	Homebuyer	Donation Amt	Grant Amt
5/24/20XX	IND-16		HB-101		
5/26/20XX	IND-16	Homeowner			
	Totals				

IND-17

Trans Date	Donor/Home-seller	Related Party	Homebuyer	Donation Amt	Grant Amt
2/24/20XX	IND-17		HB-102		
2/26/20XX	IND-17	Homeowner			
	Totals				

CO-31

Work Paper #ORG-12

Trans Date	Donor/Home-seller	Related Party	Homebuyer	Donation Amt	DPA Grant
2/18/20XX	IND-18	President	HB-103		

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer: ORG EIN:		Year/Period Ended December 31, 20XX

2/20/20XX	CO-31				
4/14/20XX	IND-18	President	HB-104		
4/19/20XX	CO-31				
5/18/20XX	IND-19	Director	HB-105		
5/20/20XX	CO-31				
5/28/20XX	IND-18	President	HB-106		
5/28/20XX	IND-19	Director	HB-107		
6/3/20XX	CO-31				
8/4/20XX	IND-19	Director	HB-108		
8/4/20XX	IND-19	Director	HB-109		
8/9/20XX	CO-31				
8/26/20XX	IND-19	Director	HB-110		
8/30/20XX	CO-31				
10/1/20XX	IND-19	Director	HB-111		
10/4/20XX	CO-31				
10/14/20XX	IND-19	Director	HB-112		
10/19/20XX	IND-19	Director	HB-113		
10/22/20XX	CO-31				
	Totals				

IND-20

Trans Date	Donor/Home-seller	Related Party	Homebuyer	Donation Amt	DPA Grant
7/30/20XX	IND-20		HB-114		
8/4/20XX	IND-20				
	Totals				

Summary of Down Payment Assistance Program Transactions:

In our initial interview, President stated that donations received and down payment assistance grants disbursed were unrelated transactions. He indicated that donations were received throughout the year and in no way directly related to the down payment assistance program. President further stated that donations were not based on successful home sale closings and their DPA program was not seller funded. Our independent research differs with President's statements and our findings identify ORG's DPA program as one:

- consisting of substantial related party transactions
- relying on a seller funded program

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer: ORG EIN:		Year/Period Ended December 31, 20XX

- creating a circular flow of funds

HUD #1 Settlement Statements: Overview:

On July 23, 20XX we requested that the E/O send twenty-seven (27) selected HUD-1 settlement statements. The request was based on homebuyer information provided earlier by ORG. On October 12, 20XX the TEGE Division received from ORG the twenty-seven (27) requested copies of the HUD-1 settlement statements. The closing statements were requested in order to gain more insight into the organization's down payment assistance program and to determine ORG's level of non-compliance with Revenue Ruling 20XX-27.

The settlement statements we obtained show acceptance of both written and verbal contractual agreements made between the homebuyer and home-seller. On the settlement date the title company conducted a final review of the agreements. If both agreed, the documents were signed and title was transferred. The title company was authorized upon closing to disburse funds. Normally the settlement and disbursement dates occurred on the same date.

The settlement statements also showed information about gift funds provided to home buyers by ORG as well as home-seller donations returned to ORG from closing proceeds. All closing statements showed that home-seller's donations returned to ORG exceeded homebuyer gift funds disbursed by ORG by several hundred dollars.

The settlement statements include the following information:

- The name of the home-seller, address, city, state and zip code
- The lender's name, address, city state and zip code
- The property address, city state and zip code
- The settlements agent's name, TIN#, address, city state and zip code
- The settlement date
- The disbursement date
- The homebuyer and home-seller settlement costs, respectively
- The amount of down payment assistance provided to each homebuyer by ORG
- The amount of each home-seller's donation returned to ORG

Comparative Presentation:

HUD #1 Settlement Statements & E/O's Books & Records

Overview:

The following presentation identifies and compares the same transactions recorded in the organization's books and records with information recorded on the HUD #1 closing statements. In each document we compare information about the homebuyer, the home-seller, the donor-home-seller relationship, DPA grant amount, date E/O provided DPA funds, the settlement date, the disbursement date and home-seller donations to ORG from closing proceeds. All documents were provided to the TEGE division by ORG.

Comparative Presentation:

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer:	ORG EIN:	Year/Period Ended December 31, 20XX

HUD-1 Settlement Statements & ORG's Detailed General Ledger:

1. HS-1

Homebuyer/Home-Seller Info.	Detailed General Ledger	HUD -1 Settlement Statement
Homebuyer	HB-115	HB-115
Home-seller	HS-1	HS-1
Is Home Seller a ORG Donor?	No	Yes
Date E/O Wired Gift Funds	3/4/20XX	3/4/20XX
DPA Grant Amount		
HUD #1 Sttlmnt/Dsbursemnt Date	Not Recorded	3/4/20XX
Donation To ORG		
Supports Circular Flow Of Funds	No	Yes

2. CO-32

Homebuyer/Home-Seller Info.	Detailed General Ledger	HUD-1 Settlement Statement
Homebuyer	HB-116	HB-116
Home-seller	HS-2 ²	CO-32
Is Home Seller a ORG Donor?	No	Yes
Date E/O Wired Gift Funds	11/23/20XX	11/22/20XX
DPA Grant Amount		
HUD #1 Sttlmnt/Dsbursemnt Date	Not Recorded	11/22/20XX
Donation To ORG	Not Recorded	
Supports Circular Flow Of Funds	No	Yes

3. CO-33

Homebuyer/Home-Seller Info.	Detailed General Ledger	HUD-1 Settlement Statement
Homebuyer	HB-117	HB-117
Home-seller	CO-33	CO-32
Is Home Seller a ORG Donor?	No	Yes
Date E/O Wired Gift Funds	3/4/20XX	3/5/20XX
DPA Grant Amount		
HUD #1 Sttlmnt/Dsbursemnt Date	Not Recorded	3/5/20XX
Donation To ORG	Not Recorded	
Supports Circular Flow Of Funds	No	Yes

4. CO-15

Homebuyer/Home-Seller Info.	Detailed General Ledger	HUD-1 Settlement Statement
Homebuyer	HB-118	HB-118
Home-seller	Not Recorded	CO-15
Is Home Seller a ORG Donor?	No	Yes
Date E/O Wired Gift Funds	8/27/20XX	8/27/20XX

* * * *

² HS-2 was not the home-seller but the title company closing this transaction.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer: ORG EIN:		Year/Period Ended December 31, 20XX

DPA Grant Amount	\$\$	\$\$
HUD #1 Sttlmnt/Dsbursemnt Date	Not Recorded	8/27/20XX
Donation To ORG	Not Recorded	\$\$
Supports Circular Flow Of Funds	No	Yes

5. CO-34

Homebuyer/Home-Seller Info.	Detailed General Ledger	HUD-1 Settlement Statement
Homebuyer	HB -119	HB -119
Home-seller	HS-3	CO-34
Is Home Seller a ORG Donor?	No	Yes
Date E/O Wired Gift Funds	7/29/20XX	7/30/20XX
DPA Grant Amount		
HUD #1 Sttlmnt/Dsbursemnt Date	Not Recorded	7/30/20XX
Donation To ORG	Not Recorded	
Supports Circular Flow Of Funds	No	Yes

6. CO-34

Homebuyer/Home-Seller Info.	Detailed General Ledger	HUD-1 Settlement Statement
Homebuyer	HB-120	HB-120.
Home-seller	CO-34	CO-34
Is Home Seller a ORG Donor?	Yes	Yes
Date E/O Wired Gift Funds	12/17/20XX	12/15/20XX
DPA Grant Amount		
HUD #1 Sttlmnt/Dsbursemnt Date	12/28/20XX	12/15/20XX
Donation To ORG		
Supports Circular Flow Of Funds	Yes	Yes

7. CO-34

Homebuyer/Home-Seller Info.	Detailed General Ledger	HUD-1 Settlement Statement
Homebuyer	HB-121	HB-121
Home-seller	CO-34	CO-34
Is Home Seller a ORG Donor?	Yes	Yes
Date E/O Wired Gift Funds	8/11/20XX	8/11/20XX
DPA Grant Amount		
HUD #1 Sttlmnt/Dsbursemnt Date	8/17/20XX	8/11/20XX
Donation To ORG		
Supports Circular Flow Of Funds	Yes	Yes

8. CO-34

Homebuyer/Home-Seller Info.	Detailed General Ledger	HUD-1 Settlement Statement
Homebuyer	HB-122	HB-122
Home-seller	CO-34	CO-34
Is Home Seller a ORG Donor?	Yes	Yes
Date E/O Wired Gift Funds	6/23/20XX	6/23/20XX
DPA Grant Amount		
HUD #1 Sttlmnt/Dsbursemnt Date	Not Recorded	6/23/20XX

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer: ORG EIN:		Year/Period Ended December 31, 20XX

Donation To ORG	Not Recorded	
Supports Circular Flow Of Funds	No	Yes

9. CO-34

Homebuyer/Home-Seller Info.	Detailed General Ledger	HUD #1 Settlement Statement
Homebuyer	HB-123	HB-123
Home-seller	CO-34	CO-34
Is Home Seller a ORG Donor?	Yes	Yes
Date E/O Wired Gift Funds	12/30/20XX	12/28/20XX
DPA Grant Amount		
HUD #1 Sttlmnt/Dsbursemnt Date	12/30/20XX	12/28/20XX
Donation To ORG		
Supports Circular Flow Of Funds	Yes	Yes

10. CO-20/CO-20s

Homebuyer/Home-Seller Info.	Detailed General Ledger	HUD #1 Settlement Statement
Homebuyer	HB-124	HB-124
Home-seller	CO-20/CO-20	CO-20
Is Home Seller a ORG Donor?	Yes	Yes
Date E/O Wired Gift Funds	10/6/20XX	10/6/20XX
DPA Grant Amount	\$\$	\$\$
HUD #1 Sttlmnt/Dsbursemnt Date	Not Shown	10/6/20XX
Donation To ORG	Not Shown	\$
Supports Circular Flow Of Funds	No	Yes

11. CO-20/CO-20s,

Homebuyer/Home-Seller Info.	Detailed General Ledger	HUD #1 Settlement Statement
Homebuyer	HB-23	HB-23
Home-seller	CO-20 Inc/CO-20	CO-20s Inc
Is Home Seller a ORG Donor?	Yes	Yes
Date E/O Wired Gift Funds	10/20/20XX	10/20/20XX
DPA Grant Amount	\$\$	\$\$
HUD #1 Sttlmnt/Dsbursemnt Date	10/28/20XX	10/20/20XX
Donation To ORG	\$\$	\$\$
Supports Circular Flow Of Funds	Yes	Yes

12. CO-35

Homebuyer/Home-Seller Info.	Detailed General Ledger	HUD #1 Settlement Statement
Homebuyer	HB-125	HB-125
Home-seller	CO-35	CO-35
Is Home Seller a ORG Donor?	No	Yes
Date E/O Wired Gift Funds	4/23/20XX	4/26/20XX
DPA Grant Amount	\$\$	\$\$
HUD #1 Sttlmnt/Dsbursemnt Date	Not Recorded	4/26/20XX
Donation To ORG	Not Recorded	\$\$
Supports Circular Flow Of Funds	No	Yes

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer: ORG EIN:		Year/Period Ended December 31, 20XX

13. CO-36

Homebuyer/Home-Seller Info.	Detailed General Ledger	HUD #1 Settlement Statement
Homebuyer	HB-126	HB-126
Home-seller	CO-33	CO-36
Is Home Seller a ORG Donor?	No	Yes
Date E/O Wired Gift Funds	3/24/20XX	3/25/20XX
DPA Grant Amount		
HUD #1 Sttlmnt/Dsbursemnt Date	Not Recorded	3/25/20XX
Donation To ORG	Not Recorded	
Supports Circular Flow Of Funds	No	Yes

14. CO-36

Homebuyer/Home-Seller Info.	Detailed General Ledger	HUD #1 Settlement Statement
Homebuyer	HB-127	HB-127
Home-seller	CO-33	CO-36
Is Home Seller a ORG Donor?	No	Yes
Date E/O Wired Gift Funds	5/28/20XX	5/28/20XX
DPA Grant Amount		
HUD #1 Sttlmnt/Dsbursemnt Date	Not Recorded	5/28/20XX
Donation To ORG	Not Recorded	
Supports Circular Flow Of Funds	No	Yes

15. CO-36

Homebuyer/Home-Seller Info.	Detailed General Ledger	HUD #1 Settlement Statement
Homebuyer	HB-128	HB-128
Home-seller	CO-33	CO-36
Is Home Seller a ORG Donor?	No	Yes
Date E/O Wired Gift Funds	12/27/20XX	12/27/20XX
DPA Grant Amount		
HUD #1 Sttlmnt/Dsbursemnt Date	Not Recorded	12/27/20XX
Donation To ORG	Not Recorded	
Supports Circular Flow Of Funds	No	Yes

16. CO-37

Homebuyer/Home-Seller Info.	Detailed General Ledger	HUD #1 Settlement Statement
Homebuyer	HB-129	HB-129
Home-seller	HS-4	CO-37
Is Home Seller a ORG Donor?	No	Yes
Date E/O Wired Gift Funds	6/8/20XX	6/9/20XX
DPA Grant Amount		
HUD #1 Sttlmnt/Dsbursemnt Date	Not Recorded	6/9/20XX
Donation To ORG	Not Recorded	
Supports Circular Flow Of Funds	No	Yes

17. CO-38

Explanation of Items

Name of Taxpayer:

ORG EIN:

Year/Period Ended

December 31, 20XX

Homebuyer/Home-Seller Info.	Detailed General Ledger	HUD #1 Settlement Statement
Homebuyer	HB-130	HB-130
Home-seller	CO-38	CO-38
Is Home Seller a ORG Donor?	Yes	Yes
Date E/O Wired Gift Funds	4/14/20XX	4/13/20XX
DPA Grant Amount		
HUD #1 Sttlmnt/Dsbursemnt Date	Not Recorded	4/13/20XX
Donation To ORG	Not Recorded	
Supports Circular Flow Of Funds	No	Yes

18. CO-38

Homebuyer/Home-Seller Info.	Detailed General Ledger	HUD #1 Settlement Statement
Homebuyer	HB-62	HB-62
Home-seller	CO-38	CO-38
Is Home Seller a ORG Donor?	Yes	Yes
Date E/O Wired Gift Funds	7/21/20XX	7/22/20XX
DPA Grant Amount		
HUD #1 Sttlmnt/Dsbursemnt Date	8/4/20XX	7/22/20XX
Donation To ORG		
Supports Circular Flow Of Funds	Yes	Yes

19. CO-38

Homebuyer/Home-Seller Info.	Detailed General Ledger	HUD #1 Settlement Statement
Homebuyer	HB-66	HB-66
Home-seller	CO-38	CO-38
Is Home Seller a ORG Donor?	Yes	Yes
Date E/O Wired Gift Funds	9/29/20XX	9/29/20XX
DPA Grant Amount		
HUD #1 Sttlmnt/Dsbursemnt Date	10/12/20XX	9/29/20XX
Donation To ORG		
Supports Circular Flow Of Funds	Yes	Yes

20. CO-38

Homebuyer/Home-Seller Info.	Detailed General Ledger	HUD #1 Settlement Statement
Homebuyer	HB-68	HB-68
Home-seller	CO-38	CO-38
Is Home Seller a ORG Donor?	Yes	Yes
Date E/O Wired Gift Funds	10/11/20XX	10/8/20XX
DPA Grant Amount		
HUD #1 Sttlmnt/Dsbursemnt Date	Not Recorded	10/8/20XX
Donation To ORG	Not Recorded	
Supports Circular Flow Of Funds	No	Yes

21. CO-38

Homebuyer/Home-Seller Info.	Detailed General Ledger	HUD #1 Settlement Statement
Homebuyer	HB-69	HB-69

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer: ORG EIN:		Year/Period Ended December 31, 20XX

Home-seller	CO-38	CO-38
Is Home Seller a ORG Donor?	Yes	Yes
Date E/O Wired Gift Funds	10/22/20XX	10/22/20XX
DPA Grant Amount		
HUD #1 Sttlmnt/Dsbursemnt Date	Not Recorded	10/22/20XX
Donation To ORG	Not Recorded	
Supports Circular Flow Of Funds	No	Yes

22. CO-39

Homebuyer/Home-Seller Info.	Detailed General Ledger	HUD #1 Settlement Statement
Homebuyer	HB-49	HB-50
Home-seller	IND-15	CO-39
Is Home Seller a ORG Donor?	No	Yes
Date E/O Wired Gift Funds	3/24/20XX	3/25/20XX
DPA Grant Amount		
HUD #1 Sttlmnt/Dsbursemnt Date	3/29/20XX	3/25/20XX
Donation To ORG		
Supports Circular Flow Of Funds	No	Yes

23. CO-40

Homebuyer/Home-Seller Info.	Detailed General Ledger	HUD #1 Settlement Statement
Homebuyer	HB-130	HB-130
Home-seller	HS-5	CO-40
Is Home Seller a ORG Donor?	No	Yes
Date E/O Wired Gift Funds	8/25/20XX	8/25/20XX
DPA Grant Amount		
HUD #1 Sttlmnt/Dsbursemnt Date	8/30/20XX	8/25/20XX
Donation To ORG		
Supports Circular Flow Of Funds	No	Yes

24. CO-29

Homebuyer/Home-Seller Info.	Detailed General Ledger	HUD #1 Settlement Statement
Homebuyer	HB-74	HB-74
Home-seller	CO-29	CO-29
Is Home Seller a ORG Donor?	Yes	Yes
Date E/O Wired Gift Funds	3/30/20XX	3/31/20XX
DPA Grant Amount	\$\$	\$\$
HUD #1 Sttlmnt/Dsbursemnt Date	Not Recorded	3/31/20XX
Supports Circular Flow Of Funds	Not Recorded	
Circular Flow Of Funds	No	Yes

25. CO-29

Homebuyer/Home-Seller Info.	Detailed General Ledger	HUD #1 Settlement Statement
Homebuyer	HB-80	HB-80
Home-seller	CO-29	CO-29
Is Home Seller a ORG Donor	Yes	Yes

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer: ORG EIN:		Year/Period Ended December 31, 20XX

Date E/O Wired Gift Funds	6/30/20XX	6/28/20XX
DPA Grant Amount		
HUD #1 Sttlmnt/Dsbursemnt Date	7/2/20XX	6/28/20XX
Donation To ORG		
Supports Circular Flow Of Funds	Yes	Yes

26. CO-29

Homebuyer/Home-Seller Info.	Detailed General Ledger	HUD #1 Settlement Statement
Homebuyer	HB-83	HB-83
Home-seller	CO-29	CO-29
Is Home Seller a ORG Donor?	Yes	Yes
Date E/O Wired Gift Funds	7/29/20XX	7/30/20XX
DPA Grant Amount		
HUD #1 Sttlmnt/Dsbursemnt Date	Not Shown	7/30/20XX
Donation To ORG	Not Shown	
Supports Circular Flow Of Funds	No	Yes

27. CO-30

Homebuyer/Home-Seller Info.	Detailed General Ledger	HUD #1 Settlement Statement
Homebuyer	HB-100	HB-100
Home-seller	CO-30	CO-30
Is Home Seller a ORG Donor?	Yes	Yes
Date E/O Wired Gift Funds	11/5/20XX	11/5/004
DPA Grant Amount		
HUD #1 Sttlmnt/Dsbursemnt Date	Not Recorded	11/5/20XX
Donation To ORG	Not Recorded	
Supports Circular Flow Of Funds	No	Yes

Summary of Comparative Presentation:

Our review of HUD-1 closing statements shows significant differences between information recorded in the organizations books and records. The HUD-1 documents describe transactions between homebuyers, home-sellers and ORG. In each HUD-1 closing statement the homebuyer receives gift funds paid by ORG toward their closing costs. The HUD-1 documents further show ORG receiving donations from home-sellers for amounts greater than the gifted funds provided, which average \$. In comparing information recorded in the HUD-1 closing statements with information recorded in ORG's books and records, we noted in all closing statements that the organization's 20XX down payment assistance program was non-compliant with Revenue Ruling 20XX-27 because ORG's DPA program:

- Is seller funded.
- Receives donations based on home sales.
- Supports a circular flow of funds.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer:	ORG EIN:	Year/Period Ended December 31, 20XX

The following HUD-1 closing statement comparisons highlight some of the many discrepancies found in the organization's books and records. For example:

HS-1 HUD-1 closing statement #1:

ORG's general ledger shows HS-1 as a home seller and DONOR-1 a donor. According to the information recorded in ORG's books and records there is an independent relationship between HS-1, home-seller and DONOR-1 an organization donor. The same transactions in the HUD-1 closing statements identify HS-1 as both home seller and ORG donors as part of a related party transaction. The HUD-1 document clearly identifies this transaction as related party, seller funded and part of a circular flow of funds. ORG's books and records are ambiguous, unclear and incomplete and offered no additional explanation for the differences noted.

CO-32 HUD-1 closing statement #2:

ORG's general ledger shows HS-2 as a home-seller and does not identify a donor. According to the HUD-1 closing statement HS-2 was the name of the settlement agent. CO-32 was both the home-seller and organization donor. Again, ORG's books and records were ambiguous, unclear and incomplete. The HUD-1 document clearly identifies this transaction as related party, seller funded and part of a circular flow of funds ORG's books and records did not provide any further explanation.

Our review of HUD-1 documents show that within the organization's DPA program, ORG donors substantially participated as home-sellers, resulting in the creation of a circular flow of funds and a program that relied substantially on seller funding. The HUD-1 documents show that significant facts relating to ORG's DPA program were omitted from the organization's books and records questioning their transactional integrity.

As a result of the discrepancies noted above, President was contacted on October 17, 20XX and asked to provide the remaining copies of the HUD-1 settlement statements. Our information document request (IDR-5) was faxed to President's dedicated fax line on October 17, 20XX and resent on October 20, 20XX at his request.

To date President has not responded to our subsequent telephone messages asking that he send the documents requested and that he contact us. As yet, the documents have not been received.

REVENUE RULING 20XX-27

Situation 1

X is a non-profit corporation that helps low-income individuals and families purchase decent, safe and sanitary homes throughout the metropolitan area in which X is located. As a substantial part of its activities, X makes assistance available exclusively to low-income individuals and families to provide part or all of the funds they need to make a down payment on the purchase of a home. X uses standards set by Federal housing statutes and administered by the Department of Housing and Urban Development to determine who is a low-income

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer:	ORG EIN:	Year/Period Ended December 31, 20XX

individual. Individuals are eligible to receive assistance from X's program if they are low-income individuals, have the employment history and financial history necessary to qualify for a mortgage, and would so qualify but for the lack of a down payment. X also offers financial counseling seminars and conducts other educational activities to help prepare potential low-income home buyers for the responsibility of home ownership. X will consider applications for assistance in connection with an applicant's purchase of any home that meets X's standards for habitability. Before making a grant of down payment assistance, X requires a home inspection report for the property that the applicant intends to buy to ensure that the house will be habitable. To fund its down payment assistance program and other activities, X conducts a broad based fundraising program that attracts gifts, grants and contributions from several foundations, businesses and the general public. X's grantmaking process is structured to ensure that X's staff awarding grants on behalf of X does not know the identity of the party selling the home to the grant applicant or the identities of any other parties, such as real estate agents or developers, who may receive a financial benefit from the sale. The staff also does not know whether any of the interested parties to the transaction have been solicited for contributions to X or have made pledges or actual contributions to X. Further, X does not accept any contributions contingent on the sale of a particular property or properties.

Situation 2

Y is a nonprofit corporation that is like X in all respects as set forth in Situation 1, except as follows. Under Y's grantmaking procedures, Y's staff considering a particular applicant's application knows the identity of the party selling the home to the grant applicant and may also know the identities of other parties, such as real estate agents and developers, who may receive a financial benefit from the sale. Moreover, in substantially all of the cases in which Y provides down payment assistance to a home buyer, Y receives a payment from the home seller. Further, there is a direct correlation between the amount of the down payment assistance provided by Y in connection with each of these transactions and the amount of the home seller's payment to Y. Finally, Y does not conduct a broad based fundraising campaign to attract financial support. Rather, most of Y's support comes from home sellers and real estate-related businesses that may benefit from the sale of homes to buyers who receive Y's down payment assistance.

Situation 3

Z is a nonprofit corporation formed to combat community deterioration in an economically depressed area that has suffered a major loss of population and jobs. Studies have shown that the average income in the area is below the median level for the State. Z cooperates with government agencies and community groups to develop an overall plan to attract new businesses to the area and to provide stable sources of decent, safe and sanitary housing for the area residents without relocating them outside the area. As part of the renewal project, Z receives funding from government agencies to build affordable housing units for sale to low and moderate-income families. As a substantial part of its activities, Z makes down payment assistance available to eligible home buyers who wish to purchase the newly-constructed units from Z. Z also offers financial counseling seminars and conducts other educational activities to help prepare potential low and moderate-income home buyers for the responsibility of home ownership.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer:	ORG EIN:	Year/Period Ended December 31, 20XX

To fund its down payment assistance program and other activities, Z conducts a broad based fundraising program that attracts gifts, grants and contributions from several foundations, businesses and the general public.

Down Payment Assistance Program’s Non-Compliance with Revenue Ruling 20XX-27:

Situation #2, as defined within Internal Revenue Bulletin 20XX-21, May 22, 20XX, Revenue Ruling 20XX-27, most closely identifies ORG’s 20XX down payment assistance program.

Situation #2

Under Y’s grant making procedures, Y’s staff considering a particular applicant’s application knows the identity of the party selling the home to the grant applicant and may also know the identities of other parties, such as real estate agents and developers, who may receive a financial benefit from the sale. Moreover, in substantially all of the cases in which Y provides down payment assistance to a home buyer, Y receives a payment from the home seller. Further, there is a direct correlation between the amount of the down payment assistance provided by Y in connection with each of these transactions and the amount of the home seller’s payment to Y. Finally, Y does not conduct a broad based fundraising campaign to attract financial support. Rather, most of Y’s support comes from home sellers and real estate-related businesses that may benefit from the sale of homes to buyers who receive Y’s down payment assistance.

LEGAL PRINCIPLES:

Section 501(a) of the Code provides for the exemption from federal income taxation of corporations described in section 501(c)(3) of the Code. To be described in section 501(c)(3), an organization must be organized and operated exclusively for charitable, educational or other exempt purposes and may not permit any of its net earnings to inure to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that an organization operates exclusively for exempt purposes only if it engages primarily in activities that accomplish exempt purposes specified in section 501(c)(3) of the Code. An organization must not engage in substantial activities that fail to further an exempt purpose. In Better Business Bureau of Washington, D.C. v. U.S., 326 U.S. 279, 283 (1945), the Supreme Court held that the “presence of a single . . . [nonexempt] purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly . . . [exempt] purposes.” If a substantial part of an organization’s activities furthers non-charitable purposes, the organization is not operated exclusively for charitable purposes even though its other activities further charitable purposes. See Old Dominion Box Co., Inc. v. U.S., 477 F.2d 340 (4th Cir. 1973), cert. denied, 413 U.S. 910 (1973).

Section 1.501(c)(3)-1(c)(2) of the regulations provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized or operated exclusively for exempt purposes unless it serves a public rather than a private interest. To meet this requirement it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer: ORG EIN:		Year/Period Ended December 31, 20XX

Section 1.501(c)(3)-1(d)(2) of the regulations defines the term "charitable" as used in section 501(c)(3) of the Code as including the relief of the poor and distressed or of the underprivileged, advancement of education, combating community deterioration and lessening the burdens of government.

Section 1.501(c)(3)-1(d)(3)(i) of the regulations provides, in part, that the term "educational" as used in section 501(c)(3) of the Code relates to the instruction of the public on subjects useful to the individual and beneficial to the community.

Section 1.501(c)(3)-1(e) of the regulations provides that an organization that operates a trade or business as a substantial part of its activities may meet the requirements of section 501(c)(3) of the Code if the trade or business furthers an exempt purpose, and provided the organization's primary purpose does not consist of carrying on an unrelated trade or business.

Rev. Rul. 2006-27, 2006-21 I.R.B. 915, sets forth standards for determining when an organization that provides funds to homebuyers for down payment or closing costs qualifies for exemption from Federal income tax under section 501(c)(3). In Situation 2, an organization provides down payment assistance to low-income individuals and families. It offers financial counseling seminars and conducts other educational activities to help prepare potential low-income homebuyers for the responsibility of home ownership. Under the organization's grantmaking procedures, the staff considering a particular applicant's application knows the identity of the party selling the home to the grant applicant and may also know the identities of other parties, such as real estate agents and developers, who may receive a financial benefit from the sale. Moreover, in substantially all of the cases in which the organization provides down payment assistance to a homebuyer, the organization receives a payment from the home seller. Further, there is a direct correlation between the amount of the down payment assistance provided by the organization to the homebuyer and the amount of the home seller's payment to the organization. Finally, the organization does not conduct a broad based fundraising campaign to attract financial support. Rather, most of the organization's support comes from home sellers and real estate-related businesses that may benefit from the sale of homes to buyers who receive the organization's down payment assistance.

The revenue ruling holds that the organization described in Situation 2 is not exempt from Federal income tax under section 501(c)(1) because it finances its down payment assistance activities with contributions from sellers and individuals that stand to benefit from the transactions that the organization facilitates. The fact that the organization relies on seller's payments for most of its funding and in substantially all of the transactions the payment from a home seller corresponds to the amount that the organization gives to a homebuyer indicate that the benefit to the home seller is a critical aspect of an organization's operations. Rev. Rul. 2006-27, also holds that the payments to homebuyers in Situation 2 are not gifts, but rebates or purchase price reductions because sellers make the payments not out of detached and disinterested generosity, but in response to an anticipated economic benefit, namely the sale of their home at a higher price and in less time.

Rev. Rul. 2006-27, Situations 1 and 3 describe organizations that provide down payment and closing costs to qualified homebuyers, in the manner that could qualify for exemption from Federal income tax under section 501(c)(3). In Situation 1, the organization's purposes and activities relieve the poor, distressed and underprivileged by enabling low-income individuals and families to obtain decent, safe and sanitary homes. In

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer: ORG EIN:		Year/Period Ended December 31, 20XX

Situation 3, the organization's purposes and activities combat community deterioration in a specific, economically depressed area that has suffered a major loss of population and jobs. Importantly, these organizations conduct broad based fundraising programs to attract gifts, grants, and contributions from several foundations, businesses, the general public, and receive funding from government agencies. See Rev. Rul. 2006-27. Their policies and procedures prevent the grant making staff from knowing identities of the parties involved in the transaction and whether anyone related to the transaction had made or agreed to make or made a contribution to the organization.

In Easter House v. U.S., 12 Cl. Ct. 476, 486 (1987), aff'd, 846 F.2d 78 (Fed. Cir.) cert. denied, 488 U.S. 907 (1988), the court held that an organization that operated an adoption agency was not exempt under section 501(c)(3) of the Code because a substantial purpose of the agency was a nonexempt commercial purpose. The court concluded that the organization did not qualify for exemption under section 501(c)(3) because its primary activity was placing children for adoption in a manner indistinguishable from that of a commercial adoption agency. The court rejected the organization's argument that the adoption services merely complemented the health related services to unwed mothers and their children. Rather, the court found that the health-related services were merely incident to the organization's operation of an adoption service, which, in and of itself, did not serve an exempt purpose. The organization's sole source of support was the fees it charged adoptive parents, rather than contributions from the public. The court also found that the organization competed with for-profit adoption agencies, engaged in substantial advertising, and accumulated substantial profits. Accordingly, the court found that the "business purpose, and not the advancement of educational and charitable activities purpose, of plaintiff's adoption service is its primary goal" and held that the organization was not operated exclusively for purposes described in section 501(c)(3). Easter House, 12 Cl. Ct. at 485-486.

In American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), the court held that an organization that operated a school to train individuals for careers as political campaign professionals, but that could not establish that it operated on a nonpartisan basis, did not exclusively serve purposes described in section 501(c)(3) of the Code because it also served private interests more than incidentally. The court found that the organization was created and funded by persons affiliated with entities of a particular political party and that most of the organization's graduates worked in campaigns for the party's candidates. Consequently, the court concluded that the organization conducted its educational activities with the objective of benefiting the party's candidates and entities. Although the candidates and entities benefited were not organization "insiders," the court stated that the conferral of benefits on disinterested persons who are not members of a charitable class may cause an organization to serve a private interest within the meaning of section 1.501(c)(3)-1(d)(1)(ii) of the regulations. The court concluded by stating that even if the political party's candidates and entities did "comprise a charitable class, [the organization] would bear the burden of proving that its activities benefited members of the class in a non-select manner."

In Aid to Artisans, Inc. v. Commissioner, 71 T.C. 202 (1978), the court held that an organization that marketed handicrafts made by disadvantaged artisans through museums and other nonprofit organizations and shops was operated for exclusively charitable purposes within the meaning of section 501(c)(3) of the Code. The organization, in cooperation with national craft agencies, selected the handicrafts it would market from craft

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer: ORG EIN:		Year/Period Ended December 31, 20XX

cooperatives in communities identified as disadvantaged based on objective evidence by the Bureau of Indian Affairs or other government agencies. The organization marketed only handicrafts it purchased in bulk from these communities of craftsmen. It did not select individual craftsmen based on the needs of the purchasers. The court concluded that the overall purpose of the activity was to benefit disadvantaged communities. The organization's commercial activity was not an end in itself but merely the means through which the organization pursued its charitable purposes. The method it used to achieve its purpose did not cause it to serve primarily private interests because the disadvantaged artisans directly benefited by the activity constituted a charitable class and the organization showed no selectivity with regard to benefiting specific artisans. Therefore, the court held that the organization operated exclusively for exempt purposes.

In *Airlie Foundation v. Commissioner*, 283 F. Supp. 2d 58 (D.D.C., 2003), the court relied on the "commerciality" doctrine in applying the operational test to an organization that operated a conference center as its primary activity and derived most of its revenues from user fees. Because of the commercial manner in which this organization conducted its activities, the court found that it was operated for a non-exempt commercial purpose, rather than for a tax-exempt purpose. In reaching this conclusion, the court stated that "[a]mong the major factors courts have considered in assessing commerciality are competition with for profit commercial entities; extent and degree of below cost services provided; pricing policies; and reasonableness of financial reserves. Additional factors include, *inter alia*, whether the organization uses commercial promotional methods (e.g. advertising) and the extent to which the organization receives charitable donations."

Rev. Rul. 67-138, 1967-1 C.B. 129, held that helping low income persons obtain adequate and affordable housing is a "charitable" activity because it relieves the poor and distressed or underprivileged. The organization carried on several activities directed to assisting low-income families obtain improved housing, including (1) coordinating and supervising joint construction projects, (2) purchasing home sites for resale at cost, and (3) helped low income people obtain home construction loans.

Rev. Rul. 70-585, 1970-2 C.B. 115, discussed four situations of organizations providing housing and whether each qualified as charitable within the meaning of section 501(c)(3) of the Code. Situation 1 described an organization formed to construct new homes and renovate existing homes for sale to low-income families who could not obtain financing through conventional channels. The organization also provided financial aid to eligible families who do not have the necessary down payment. When possible, the organization recovered the cost of the homes through very small periodic payments, but its operating funds were obtained from federal loans and contributions from the general public. The revenue ruling held that by providing homes for low-income families who otherwise could not afford them, the organization relieved the poor and distressed.

Situation 2 described an organization formed to ameliorate the housing needs of minority groups by building housing units for sale to persons of low and moderate income on an open-occupancy basis. The housing was made available to members of minority groups who were unable to obtain adequate housing because of local discrimination. The housing units were located to help reduce racial and ethnic imbalances in the community. As the activities were designed to eliminate prejudice and discrimination and to lessen neighborhood tensions, the

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer: ORG EIN:		Year/Period Ended December 31, 20XX

revenue ruling held that the organization was engaged in charitable activities within the meaning of section 501(c)(3) of the Code.

Situation 3 described an organization formed to formulate plans for the renewal and rehabilitation of a particular area in a city as a residential community. The median income level in the area was lower than in other sections of the city and the housing in the area was generally old and badly deteriorated. The organization developed an overall plan for the rehabilitation of the area; it sponsored a renewal project; and involved residents in the area renewal plan. The organization also purchased apartment buildings that it rehabilitated and rented at cost to low and moderate income families with a preference given to residents of the area. The revenue ruling held that the organization is described in section 501(c)(3) of the Code because its purposes and activities combated community deterioration.

Situation 4 described an organization formed to alleviate a shortage of housing for moderate-income families in a particular community. The organization planned to build housing to be rented at cost to moderate-income families. The revenue ruling held that the organization failed to qualify for exemption under section 501(c)(3) of the Code because the organization's program was not designed to provide relief to the poor or further any other charitable purpose within the meaning of section 501(c)(3) and the regulations.

Rev. Rul. 85-1, 1985-1 C.B. 177, holds that an activity is a burden of government only if there is an objective manifestation by a governmental unit that it considers the activity to be its burden. The ruling also provides that little weight should be given to government officials that merely praise or express approval of an organization and its activities. Instead, the government must formally recognize the organization and its operations as relieving its burdens. Several factors set forth in the revenue ruling bear on whether the governmental unit has made an objective manifestation. These factors are:

- A statute specifically creates the organization and clearly defines the organization's structure and purposes.
- The activity is an integral part of a larger governmental program, or is acted jointly with a governmental unit.
- The governmental unit controls the activities of the organization, for example by appointing the board members.
- The organization pays governmental expenses.
- Regular government funding of the organization's activities through grants or general obligation bonds backed with the full faith and credit of the governmental (as opposed to general revenue bond financing).
- The governmental unit is not prohibited from performing the particular activity.

Rev. Rul. 85-2, 1985-1C.B. 178, holds that an organization lessens the burden of government if it engages in activities that a governmental unit considers to be its burden and such activities actually lessen such governmental burden. An organization must demonstrate through all the relevant facts and circumstances that a governmental unit considers the organization to be acting on its behalf, thereby freeing up the government assets that would otherwise be devoted to the particular activity.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer: ORG EIN:		Year/Period Ended December 31, 20XX

In Columbia Park and Recreational Association, Inc. v. Commissioner, 88 T.C. 1 (1987), aff'd without published opinion 838 F. 2d 465 (4th Cir. 1988), the court provided that expending funds for services and items similar to those in the budget of a municipal government is insufficient to establish that a governmental unit accepted the activities as its responsibility.

In Public Industries, Inc. v. Commissioner, T.C. Memo 1991-3, the court stated that even if a governmental unit considers an activity to be a proper governmental function, an organization must establish that it has a solid relationship with the governmental unit to support a finding that the organization was acting on the governmental unit's behalf. On the issue of whether the organization's activities actually lessen the burdens of government, the court noted that showing that an organization's activities might improve general economic conditions or might reduce the negative consequences if the activities are not conducted is not enough to demonstrate that organization's activities actually lessen the government's burden.

In Quality Auditing Company, Inc. v. Commissioner, 114 T.C. 498 (2000), an organization that developed a certification program for safe construction claimed that it was lessening the burdens of government. Governmental agencies were among those that requested that the organization develop the certification program. The court held that the government's concern with obtaining high quality work in public construction projects falls short of establishing that the government considers the certification program to be its own responsibility and that the organization was acting on its behalf. In addition, the court stated that even if the certification program lessened the burdens of government, because it also conferred benefit on private owners and developers, it furthered a substantial nonexempt purpose by lessening the burdens on private parties.

Even if an organization's activities serve a charitable class or are otherwise charitable within the meaning of section 501(c)(3), to qualify for exemption from Federal income tax under section 501(a) as an organization described in section 501(c)(3), the organization must demonstrate that its activities serve a public rather than a private interest within the meaning of Reg. Section 1.501(c)(3)-1(d)(1). Rev. Rul. 72-147, 1972-1 C.B. 147, held that an organization that provided housing to low income families did not qualify for exemption under section 501(c)(3) of the Code because it gave preference to employees of a business operated by the individual who also controlled the organization. The ruling reasoned that, although providing housing for low income families furthers charitable purposes, doing so in a manner that gives preference to employees of the founder's business primarily serves the private interest of the founder rather than a public interest.

In KJ's Fund Raisers v. Commissioner, T.C. Memo 1997-424 (1997), aff'd, 1998 U.S. App. LEXIS 27982 (2d Cir. 1998), the Tax Court held that an organization formed to raise funds for distribution to charitable causes did not qualify for exemption under section 501(c)(3) because the primary purpose of its activities was to attract customers to its founders' private business. The founders of the organization were the sole owners of KJ's Place, a lounge at which alcoholic beverages were served. The founders served as officers of the organization and, at times, also controlled the organization's board. The Tax Court found that the founders exercised substantial influence over the affairs of the organization. The organization's business consisted of selling "Lucky 7" or similar instant win lottery tickets exclusively to patrons of KJ's Place. The lottery tickets were sold during regular

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer: ORG EIN:		Year/Period Ended December 31, 20XX

business hours by the owners of the lounge and their employees. The organization derived most of its funds from its lottery ticket sales. The organization solicited no public donations. From the proceeds of the sales of the lottery tickets, the organization made grants to a variety of charitable organizations. Although supporting charitable organizations may be a charitable activity, the Tax Court nevertheless upheld the Commissioner’s denial of exemption to the organization on the ground that the organization’s operation resulted in more than incidental private benefit to KJ’s Place and, indirectly, its owners. The Second Circuit affirmed.

TAXPAYER’S POSITION:

President has made several statements about his position and the organization’s down payment assistance program. President’s position in his May 15, 20XX letter to the Internal Revenue Service, referring to mobile home dealers as donors and as home-sellers he stated:

“These home-sellers provide all the funds we use for this program and the amount of their contributions are reported on Form 990PF.”

In his December 15, 20XX letter to the Internal Revenue Service regarding home-sellers, he stated:

“no part of any down payment assistance using the home-seller’s funds, or was provided by home-sellers or homebuilders or other interested parties in the form of donations to ORG’s specifically to replenish funds if and only if their homes were purchased through our down payment assistance program.”

In his April 26, 20XX response to our April 7, 20XX preliminary findings report, President stated:

“I don’t understand what you mean by seller driven funding. We accept donations from sellers typically after they closed on the sale of their home. In 20XX, we chose to use . % of the donations we received to help families buy homes.

President further asked the Internal Revenue Service to:

“reserve your decision until the court challenges of Revenue Ruling 20XX-27 are decided. However it is decided, we will voluntarily comply, or discontinue the program immediately.”

President also stated that his organization’s DPA Program is not impermissibly serving private interests, explaining that donations are made by donors not participating as home-sellers. Home-seller donations received at closing are unrelated to home sales and are not used to replenish a pool of funds. He also stated that a circular flow of funds does not exist within his down payment assistance program because home-sellers and donors are unrelated and that ORG’s DPA program is not seller funded.

GOVERNMENT POSITION:

The purpose of our audit focused strictly on Exempt Organization activities, specifically to determine if ORG’s 20XX DPA program was compliant with existing law.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer:	ORG EIN:	Year/Period Ended December 31, 20XX

The fact that ORG’s home-sellers are not contractually obligated to the Ministry, does not diminish the fact that the organization’s DPA assistance program is non-compliant with Revenue Ruling 20XX-27 and with its IRC § 501(c)(3) exemption. Rather it shows an expansion of down payment assistance activities that include donors and organizations having for-profit and commercial interests participating as home-sellers in their DPA program. The for-profit organizations have acknowledged their commitment to ORG by providing funds from their closing proceeds based on home-sales, to replenish the organization’s existing pools of funds, as shown in the HUD-1 analysis.

In concluding our audit of the organization’s 20XX Form 990PF, its books and records, HUD -1 closing statements, as well as the TEGE division’s independent and qualitative research relative to donor/home-seller participation, we found that ORG’s down payment assistance program was not compliant because it promoted and served private interests resulting from the substantial level of participation between organization donors as home-sellers. The public interest was not served. Their DPA program substantially relied on home-seller funding to finance its activities and created a circular flow of funds. Donations received from home-sellers were based on home sales. HUD -1 documents show that home-seller proceeds exceeded DPA grants provided to homebuyers by several hundred dollars per transaction. ORG’s down payment assistance to homebuyers ranged from % to % of the home selling price. One transaction provided over \$ in down payment assistance.

The law requires that an organization claiming exemption under IRC § 501(c)(3) also be operated exclusively for prescribed exempt purposes. Under the operational test, an organization is regarded as operated “exclusively for” exempt purposes only if it engages primarily in activities that accomplish one or more exempt purpose. ORG must establish that it is organized and operated exclusively for exempt purposes, in order to qualify for tax-exempt status under IRC § 501(c)(3). In this context, the term “operated exclusively for exempt purposes” is interpreted as “engaged primarily in activities” in furtherance of one or more of the organization’s exempt purposes. This is known as the primary purpose doctrine.

Our analysis of the organization’s books and records and of official U.S. Department of Housing & Urban Development (HUD -1) documents demonstrates that ORG’s 20XX Down Payment Assistance Program activities were not exclusively charitable.

Failure to provide relevant information is a sufficient basis for both the Service and the courts to refuse to recognize an organization as exempt. This reduces the possibility that an organization may retreat into claims of ignorance about its own operations. Simply stated, the organization must establish the factual basis for its exemption. ORG failed to establish that it is operated in accordance with IRC § 501(c)(3) and compliant with Revenue Ruling 20XX-27.

Based on our analysis and the facts stated above, ORG’s 501(c)(3) exempt status should be revoked because it has failed to establish that its down payment assistance program was operated exclusively for prescribed exempt purposes.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer:	ORG EIN:	Year/Period Ended December 31, 20XX

To be operated exclusively for purposes described in section 501(c)(3), only an insubstantial portion of the activity of an exempt organization may further a nonexempt purpose. As the Supreme Court held in Better Business Bureau of Washington D.C., Inc., supra, 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. ORG is not operated exclusively for exempt purposes described in section 501(c)(3). It operates primarily for private benefit of home sellers, other individuals, and entities that stand to benefit from the real estate transactions it facilitates. The primary purpose served by ORG's DPA program is a commercial one, overshadowing any educational or charitable purposes the organization may have served.

Essentially, through its DPA program, ORG transfers cash from the participating home sellers or homebuilders to homebuyers, thus enabling homebuyers to satisfy the down payment and closing cost payment requirements for their home purchases.

ORG operates primarily for a non-exempt business purpose in a manner similar to a commercial enterprise facilitating real estate transactions. See American Campaign Academy, supra, and Easter House v. U.S., 12 Cl. Ct. 476, 486 (1987), aff'd, 846 F. 2d 78 (Fed. Cir. 1988). Facilitation of real estate transactions is not a per se a charitable activity. See Rev. Rul. 20XX-27. Generally, ORG does not solicit or receive contributions from the general public to fund its DPA program. Almost all of ORG's revenue is derived from home sellers.

ORG's activities, promotional materials, and marketing strategies show that ORG operates for the benefit of home sellers, home builders, lenders, real estate professionals, and homebuyers. Also, ORG's total reliance for financing of its DPA program on the participating home sellers and individuals connected to the real estate transactions and their willingness to pay for the services demonstrate that ORG's DPA program provides substantial benefit to private parties involved in the transactions. See Rev. Rul. 20XX-27, Situation 2. Sellers who participate in ORG's DPA program benefit from achieving access to a wider pool of buyers, thus ORG enables them to sell their homes faster and for a higher price. This private benefit to home sellers is substantial even in the case where the homebuyer is poor and distressed or underprivileged or where the sale of the home happens to combat community deterioration. Real estate professionals who participate in ORG's DPA program, from real estate brokers to escrow companies, benefit from increased sales volume and the attendant increase in their compensation.

ORG does not qualify as an organization described in section 501(c)(3) because its primary activity, the operation of a down payment assistance program, does not exclusively serve any exempt purpose described or enumerated in section 501(c)(3) and the regulations. Charitable purposes include relief of the poor and distressed or of the underprivileged. See section 1.501(c)(3)-1(d)(2) of the regulations. ORG's DPA program does not provide relief of the poor and distressed or of the underprivileged. ORG has no income or any other meaningful limitations for participation in its DPA program. The program is open to anyone, without any income limitations, who otherwise qualified for a mortgage, mostly an FHA insured mortgage. Although some down payments and closing cost grants have been made to low income and very low income individuals, as defined by the HUD,

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer: ORG EIN:		Year/Period Ended December 31, 20XX

ORG does not pre-screen recipients' income or other qualifications for assistance contemporaneously with the making of the grants to the homebuyers.

By merely facilitating real estate transactions through transfer of cash from home sellers to homebuyers without any meaningful limitations, educational instruction on homeownership and budgeting and without ensuring homebuyer's ability to afford the home; it can hardly be said that ORG relieved the needs of the poor and distressed or of the underprivileged or that ORG operated in furtherance of its purported charitable goal of expanding and maintaining the supply of safe, decent, and affordable housing for low and moderate income persons.

CONCLUSION:

Based on the facts presented above, ORG has not demonstrated that it engages primarily in activities that accomplish exempt purposes. The organization's DPA program is non-compliant with Revenue Ruling 20XX-27 because the program is seller funded and supports a circular flow of funds. Donations were substantially received from donors participating as home-sellers and their donations were based on successful home sale closings. Moreover, ORG serves private interests more than incidentally and, as such, fails to qualify as an organization exempted from federal income tax under IRC § 501(c)(3). The proposed revocation of ORG's tax exempt status is effective beginning January 1, 20XX.

Form 1120 U.S. Income Tax Return should be filed for tax years ending December 31, 20XX; 20XX, 20XX and 20XX. Subsequent returns are due no later than the 15th day of the 3rd month after the end of each tax year. Returns should be sent to the following mailing address: