



DEPARTMENT OF THE TREASURY

Internal Revenue Service
TE/GE EO Examinations
1100 Commerce Street
Dallas, TX 75242

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

501.03-00

Release Number: **201203023**
Release Date: 1/20/2012

Date: October 4, 2011

LEGEND

ORG - Organization name XX - Date Address - address

ORG
ADDRESS

Person to Contact:
Identification Number:
In Reply Refer to: TE/GE Review Staff
EIN:

CERTIFIED MAIL - Return Receipt Requested

Dear

This is a Final Adverse Determination Letter as to your exempt status under section 501(c)(3) of the Internal Revenue Code. Our favorable determination letter to you dated May 29, 19XX is hereby revoked and your exemption from Federal income tax under section 501(c)(3) of the code is hereby revoked effective January 1, 20XX.

Our adverse determination was made for the following reasons:

Organizations described in I.R.C. § 501(c)(3) and exempt under section 501(a) must be both organized and operated exclusively for exempt purposes and must serve public rather than private interests. Our examination of your activities and finances revealed that you more than insubstantially served private interests and engaged in affirmative conduct to conceal such interests. In addition, you chose to discontinue cooperating with the Service's reasonable requests for information about your operations. Such actions are inconsistent with the requirements to operate exclusively for purposes set forth in section 501(c)(3) and to maintain exempt status.

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code.

You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the year ending December 31, 2007, and for all years thereafter. In addition, because you are a private foundation that has not terminated in accord with section 507 of the Internal Revenue Code you will continue to be required to file Forms 990-PF, Return of Private Foundation.

Processing of income tax returns and assessment of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination in court, you must initiate a suit for declaratory judgment in the United States Tax Court, the United States Claim Court or the District Court of the United States for the District of Columbia before the 91st day after the date this determination was mailed to you. Contact the clerk of the appropriate court for the rules for initiating suits for declaratory judgment.

You also have the right to contact the office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers.

You can call 1-877-777-4778 and ask for Taxpayer Advocate assistance. Or you can contact the Taxpayer Advocate from the site where the tax deficiency was determined by calling, Tel: (949) 389-4804, or write:

Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations, nor extend the time fixed by law that you have to file a petition in the United States Tax 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.

We will notify the appropriate State Officials of this action, as required by section 6104(c) of the Internal Revenue Code.

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

Sincerely yours,

Nanette M. Downing
Director, EO Examinations

Enclosures:
Publication 892
Form 6018, Consent to Proposed Adverse Action
Envelope



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE
TEGE: EO Examinations
1100 Commerce Street, MC 4900
Dallas, TX 75242

May 17, 2011

LEGEND

ORG - Organization name XX - Date Address - address

**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

We propose to revoke our recognition of your exempt status as an organization described in section 501(c)(3) of the Internal Revenue Code (Code). We enclose our report of examination explaining why we are proposing this action.

If you accept our proposal, please sign and return the enclosed Form 6018, Consent to Proposed Action - Section 7428, unless you have already provided us a signed Form 6018. We will issue a final revocation letter determining you are not an organization described in section 501(c)(3). After the issuance of the final revocation letter we will publish an announcement that you have been deleted from the cumulative list of organizations contributions to which are deductible under section 170 of the Code. If you do not respond to this proposal, we will similarly issue a final revocation letter. Failing to respond to this proposal may adversely impact your legal standing to seek a declaratory judgment because you may be deemed to have failed to exhaust administrative remedies.

If you do not agree with our proposed revocation and wish to protest our proposed revocation to the Appeals Office of the Internal Revenue Service, then 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. This written request is called a protest. For your protest to be valid it needs to contain certain specific information which generally includes a statement of the facts, the applicable law, and arguments in support of your position. For the specific information needed for a valid protest, please refer to page 6 of the enclosed Publication 3498, *The Examination Process*, and page 2 of the

enclosed Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*. These documents also explain how to appeal an IRS proposed action.

If you do submit a valid protest, then 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 and Publication 892 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. Please note that Fast Tract Mediation Services referred to in Publication 3498, generally do not apply after issuance of this letter.

You may also request that we refer this matter for Technical Advice as explained in Publication 892 and an annual revenue procedure. Please contact the individual identified on the first page of this letter if you are considering requesting Technical Advice. If we issue a determination letter to you based on a Technical Advice Memorandum issued by the EO Rulings and Agreements function, then no further administrative appeal will be available to you within the IRS on the matter.

If you agreed with the proposed revocation or if you receive a final revocation letter, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the Ogden Service Center within 30 days of the date you agreed with the revocation or the date of your final revocation letter, whichever is sooner, unless a request for extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

We will notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code. Currently, only certain states are eligible to receive notification of proposed revocation actions. You can call the person at the heading of this letter to find out if your State is eligible to receive a notice of revocation of your tax-exempt status.

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,

Nanette M. Downing
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination

Form 886-A (Rev. January 19XX)	EXPLANATION OF ITEMS		Schedule number or exhibit Attachment to Form 4621-A
Name of Organization/Taxpayer ORG (a.k.a. ORG)	Tax Identification Number EIN	Year/Period ended December 31, 20XX, 20XX and 20XX	

LEGEND

ORG - Organization name XX - Date State - state Country - country
 President - president CFO - cfo DIR-1 THROUGH DIR-5 = 1ST THROUGH 5TH DIR
 RA-1 THROUGH RA-12 = 1ST THROUGH 12TH RA CO-1 THROUGH CO-8 = 1ST THROUGH 8TH
 COMPANIES

ISSUES

1. Whether the activities conducted by ORG since the year 20XX were in compliance with the rules and regulations under the *Internal Revenue Code ("IRC") §501(c)(3)*. Whether ORG qualifies for exemption under *IRC § 501(c)(3)*.
2. Whether ORG's grant/loan benefited a private enterprise rather than the general public or charitable class of individuals within the meanings of the *Federal Tax Regulations ("the Regulation") §1.501(c)(3)-1(c)(2)*.
3. Whether ORG complied with record keeping requirements as described under *IRC §§ 6001 and 6033*.

FACTS

Organizational Information

ORG was formerly known as ORG. ORG was incorporated in the state of State on December 23, 19XX under the Nonprofit Public Benefit Law. The Articles of Incorporation was signed by DIR-1 as Incorporator. Article two stated the purposes as:

"... organized, and at all times shall be operated, exclusively for the benefit of, to perform the function of, or to carry out the purposes of the State Community Foundation..."

On December 7, 19XX, DIR-1 submitted a Form 1023, *Application for Recognition of Exemption under Section 501(c)(3) of the Internal Revenue Code*, to the Internal Revenue Service ("the Service") on behalf of ORG. The following individuals were listed as officers and board members:

President	President, Director
CFO	Chief Financial Officer, Director
Secretary	Secretary
DIR-2	Director
DIR-3	Director
DIR-4	Director

On March 24, 19XX, the Service issued a letter to ORG granting exemption under *IRC §501(c)(3)* as an organization described under *IRC §509(a)(3)*.

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On March 21, 19XX, ORG amended its articles, which were endorsed on October 11, 19XX. The amended articles were signed by President as President and Secretary as Secretary. The amended articles restated purposes to:

"... exclusively for charitable, religious, scientific, testing for public safety, literary, or educational purposes, fostering national or international amateur sports competition (but only if no part of its activities involve the provision of the athletic facilities or equipment), or for the prevention of cruelty to children or animals within the meaning of Section 501(c)(3) of the Internal Revenue Code of 19XX."

The amended articles included the following restrictions:

"Notwithstanding any other provision of these articles, this corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the purposes of this corporation, and the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 19XX or the corresponding provision of any future United States internal revenue law, or (b) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 19XX or the corresponding provision of any future United States internal revenue law."

On January 7, 19XX, RA-12 filed a second Form 1023 with the Service. Under Activities and Operational Information, the application stated:

"On October 11, 19XX the Foundation amended its Articles of Incorporation to change from a supporting organization to a private foundation. The Foundation's activities will be to provide support to various non-profit entities in the community as the board of directors shall deem appropriate."

On the second Form 1023, DIR-2 and DIR-4 were removed, and DIR-5 was added to the Board. The remaining board members were listed with the same ones listed on the first Form 1023.

On May 29, 19XX, the Service issued a letter to ORG reclassifying its foundation status to a private foundation.

No amendment to the articles was provided to substantiate the name change to ORG. This name was first used on the Form 990-PF, *Return of Private Foundation*, for the year ending December 31, 20XX.

Operational Information

Form 886-A (Rev. January 19XX)	EXPLANATION OF ITEMS		Schedule number or exhibit Attachment to Form 4621-A
Name of Organization/Taxpayer ORG (a.k.a. ORG)	Tax Identification Number EIN	Year/Period ended December 31, 20XX, 20XX and 20XX	

On July 31, 20XX, the Service initiated an examination of the Form 990-PF for the year ending December 31, 20XX. This return was not signed by any officer or director.

The Form(s) 990-PF filed for the years 20XX through 20XX indicated no activities of its own or the provision of grants to other organizations. President stated that ORG went dormant after he had divorced his wife, CFO.

On February 15, 20XX, ORG stated that the letters "GT" within its name stood for CO-2. It was *"committed to bring transformational educational practices to all mankind in order to improve the human condition."*

The Form 990-PF filed for the year ending December 31, 20XX indicated a \$\$ grant to CO-1. ORG explained on February 15, 20XX that it

"made a loan to CO-1. of \$\$. This was not a distribution, and it is the hope that this loan will be repaid in time... CO-1. needed this funds to begin the formation of a network of center to teach transformation. Given the purpose for which ORG was constituted, it was apparent that the Country market contain 60% of with world's population and that this group needed assistance to penetrate this market."

ORG supported these statements with the following documents:

- A memo dated 9/26/XX stated a request of the wire transfer of \$\$ from CO-2 to CO-1. This memo was signed by President.
- ORG's minutes dated 9/1/XX stated the approval of the loan. The minutes also indicated that President was the sole member of the board; however, on October 25, 20XX, President, under the penalties of perjury, signed the Form 990-PF for the year ending December 31, 20XX. The name on this return was ORG and four names were listed as directors. This return indicated \$\$ cash as ORG's only asset.
- ORG's annual minutes dated April 1, 20XX, March 21, 20XX, and March 20, 20XX were signed by President as the Sole Director of the Board.
- A promissory note issued on 9/1/XX indicated CO-1 as the borrower and ORG as the lender for the amount of \$\$. A 5% interest was accrued but not required to be paid until the note mature 5 years later. There was no collateral to this note.

ORG provided a list of contributor records displaying names, addresses and amounts of contributions to substantiate the source of contributions. While most of the contributors were from the United States, there were contributors from Country, Country, Country, Country, Country, Country, Country and Country.

CO-6 Entities

Form 886-A (Rev. January 19XX)	EXPLANATION OF ITEMS		Schedule number or exhibit Attachment to Form 4621-A
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Based on our understanding, there were three entities with the name "CO-6": CO-3 ("CO-3"), and CO-4 ("CO-4") and CO-5. ("CO-5"). These entities were for-profit entities offering "transformational educational opportunities" in the United States and other countries. During the year of 20XX, President served as the Chairman of CO-3.

In 20XX, President formed Foundation for CO-2 ("CO-2"). The activity of CO-2 was to provide scholarship assistance to educational organizations around the world, particularly those in Country, which could provide "transformational educational opportunities" to their students. President filed a Form 1023 with the Service to obtain the exempt status for CO-2. The stated purposes under Part IV, *Narrative Description of Your Activities*, were:

"The Foundation will provide scholarship assistance to organizations and schools which demonstrate the propensity to provide transformational educational opportunities to their students. Transformational education is learning designed to allow the individual to understand their full human potential to impact positively the world around them. When one fully understands that they are responsible for their life and actions and that they are not at the outside mercy of the world around them, miracles begin to happen in their lives. RA-1 (CO-7), RA-2, CO-6 Corporation, RA-3, and others around the world are transforming lives by awakening others to the possibility of who they can be and are.

The Foundation is targeting Country because of its size and projected impact on every aspect of the world. The impact a peaceful and positive Country can have on the earth will be dramatic in the coming decades. Advance trips to Country and Country have demonstrated a desire within the Country hierarchy to view transformational educational in a favorable light. Several Country leaders (educated in the United States and familiar with work) are very favorable to such courses being given in Country.

However, the biggest issue is the inability of the average Country students to pay for their education. They live in an environment where education is provided by the state and the average Country work rate is very low. There are organizations and persons who are willing to provide the knowledge, but scholarships through grants and loans are crucial to reach the general population in a significant way. However, if said grants and loans can be provided, the leaders in the transformational arena will organize the schools and facilities to help bring transformation to the Country public. As a result, the Foundation will need no facilities or maintenance in Country to reach its objectives. The size and terms of grants and loan for scholarships will be negotiated depending on the circumstances, situation, and education organization the Foundation contracts.

The education will be conducted by experts in this arena in this area who will be identified by the Foundation promoting the goals and objectives of the Foundation. President, the Chairman and President of the Foundation is on the

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board of CO-1 (the RA-1 founded organization promoting the Power of Positive Speaking) and CO-6 Corporation (the world wide leader in transformational education). As a result, his ability to find and utilize the best educational vehicles for the Foundation's student grants and loans is well established.

The Foundation is expected to begin its action plan within the next six months initially in Country and Country."

However, this request for exemption status was not approved by the Service.

In the mean time, CO-3 and CO-4 started a fund raising campaign and solicited donations from its worldwide program participants and employees. The donations were directed and deposited into CO-7 account of CO-2.

The letter dated February 15, 20XX written to the examiner by Secretary, Secretary of ORG, stated "ORG is an independent organization from CO-6, but shares its values and commitment to transformation. There is a common member of the Board of Directors of CO-6 [President] and ORG."

Charitable Grant or Loan

On April 12, 20XX in response to our request for supporting records to demonstrate how the grant/loan furthers its charitable purposes, ORG responded as follows:

"CO-6 is an international company that delivers educational programs to individuals and companies. These programs related to personal development and awareness transformation. The Company has been in business for more than 20 years, and considering its legacy enterprise, more than 40 years. Its markets includes the United States, Country, Country, Country, Country, Country, Country and now beginning in Country.

In 20XX it became clear from the input derived from two of CO-6's senior management team [situated in Country] that an opportunity to bring these educational programs to Country was possible due to softening of the political climate, and the inroads that had been made by these tow management members.

The Company is a 'for-profit' enterprise that made a S-Corporation election under IRC section 1361. Its sole shareholder is a qualified pension plan [ESOP] controlled under IRS Section 401. As such, the results of its operations are not subject to federal or state income tax.

The decision was made in 20XX to develop the opportunity in Country, but CO-6 itself could not afford the start-up capital investment required. An appeal was

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made to the graduate and participants group of individual to support the worthy cause of bring transformation education to mainland Country. The money received by ORG was raised expressly for the purpose of loaning it to CO-5. It was structured as a loan in order to position repayment in the event of financial success.

ORG is established to bring educational opportunities to the general public. Transformation is an educational opportunity that fulfills on its promise to assist individuals and companies achieve their maximum potential. Numerous books and articles have been published on the topic of transformation, and ORG stands for 'CO-2'."

The above statement was enclosed with a number of materials related to seminars/trainings provided by CO-3 & CO-4. In summary, CO-3 & CO-4 provided seminars for participants to break out of the box, mentality of designing strategies and setting objectives which are predictable and obtainable based on what is already known, and into a new realm of performance and effectiveness. The targeted participants were individuals with careers and business organizations.

On June 3, 20XX, in response to what ORG planned to recover the loss in the event of a default, the statement received from ORG as follows:

*"The money was raised for the express purpose of supporting a fledging effort to bring transformation educational programs to mainland Country. The graduate base of CO-6 is very passionate about these programs and as a rule is committed to bringing transformation opportunities to all people of the World. While the money sent to CO-5. was intended for its financial support, and it was understood that the monies advanced would likely be spent and not returned, the grant was structured as a loan in order to facilitate a repayment in the event that the venture was financial successful. In that manner the funds could be "recycled" to other locations within Country. As such it was not viewed as a financial investment and it would have not appropriate to seek appraisals, collateral, or other analysis...**this was in substance a grant.**" [Emphasis added.]*

Because ORG stated that the fund was wired to a foreign organization, in substance, was a grant, we requested information to verify whether ORG, as a private foundation, had excised its due diligence on making a grant to the grantee foreign organization. On August 19, 20XX, in response to our request for information regarding whether CO-5 organized and operated as an organization described under *IRC* §§509(a)(1), (2) or (3), and was substantiated by the Article of Incorporation and Bylaws. ORG responded as follows:

"CO-1. was formed by a now deceased graduate of the CO-6 Forum who lived in Country. He was well respected and trusted graduate, and was solely

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responsible for raising the funds associated with this project, the use of the funds used to support education in Country, and was only individual knowledgeable about the legal status of this entity. Its ownership, like all non-profit enterprises vests with local government held in trust for the benefit of its citizens. I believe that the enterprise was operated in a manner consistent with IRC Section 170(b)(1)(A)(ii). It was not a private foundation."

ORG did not provide CO-5's the organizational and operational documents.

In response to our request for information regarding CO-5's activities to decide whether CO-5 was organized and operated as a *IRC §501(c)(3)* organization and how ORG determined to make a grant to CO-5, ORG responded as follows:

"CO-5. is a foreign corporation and was established under the provision of Country law. Their taxing system is wholly different from the United States Internal Revenue Code and as such it is difficult to make direct comparisons as your question begs. The enterprise was operated as is described in IRC Section 501(c)(3) as a corporation organized and operated exclusively for educational purposes. The nature of planned operation was discussed with the management of CO-3, who supported the proposition of this effort by allowing the aforementioned graduate to solicit financial support from the graduate base of the Company. Based upon the founding principals of CO-5., ORG determined that it was a worthy and trustworthy cause to pursue."

In response to our request for information in support of ORG made a reasonable judgment that the grantee was an organization described in *IRC §§509(a)(1), (2) or (3) or §4942(j)(3)* and how ORG reached that judgment, it responded as follows:

"The 'grantee' [as you characterize it] was not a private foundation and as such no comparison to IRC Section 509 or 4942 is appropriate. CO-5. was a corporation formed in Country to bring education programs to the citizens of Country."

In response to our request for an affidavit prepared by CO-5 or opinion of a counsel that ORG relied on to make the grant to CO-5, it responded as follows:

"No... the decision to support this entity was based upon the trust earned by the manager of the entity, who was a graduate of CO-6 and a very honorable individual as well as the description of the plan to bring transformation programs to a needed place in the World."

In response to our request for precautions took by ORG to ensure that the grant would be spent for proper purposes and whether it was substantiated by documentation, ORG responded as follows:

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"It is not required within the code that once support is given, ongoing governance and reviews take place. I have provided you previously with the documentation related to this entity and how the funds were used, including reports from the entities management. I do not offer any additional documentation at this time."

In response to our request for the full and complete reports from CO-5 concerning the use of funds and whether ORG submitted full and detailed reports describing its expenditures to the Service, it responded as follows:

"... ORG filed income tax returns as required by law...beyond this I am not certain what additional information was required at the time of filing. CO-5., is an independent company and is not obligated to provide any additional information beyond what was previously provided."

ORG and CO-2

In response to our request for bank statements and cancelled checks, we received all bank statements and cancelled checks for 20XX for CO-2. Initially, we were led to believe that CO-2 was a doing-business-as name of ORG. Most of the transactions on these statements matched the financial information reported on the Form 990-PF. ORG also had another bank account, but we only received the February 20XX bank statement for this account.

On July 29, 20XX, ORG provided a Form 1099-INT for the year 20XX issued by CO-7 to CO-2 to support its interest income earned. We noticed that the Employer Identification Number ("EIN") which was different from ORG's EIN. A further research indicated that this EIN belonged to CO-2, the entity President formed in 20XX. This implied that most of the financial information reported on Form 990-PF did not belong to ORG.

On September 27, 20XX, ORG amended its Forms 990-PF for the tax years ending December 31, 20XX and 20XX. The following table displays a comparison between the original and the amended returns for the year 20XX and their variances:

Form 990-PF	Original	Amended	Variance
Revenue			
Contributions received			
Interest			
Total Revenue			
Expenses			
Accounting fees			
Bank & credit card charges			
Compensations of officer			
Outside services			
Legal fees			
Office expense			

EXPLANATION OF ITEMS

Name of Organization/Taxpayer

Tax Identification Number

Year/Period ended

ORG (a.k.a. ORG)

EIN

December 31, 20XX, 20XX and
20XX

Postage & delivery				
Contributions paid	\$	0	\$	
Total Expenses				
Net Revenue				

We summarized transactions within bank statements and cancelled checks of CO-2 and compared the summary to the original and amended returns. The following table displays the comparison between CO-2's financial information and the original return for the year 20XX:

Bank Statement of CO-2	CO-2 total amount	Form 990-PF	Original	Return less Bk Stmt	990-PF without CO-2's
Deposits		Revenue			
Initial deposit Rolling CD*		Contributions received			
Other deposits					
Interest earned from CD*		Interest			
Total Deposits		Total Revenue			
Disbursements		Expenses			
Other Withdraws & charges		Bank & credit card charges			
Refunds to contributors					
		Accounting fees			
Comp to Secretary					
Comp to Managing Director		Outside services			
Legal fees		Legal fees			
Printing & Internet Hosting Services		Office expense			
Postage & delivery		Postage & delivery			
Wired transfer to CO-5		Contributions paid			
Total Disbursements		Total Expenses			
Net Revenue		Net Revenue			

*An automatic rolling over CD account (Account No.) was maintained to earn a higher yield interest.

The following table displays a comparison between CO-2's financial information and the amended return for the year 20XX:

Bank Statement of CO-2	Amount	Form 990-PF	Amended	Return less Bk Stmt	Amended Rtn w/o CO-2's
Deposits		Revenue			
Initial deposit rollover CD*		Contributions received			
Other deposits					
Interest earned from CD*		Interest			
Total Deposits		Total Revenue			
Disbursements		Expenses			
Other Withdraws & charges		Bank & credit card charges			
Refunds to contributors					
		Accounting fees			

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Comp to Secretary		Compensations of officer			
Comp to Managing Director		Outside services			
Legal fees		Legal fees			
Printing & internet hosting svcs		Office expense			
Postage & delivery		Postage & delivery			
Wired transfer to CO-5		Contributions paid			
Total Disbursements		Total Expenses			
Net Revenue		Net Revenue			

*A rollover CD program (Account No.) was maintained to earn a higher yield interest.
n1 Since this amount did not match other deposits of CO-2, we could not be certain that it was CO-2's revenue.
n2 The 1099-INT issued to CO-2 was \$.

On October 8, 20XX, in lieu of responding to our request for explanation why ORG provided a Form 1099-INT with a tax ID of CO-2, what the relationship was between the two entities, and why ORG used this account for its financial activities and transactions, ORG provided a letter dated April 6, 20XX written by President, as Chairman of CO-2, and addressed to RA-4, CEO of CO-6 Corporation including the following statements:

"I am very disappointment to report that I have just received word that the IRS has not accepted my request for 501(c)(3) status for the Foundation for CO-2.

As you know, even with the extra work and difficulties that have been involved from the bureaucratic application process, I completely expected the 501(c)(3) application to be approved by the IRS. With my experience of setting up and operating foundations over the last 25 years, their not doing so came as a total surprise to me. Their not accepting our application was based on two things, ... Second, they were concerned with the fund being used almost exclusively to support CO-6's programs and CO-6 being a for-profit company.

While I am disappointed in the IRS's determination, and I regret the potential adverse affect on people who donated money, I am excited about what CO-6 has accomplished to date in Country and about the Foundation working with CO-6 on the Country initiative. There is no question in my mind that the impact we can have in Country will be significant.

We will proceed with our plans to start providing financial contribution by the end of July to make CO-6's transformational programs available in Country. I will keep you posted on our progress in other areas as the Foundation moves full steam ahead on the fulfillment of its goals, including our potentially re-applying in the future for 501(c)(3) status."

In response to our inquiry whether or not ORG notified each of the donors, that the gifts they gave to support CO-5's activities in Country were not deductible for income tax purposes, and whether any donor was welcome to a refund if his expectation was not consistent with this

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position, ORG provided a copy of a notification letter to contributors and the cancelled checks of refunds to contributors.

On January 4, 20XX, the meeting between two Revenue Agents, President and RA-5, the Power of Attorney of ORG, was conducted to discuss about the wire transfer of \$\$. ORG provided the additional information as follows:

- President stated that he had little knowledge about the wired transaction. He stated Secretary, Secretary of ORG, and RA-6 were wholly responsible for fund raising campaigns and the wired transaction to CO-5.
- RA-6 has passed away in the recent year.
- President was the Chairman of CO-3 in year 20XX.
- President stated that he relied on the opinions of RA-6 to authorize the wired transaction, and he believed the fund would be wholly used for the educational purposes.
- President stated that all the money wired to CO-5 was from public support (program participants and employees of CO-6); his contributions, if any, was de minis.

During the examination, we requested books and records for the years 20XX and 20XX; however, President only provided a copy of the bank statement of ORG account in CO-7 (Account # #) as of February 29, 20XX and a couple of bank statements of the CO-2 account in CO-7 (Account # #). The bank statements indicated a transfer of \$\$ from CO-2 to ORG. President stated there were a few to no transactions after that transaction. The balance of ORG's account in CO-7 was \$\$ as of February 29, 20XX.

President did not answer questions related to when ORG changed its name from ORG to ORG, whether or not ORG had filed the Amendment to the Articles of Incorporation with the State Secretary of the State of State for the name changed, and why the name was changed.

On January 17, 20XX, ORG provided the additional information including the email dated August 14, 20XX from RA-7 of CO-8s (CO-8) to President and RA-8 of CO-2 and RA-6 of and RA-9 of CO-6. The body of the email contained the following statements:

"My notes from the conference cal this morning as follows:

GOVERNANCE

It is agreed that RA-9 will be the Chair and Director of the Foundation and that RA-7 and RA-8 will resign. RA-9 shall be responsible for preparing that paperwork and getting it to RA-7. In the mean time RA-8 and RA-7 will remain Directors purely for transition purposes.

ORGANIZATIONAL STRUCTURE

... there are several structural pieces that need to be put in place for the CO-2. For the past several months, I have been the "voice" of the CO-2. This occurred

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following our first presentation with RA-10. It quickly became clear that a "live" representative of the CO-2 was needed to respond to questions.

That said, this also bring up several questions regarding the relationship that I and my assistant, RA-11, have to the CO-2 going forward.

We really shouldn't take off our "We are the Foundation of CO-2" hats. After all, we are the consultants responsible for raising the fund required. However, we should consider the language to be used to describe that relationship on correspondence, business cards, and the website." [Emphasis added.]

On March 10, 20XX, RA-9 stated that his client instructed him not to respond in writing because the examination has been taking too long and become a burden for ORG. ORG would not provide any more documentation and/or information requested.

We requested the following documentation and information from ORG. However, as of the date of this report, we have not received them:

- Bank statements of ORG for the years 20XX, 20XX and 20XX, except for the month of February 20XX.
- The purpose of the banking transfer of \$\$ on February 29, 20XX from CO-2 to ORG.
- Whether ORG filed an amendment to the Articles of Incorporation with the State Secretary for it name change.
- An explanation for inconsistency between two documents: President represented ORG in signing a promissory note to commit a loan to CO-5 on September 1, 20XX; however, the Foundation adopted resolutions in the name of ORG by the consent of the Sole Director, President, to approve and execute the promissory note on the same date.
- Documentation that verifies the transfer of funds from ORG (fka ORG), to CO-5, in settlement of the loan entered into, as noted above.
- The rationale of ORG to amend its Form 990-PF for the year ended December 31, 20XX.
- An explanation for the savings and temporary investments increased in the amount of \$\$ at the beginning of the year 20XX on the amended Form 990-PF compared to the original return.

Forms 1099-MISC

ORG provided two Forms 1099-MISC for payments to RA-8, Secretary, and RA-11, Managing Director. These Forms 1099 were issued with the EIN of ORG. The Service has no records that these forms were filed with the Service. In addition the above facts indicated that the payments were made by CO-2.

LAW

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IRC §501(a) provides, in part, that organizations described in *IRC §501(c)* are exempt from federal income tax. *Section 501(c)(3) of the Code* describes, in part, an organization that is organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Treasury Regulations ("Treas. Reg.") §1.501(c)(3)-1(a)(1) states that in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Treas. Reg. §1.501(c)(3)-1(c)(1) states that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). 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(c)(2) states 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.

Treas. Reg §1.501(a)-1 defines "private shareholder or individual" as a person "having a personal and private interest in the activities of the organization.

Treas. Reg §1.501(c)(3)-1(d)(1)(ii) states 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)(3)(i) defines "educational" as " In general... (a) The instruction or training of the individual for the purpose of improving or developing his capabilities; or (b) The instruction of the public on subjects useful to the individual and beneficial to the community.

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."

Record Keeping Requirement

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IRC §6001 states that every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title.

IRC §6033(a)(1) of the Code states that in general, every organization exempt from taxation under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and shall keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Treas. Reg. §1.6001-1(a) in conjunction with *Treas. Reg. §1.6001-1(c)* provides that every organization exempt from tax under *IRC section 501(a)* and subject to the tax imposed by *IRC §511* on its unrelated business income must keep such permanent books or accounts or records, including inventories, as are sufficient to establish the amount of gross income, deduction, credits, or other matters required to be shown by such person in any return of such tax. Such organization shall also keep such books and records as are required to substantiate the information required by *IRC §6033*.

Treas. Reg. §1.6001-1(e) states that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained so long as the contents thereof may become material in the administration of any internal revenue law.

Revenue Ruling 59-95, 1959-1 CB 627, (Jan. 01, 1959) states that an organization previously held exempt from Federal income tax was requested to produce a financial statement as of the end of the year and a statement of its operations during such year. However, its records were so incomplete that it was unable to furnish such statements. ... *Held*, failure or inability to file the required information return or otherwise to comply with the provision of *IRC §6033* and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of an exempt status.

The Effective Date of Revocation

Treas. Reg. §1.501(a)-1(a)(2) states that subject only to the Commissioner's inherent power to revoke rulings because of a change in the law or regulations or for other good cause... an organization that has been determined by the Commissioner or the district director to be exempt under section 501(a) or the corresponding provision of prior law may rely upon such

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determination so long as there are no substantial changes in the organization's character, purposes, or methods of operation.

Treas. Reg. §601.201(n)(3)(ii) states that a ruling or determination letter recognizing exemption may not be relied upon if there is a material change inconsistent with exemption in the character, the purpose, or the method of operation of the organization.

Treas. Reg. §601.201(n)(6)(i) states "[a]n exemption ruling or determination letter may be revoked or modified by a ruling or determination letter addressed to the organization... The revocation or modification may be retroactive if the organization omitted or misstated a material fact, operated in a manner materially different from that originally represented..."

TAXPAYER POSITION

The Foundation's position on these issues is unknown at this time.

GOVERNMENT POSITION

Issue 1 & 2: Activities & Grant/Loan

Based on the filed returns by ORG, it appeared that ORG made a \$\$ grant to CO-5 in the calendar year of 20XX. The documentations we received indicated that the funds to make this grant was from CO-2, the organization President formed to support CO-6 Enterprises. Things did not work out the way President planned. He was unable to obtain an *IRC §501(c)(3)* exemption status for CO-2. In the meantime, solicitations from CO-6 graduates were well underway, and contributions ranging from \$ to \$ were pouring in. Around September 20XX, President and his associates decided to transfer \$\$ of contributions received and prepare documents to make it appear that the funds were from ORG.

Any organization that failed to establish its exemption status could transfer its funds to another established exempt organization and could have that organization carry on its charitable activities. However, the grantee or the borrower in this case was a for-profit entity, and the funding was for capital expenditures. The grant or loan benefited the owners of the CO-6 Enterprise. Organizations exempt under *IRC §501(c)(3)* are prohibited from participating in activities that will benefit private individuals. The activity CO-2 intended to carry out did not qualify as a charitable activity.

To satisfy the operational test, an organization must engage primarily in activities furthering an exempt purpose and cannot engage, except in insubstantial part, in activities not furthering an exempt purpose. Aside from this grant/loan, ORG did not have any other charitable activity since 20XX. Records indicated that President who had primary control, if not sole control, of ORG assisted and allowed others to use it without considering whether such activity would have been in furtherance of its charitable purposes. ORG was not operated exclusively for exempt purposes as defined under *Tres. Reg §1.501(c)(3)-1(d)(2)*.

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Issue 3: Record Keeping Requirements

Throughout the examination, ORG provided the information and the statements that belonged to CO-2 instead of its information or document. The February 20XX bank statement was the only correct information provided for ORG. A comparison of CO-2's bank statements to the Forms 990-PF (original and amended return filed) indicate that, with a minor variance, the financial information that reported on the Forms 990-PF for the year ending December 31, 20XX primarily belonged to CO-2.

ORG did not explain why CO-2's financial information was reported on its returns.

ORG name was changed to ORG without any legal documentation, such as the Amendment to Articles of Incorporation, supporting the name change. Based on the statements made by President and the letter he wrote to his colleague, ORG was used as a shell organization to report financial activities of CO-2.

Additional requests to obtain missing documents and to clarify inconsistencies were not provided or answered. RA-9, Power of Attorney, stated that ORG declined to provide any further information.

ORG failed to comply with provisions of *IRC §§6001 and 6033* and Treasury Regulations thereunder to keep books and records in support of its activities.

CONCLUSION

Since ORG has not been operated exclusively for one or more exempt purposes under *IRC §501(c)(3)*, its exempt status under such section is revoked effective January 1, 20XX. ORG is required for filing Forms 1120, *U.S. Corporation Income Tax Return*, for the tax year ending December 31, 20XX and all years there after.