



**DEPARTMENT OF THE TREASURY**

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

**TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION**

Date: March 6, 2015

**UIL: 501.03-00**

Number: **201526022**

Release Date: 6/26/2015

Person to Contact:

Identification Number:

Contact Telephone Number:

In Reply Refer to:

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. Your exemption from Federal income tax under section 501(c)(3) of the code is hereby revoked effective September 1, 20XX.

Our adverse determination was made for the following reasons:

You have not demonstrated that you are operated exclusively for charitable, educational, or other exempt purposes within the meaning of I.R.C. section 501(c)(3). You have failed to produce documents or otherwise establish that you are operated exclusively for exempt purposes and that no part of your net earnings inures to the benefit of private shareholders or individuals. You failed to keep adequate books and records as required by I.R.C. § 6001, 6033(a)(1) and Rev. Rul. 59-95, 1959-1 C.B. 627.

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, 20XX and for all years thereafter.

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 91<sup>st</sup> 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:                      or write:

Taxpayer Advocate

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,

Margaret Von Lienen  
Director, EO Examinations

Enclosure:  
Publication 892



Department of the Treasury  
Internal Revenue Service  
Tax Exempt and Government Entities Division  
1100 Commerce Street MC4980 DAL  
Dallas, Texas 75242

Date:  
10/02/2014  
Taxpayer Identification Number:  
  
Form:  
  
Tax year(s) ended:  
  
Person to contact / ID number:  
  
Contact numbers:  
  
Manager's name / ID number:  
  
Manager's contact number:  
Phone Number:  
Response due date:

### **Certified Mail - Return Receipt Requested**

Dear :

#### **Why you are receiving this letter**

We propose to revoke your status as an organization described in section 501(c)(3) of the Internal Revenue Code (Code). Enclosed is our report of examination explaining the proposed action.

#### **What you need to do if you agree**

If you agree with our proposal, please sign the enclosed Form 6018, *Consent to Proposed Action – Section 7428*, and return it to the contact person at the address listed above (unless you have already provided us a signed Form 6018). We'll issue a final revocation letter determining that you aren't an organization described in section 501(c)(3).

After we issue the final revocation letter, we'll announce that your organization is no longer eligible for contributions deductible under section 170 of the Code.

#### **If we don't hear from you**

If you don't respond to this proposal within 30 calendar days from the date of this letter, we'll issue a final revocation letter. Failing to respond to this proposal will adversely impact your legal standing to seek a declaratory judgment because you failed to exhaust your administrative remedies.

#### **Effect of revocation status**

If you receive a final revocation letter, you'll be required to file federal income tax returns for the tax year(s) shown above as well as for subsequent tax years.

#### **What you need to do if you disagree with the proposed revocation**

If you disagree with our proposed revocation, you may request a meeting or telephone conference with the supervisor of the IRS contact identified in the heading of this letter. You also may file a protest with the

**Letter 3618 (Rev. 6-2012)**  
Catalog Number 34809F

IRS Appeals office by submitting a written request to the contact person at the address listed above within 30 calendar days from the date of this letter. The Appeals office is independent of the Exempt Organizations division and resolves most disputes informally.

For your protest to be valid, it must contain certain specific information including a statement of the facts, the applicable law, and arguments in support of your position. For specific information needed for a valid protest, please refer to page one of the enclosed Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*, and page six of the enclosed Publication 3498, *The Examination Process*. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process. Please note that Fast Track Mediation referred to in Publication 3498 generally doesn't apply after we issue this letter.

You also may request that we refer this matter for technical advice as explained in Publication 892. 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 Exempt Organizations Rulings and Agreements office, no further IRS administrative appeal will be available to you.

**Contacting the Taxpayer Advocate Office is a taxpayer right**

You have the right to contact the office of the Taxpayer Advocate. Their assistance isn't a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate can't reverse a legally correct tax determination or extend the time you have (fixed by law) to file a petition in a United States court. They can, however, see that a tax matter that hasn't 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:

**For additional information**

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,



Barbara L. Harris  
Acting Director, EO Examinations

Enclosures:  
Report of Examination  
Form 6018  
Publication 892  
Publication 3498

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

ISSUE:

Whether \_\_\_\_\_, continues to qualify for exemption as an organization described within the Internal Revenue Code 501(c)(3) due to Organization inactivity and ceasing activities since September 01, 20XX?

FACT:

The organization \_\_\_\_\_ was incorporated under the laws of the State of \_\_\_\_\_ on July 17, 20XX. The organization was formed as a radio station broadcasting religious programs for the Spanish language speakers'. In a determination letter dated August 10, 20XX it was determined to be exempt from federal income tax as an organization described in IRC Section 501(c)(3) of the Internal Revenue Code.

According to its Articles of Formation which was filed in the office of the Secretary of State of \_\_\_\_\_ on July 17, 20XX, the purposes of the organization are as follows:

The Corporation is formed exclusively for charitable, religious, educational or scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(C)(3) of the Internal Revenue Code.

During the initial contact by phone on April 2, 20XX, with the president of the organization, \_\_\_\_\_ stated that the organization ( \_\_\_\_\_ ) was inactive since September 20XX and his tax preparer filed a post card for 20XX stating that the organization was inactive and there is no intention to continue and that's due to shortage of funds. \_\_\_\_\_ went on to say that "the organization has no fiscal address now and the address on the return is my brother's house address. I'm residing in the State of \_\_\_\_\_ now. The organization documents were on a computer and I don't know where it is now. But the tax preparer should have the information needed and I will contact her in regard to this matter". In regard to the assets. \_\_\_\_\_ said" since the organization is a radio station office, I have given away the furniture and the office equipment's, so there were no assets left". The organization filed the 990 form for the years 20XX and 20XX ending in December 31, only. No other form filed with the Internal Revenue Service.

The originally filed form 990 for the year 20XX ending in December 31, which is the year under exam, shows the following:

Income  
Contributions \$

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<b>Name of Taxpayer</b>		<b>Year/Period Ended</b> December 31, 20XX

Expenses	
Salaries	\$
Other expenses	\$
Total Expenses	\$
Net Loss	\$
Total Assets	\$

No filing of post card for 20XX12 has been found or made by the organization. The organization has filed the 990 form for the years 20XX12 and 20XX12 only.

LAW:

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

Section 1.501(c)(3)-1(a)(1) of the regulations provides that in order to be exempt as an organization described in section 501(c)(3) of the Code, the organization must be one that is both organized and operated exclusively for one or more of the purposes specified in that section.

Treas. Reg § 1.6033-1(h)(2) provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and IRC § 6033.

IRC § 6033(a)(1) provides, except as provided in IRC § 6033(a)(2), every organization exempt from tax under § 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws. The Secretary may also prescribe by forms or regulations the requirement of every organization to 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.

In accordance with the above cited provisions of the Code and Regulations under IRC § 6001 and 6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a complete and accurate annual

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information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status.

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 Service officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any Internal Revenue law.

Revenue Ruling 59-95, 1959-1 C.B. 627, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The IRS held that the failure or inability to file the required information return or otherwise to comply with the provisions 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 exempt status.

The organization has failed to show us that they meet the operational test for a § 501(c)(3) organization for the year under examination. In order to meet the operational test, they must show that they engage primarily in activities which accomplish one or more of such exempt purposes specified in section § 501(c)(3). The organization has failed to provide records as is required in Code § 6033(a)(1) and Regulation § 1.6033-1(h)(2). They failed to provide any organizational or financial information that we requested during the examination.

Without the organization's records, we cannot verify that they are operating according to their exempt purpose. Our position is that the organization, then, is not operating for exempt purposes. They have provided nothing to the contrary.

This situation is similar to the case in Revenue Ruling 59-95. In that case, tax-exempt status was revoked for failure to establish that it was observing the required conditions for exempt status, namely, providing financial statements. The organization has also failed to provide records and should likewise have their exempt status revoked

Clearly, they have not been performing exempt purpose activities since September, 20XX which is required for a §501(c)(3) organization to keep their tax-exempt status. Accordingly, we are proposing revocation because they do not operate for exempt purposes.

As a result of the information we have, we determined that the organization is not operating for exempt purposes as a §501(c)(3) organization. Accordingly, since the organization failed to

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<b>Name of Taxpayer</b>		<b>Year/Period Ended</b> December 31, 20XX

operate primarily for exempt purposes and inactive since September 20XX, we are proposing revocation of their tax-exempt status, effective January 1, 20XX.

#### TAXPAYER'S POSITION:

The taxpayer declared that the organization has no operational or financial activities.

#### GOVERNMENT'S POSITION:

The Government position is that, the organization has been inactive for several years now and that there have been no operations or financial activities conducted since September 01, 20XX.

In accordance with the above cited provisions of the Code and regulations under sections 6001 and 6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax.

The , failed to meet the organizational and operational requirements for continued exemption under IRC 501(c) (3).

#### CONCLUSION:

The organization ended activities and ceased to operate since September 01, 20XX, thus failing to meet the organizational, operational and reporting requirements per Treas. Reg. section 1.501(c)(3)-1(c)(1) which provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities that accomplish one or more of the exempt purposes specified in IRC section 501(c)(3) and including IRC §§ 6001 and 6033 to be recognized as exempt from federal income tax under IRC § 501(c)(3). By the Organization ceasing all activities it has effectively failed to comply with the applicable Code and Regulations.

As a result, we have determined that the organization is not operating for exempt purposes as a §501(c)(3) organization.

Accordingly, the organization's exempt status is revoked effective September 1, 20XX. Contributions to the organization are no longer deductible under section 170 of the Internal Revenue Code.



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