



**DEPARTMENT OF THE TREASURY**

INTERNAL REVENUE SERVICE

TE/GE: EO Examinations

1100 Commerce Street, MC 4920DAL

Dallas, TX 75242

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

December 7, 2016

Number: **201715002**  
Release Date: 4/14/2017

Taxpayer Identification Number:

Person to Contact:

UIL: 501.03-00

Identification Number:

Contact Telephone Number:

**CERTIFIED MAIL**

Dear \_\_\_\_\_ :

This is a final adverse determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code (the Code). Our favorable determination letter to you dated December 2, 19XX is hereby revoked and you are no longer exempt under section 501(a) of the Code effective January 1, 20XX.

Organizations described in section 501(c)(3) of the Internal Revenue Code and exempt from tax under section 501(a) must be both organized and operated exclusively for exempt purposes. 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 inure to the benefit of private shareholders or individuals. You failed to respond to repeated reasonable requests to allow the Internal Revenue Service to examine your records regarding your receipts, expenditures, or activities as required by I.R.C. sections 6001, 6033(a)(1), Treasury Regulation 1.6033-2(i)(2) and Rev. Rul. 59-95, 1959-1 C.B. 627. Moreover, you failed the organizational test for exemption because your corporate status has been dissolved; therefore, you are not a corporation, community chest, fund, or foundation as required by I.R.C section 501(c)(3).

Contributions to your organization are no longer deductible under IRC §170.

You are required to file income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the tax year ending December 31, 20XX and for all tax years thereafter in accordance with the instructions of the return.

Processing of income tax returns and assessments 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 under the declaratory judgment provisions of section 7428 of the Code, a petition to the United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia must be filed before the 91<sup>st</sup> Day after the date this determination was mailed to you. Please contact the clerk of the appropriate court for rules regarding filing petitions for declaratory judgments by referring to the enclosed Publication 892. You may write to these courts at the following addresses:

United States Tax Court  
400 Second Street, NW  
Washington, D.C. 20217

United States Court of Federal Claims  
717 Madison Place, NW  
Washington, D.C. 20005

United States District Court for the District of Columbia  
333 Constitution Avenue, NW  
Washington, D.C. 20001

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit [taxpayeradvocate.irs.gov](http://taxpayeradvocate.irs.gov) or call 1-877-777-4778.

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

Sincerely,

Mary Epps  
Acting Director, EO Examinations

Enclosure:  
Publication 892

Internal Revenue Service  
Tax Exempt and Government Entities Division

Department of the Treasury

**Date:**

August 5, 2016

**Taxpayer Identification Number:**

**Form:**

**Tax Year(s) Ended:**

**Person to Contact/ID Number:**

**Contact Numbers:**

**Manager's name/ID number:**

**Manager's contact 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 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 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:

Internal Revenue Service  
Office of the Taxpayer Advocate  
Taxpayer Advocate Service

**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,

Margaret Von Lienen  
Director, EO Examinations

Enclosures:  
Report of Examination  
Form 6018  
Determinations Package  
Publication 892  
Publication 3498

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATIONS OF ITEMS</b>		Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended <b>December 31,</b> <b>20XX</b>	

### ISSUE

1. Whether the \_\_\_\_\_ continues to qualify for exemption under Section 501(c)(3) of the Internal Revenue Code?

### FACTS

The organization was granted tax-exempt status on December 2, 19XX under Internal Revenue Code Section 501(a) as an organization described in Section 501(c)(3). According to its Articles of Incorporation dated May 1, 19XX, the purposes of the EO are:

Solely those exempt purposes as defined in Section 501(c)(3) of the Internal Revenue Code of 1954, and specifically do not include any pecuniary profit, gain, or private advantage for the incorporators, directors, or officers of the corporation, and it is organized solely for charitable and educational purposes.

The exempt purpose of the organization as stated in the original application for exemption (Form 1023) is to:

The organization filed Form 990-N for the year ended December 31, 20XX and as such, no financial information was available from the review of the filed return to enable the Secretary to make a determination of whether the organization's activities were charitable in nature. Additionally, no evidence was available to determine whether the organization was conducting activities in accordance with its stated purpose.

We began an examination on July 27, 20XX. We left voicemails for the president, ( \_\_\_\_\_ ), at various phone numbers found in the case file and through a review of Accurint records. \_\_\_\_\_ did not respond to the various voice mail messages left in attempt to reach him.

We issued a request for information (Information Document Request, or IDR) on September 14, 20XX along with an initial contact Letter 3611. The request was for financial and organizational information for the year under examination and set the examination for October 13, 2XX at the principal address listed for the organization. The organization failed to respond to the request for documentation as it did not respond to the request by October 13, 20XX.

On December 3, 20XX, we prepared a subsequent Letter 3611 along with a copy of the original information document request and mailed the documents certified (see exhibit A) to the taxpayer's address of record. We set the subsequent examination date for January 4, 20XX at the address of record for the organization. Additionally, we completed a postal tracer request (see exhibit B) on December 3, 20XX to verify the address of the taxpayer.

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We received verification of receipt of the certified mailing (see exhibit C) for the second L3611 signed by . We also received verification of the address of record from the postal tracer (see exhibit D). We drove to the address of record on January 4, 20XX to meet with the taxpayer and conduct the field examination; however, the taxpayer did not answer the door of the residence and did not appear to be present at the premises.

To date, we have not received financials, organizational information, meeting minutes, board of director lists, and other documents requested on IDR 001.

Exhibit E provides copies of the Internal Revenue Service correspondence sent to the taxpayer attempting to schedule the examination and to obtain the required documentation to verify the activities of the organization. The exempt organization failed to respond to the Internal Revenue Service correspondence for the tax period ending December 31, 20XX.

### LAW

Section 501(c)(3) of the Internal Revenue Code provides an exemption from federal income tax for: corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals. The exemption is available where: no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, and which does not participate in, or intervene in, any political campaign on behalf of any candidate for public office.

Section 6001 of the Internal Revenue Code provides that every person liable for any tax imposed by the IRC, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

Section 6033(a)(1) of the Internal Revenue Code provides that 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.

Treasury Regulation Section 1.6001-1(c) states that every organization exempt from tax under section 501(a) shall keep such permanent books of account or records, including inventories, as are sufficient to show specifically the items of gross income, receipts and disbursements. Such organizations shall also keep such books and records as are required to substantiate the information required by section 6033.

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Treasury Regulation Section 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.

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 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.

Revenue Ruling 59-95, 1959-1 C.B. 627, concerns an exempt organization asked to produce 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 Internal Revenue Service 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.

## GOVERNMENT'S POSITION

### *1. Failure to Meet the Operational Test*

The EO 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). We will not regard an organization as having met this test if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

As evidence of their failure to operate for exempt purposes, we reviewed the Form 990-N filings and found little or no support for exempt operations. The Form 990-N filed for the year ended December 31, 20XX does not state the exempt purpose or describe the activities of the organization. It does not show that they incurred expenses on their exempt function program services. The subsequent years returns Form 990-N also do not show any exempt purpose activities. The organization has failed to show that they have been performing exempt purpose activities since January 1, 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.

### *Failure to Provide Records*

The EO 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



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requested during the examination. We attempted to obtain these records numerous times by mail and phone. Without the EO'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.

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 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 Organization has failed repeatedly to respond to the Service's request for information in contrast to section 1.6033-1(h)(2) of the regulations, which require an organization to provide such information as requested to allow the Service to make a determination of that organization's exempt status.

It is the Service's position that the organization failed to meet the reporting requirements under IRC §§ 6001 and 6033 to be recognized as exempt from federal income tax under IRC § 501(c)(3). Accordingly, we propose that the organization's exempt status be revoked effective January 1, 20XX.

### TAXPAYER'S POSITION

The taxpayer's position is unknown at this time.

### CONCLUSION

By not complying with the Code and Regulations, the organization has jeopardized its exempt status. The Forms 990-N that the organization has filed fail to show that they are operating for exempt purposes. They have also failed to provide required documentation, thereby failing to be complaint with the Code, and failing to show any evidence of their exempt activities. We have no reason to believe that the EO is operating for exempt purposes.

As a result of the examination, we have determined that the EO is not operating for exempt purposes as a §501(c)(3) organization. They have not provided any information to the contrary. Accordingly, since the organization failed to operate primarily for exempt purposes, we are proposing revocation of their tax-exempt status, effective January 1, 20XX.

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Since the organization will no longer have tax-exempt status beginning January 1, 20XX, they are liable for filing Form 1120, *U.S. Corporation Income Tax Return*, as of that date.

It is the Services position that the Organization does not qualify for exemption from federal income tax under IRC §501(c)(3). The proposed date of the revocation is January 1, 20XX.