



DEPARTMENT OF THE TREASURY

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

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

Date: May 1, 2017

Taxpayer Identification Number:

Number: **201749020**
Release Date: 12/8/2017

Person to Contact:

Employee Identification Number:

Employee Telephone Number:

UIL: 501.04-00

CERTIFIED MAIL – Return Receipt Requested

Dear :

This is a Final Adverse Determination Letter as to your exempt status under section 501(c)(4) of the Internal Revenue Code. Your exemption from Federal income tax under section 501(a) of the code is hereby revoked effective January 1, 20xx.

Our adverse determination was made for the following reasons:

You have not demonstrated that you have operated exclusively for exempt purposes within the meaning of Internal Revenue Code § 501(c)(4) and Treasury Regulations 1.501(c)(4)-1. The examination of your available records shows you have not operated as a social welfare organization which benefit the community as a whole, rather your services benefits a private group of citizens. We identified indicators of profit motive intent as it relates to carrying on a business with the general public in a manner similar to organizations operated for profit, instead of promoting social welfare within the meaning of Reg. 1.501(c)(4)-1(a)(2).

Organizations that are not exempt under section 501 of the Code generally are required to file federal income tax returns and pay tax, where applicable. For further instructions, forms, and information please visit www.irs.gov. 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, you may file an action for declaratory judgment under the provisions of section 7428 of the Code in one of the following three venues: United States Tax Court, the United States Court of Federal Claims, or the United States District Court for the District of Columbia. A petition or complaint in one of these three courts must be filed before the 91st day after the date this determination was mailed to you if you wish to seek review of our determination. Please contact the clerk of the respective court for rules and the appropriate forms regarding filing petitions for declaratory judgment by referring to the enclosed Publication 892. Please note that the United States Tax Court is the only one of these courts where a declaratory judgment action can be pursued without the services of a lawyer.

You may write to the courts at the following addresses:

United States Tax Court
400 Second Street, NW
Washington, DC 20217

US Court of Federal Claims
717 Madison Place, NW
Washington, DC 20005

U. S. District Court for the District of Columbia
333 Constitution Ave., N.W.
Washington, DC 20001

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect you 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 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 yours,

Maria D. Hooke
Director, EO Examinations

Enclosures:
Publication 892



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

Date:
January 9, 2017
Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:
Telephone:
Fax:
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)(4) 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)(4).

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 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

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,

Mary A. Epps
Acting Director, EO Examinations

Enclosures:

Report of Examination Form 886-A
Form 6018
Publication 892
Publication 3498

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended 12/31/20xx ,12/31/20xx 12/31/20xx, & 12/31/20xx

ISSUES:

Is _____ operating within the meaning of section 501(c)(4) of the Internal Revenue Code?

FACTS:

A compliance examination was conducted for _____ (Hereafter The Organization) as an organization operating as a section 501(c)(4) organization. The examination was for the tax year ending December 31, 20xx and was expanded to include tax years ending December 31, 20xx, December 31, 20xx and December 31, 20xx.

According to the information on file with the Internal Revenue Service (BMFOLO) the Organization's exempt status is a status 36 self-declared under the subsection 501(c)(4) type organization.

The Organization has never filed an information return form 990 or a tax return form 1120.

The Organization operates a dog rescue focusing on _____ and _____ breeds of dogs and shelters the dogs using foster homes while seeking adoptive families.

The Initial research showed The Organization has not completed a form 1023 or form 1024 and has not received approved tax exempt status under any section of 501(c).

The Organization's website contained the following statements:

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Tax-Deductibility depends on particular donor's tax bracket and charitable donations.

The president of The Organization stated that the house where the books and records were kept caught fire on October 7, 20xx and caused damage to the computer, books and records and therefore the Organization is not able to provide receipts, adoption information, expense reports, organizational information or other substantiating documentation that was requested by the Service for the examination.

The _____ Fire Rescue's report of the house fire stated an estimated damage to the property was \$xx,xxx and \$xx,xxx damage to the content. "This fire was the result of an electric short circuit in the fixed wiring above the kitchen ceiling. The fire spread up through the attic and broke through the roof. The fire caused extensive damage to the kitchen, attic and contents. "

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The Organization provided PayPal form 1099-K for Tax years ending December 31, 20xx With deposits of \$xxx,xxx.xx, December 31, 20xx With deposits of \$xxx,xxx.xx and December 31, 20xx with deposits of \$xx,xxx.xx.

During the initial interview the examiner requested additional information regarding the expenditures of The Organization. The President agreed to provide a list of expenditures from PayPal statements as the receipts had been damaged during the fire.

Organizational expenses or receipts were never provided to the agent.

Multiple attempts were made to request and receive additional information to complete the examination however the letters sent certified mail were returned as The Organization did not accept or retrieve the letters from the postal service.

The Organization's president resides at the house in which The Organization operates but according to the president some of the dogs surrendered or rescued are kept at foster homes. The president has never provided a list of locations where dogs were presently housed.

LAW:

§ 501(c)(4)

(4)

(A) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

(B) Subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

§ 1.501(c)(4)-1 Civic organizations and local associations of employees.

(a) Civic organizations—

(1) In general. A civic league or organization may be exempt as an organization described in section 501(c)(4) if—

- (i) It is not organized or operated for profit; and
- (ii) It is operated exclusively for the promotion of social welfare.

(2) Promotion of social welfare—(i) In general. An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements. A social welfare organization will qualify for exemption as a charitable organization if it falls within the definition of charitable set forth in paragraph (d)(2) of § 1.501(c)(3)-1 and is not an action organization as set forth in paragraph (c)(3) of § 1.501(c)(3)-1.

§ 1.501(c)(3)-1

(d)(2) Charitable defined.

The term charitable is used in section 501(c)(3) in its generally accepted legal sense and is, therefore, not to be construed as limited by the separate enumeration in section 501(c)(3) of other tax-exempt purposes

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which may fall within the broad outlines of charity as developed by judicial decisions. Such term includes: Relief of the poor and distressed or of the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments, or works; lessening of the burdens of Government; and promotion of social welfare by organizations designed to accomplish any of the above purposes, or (i) to lessen neighborhood tensions; (ii) to eliminate prejudice and discrimination; (iii) to defend human and civil rights secured by law; or (iv) to combat community deterioration and juvenile delinquency. The fact that an organization which is organized and operated for the relief of indigent persons may receive voluntary contributions from the persons intended to be relieved will not necessarily prevent such organization from being exempt as an organization organized and operated exclusively for charitable purposes. The fact that an organization, in carrying out its primary purpose, advocates social or civic changes or presents opinion on controversial issues with the intention of molding public opinion or creating public sentiment to an acceptance of its views does not preclude such organization from qualifying under section 501(c)(3) so long as it is not an action organization of any one of the types described in paragraph (c)(3) of this section.

§ 6033 Returns by exempt organizations.

(a) Organizations required to file.—

(1) In general.—Except as provided in paragraph (3), 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; except that, in the discretion of the Secretary, any organization described in section 401(a) may be relieved from stating in its return any information which is reported in returns filed by the employer which established such organization.

§ 508–1 Notices.

(a) New organizations must notify the Commissioner that they are applying for recognition of section 501(c)(3) status—(1) In general. Except as provided in subparagraph (3) of this paragraph, an organization that is organized after October 9, 1969, will not be treated as described in section 501(c)(3):

Revenue Ruling 67-293

An organization substantially engaged in promoting legislation to protect or otherwise benefit animals is not exempt from Federal income tax under section 501 (c) (3) of the Internal Revenue Code of 1954, even though the legislation it advocates may be beneficial to the community, and even though most of the attempts to influence legislation may be indirect.

TAXPAYER'S POSITION:

The president stated in the initial interview that a form 1024 Application for Tax Exempt Status was filed with the Service but additional information was requested from the Service and the approval process was not completed. The president further stated that all money received is used for the benefit of the animals.

GOVERNMENT'S POSITION:

The Organization is not operating under the meaning of section 501(c)(4) of the code as a social welfare organization. The indicators that the Organization is operating with a profit motive are:

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Explanation of Items		
Name of Taxpayer		Year/Period Ended 12/31/20xx, 12/31/20xx 12/31/20xx, & 12/31/20xx

- The Organization requires a fee of \$xxx in order to surrender a dog and dogs must have recent veterinary records proving current vaccinations, spay/neuter and heartworm test results.
- The Organization is selective in the breed and type of dogs taken in as it does not accept any stray dogs.
- There are no stated waiver of fees or reduction of fees based on income or need for the surrender of the dogs.
- The fee for adoption is \$xxx to \$xxx
- There are no stated waiver of fees or reduction of fees based on income or need for the adoption of the dogs

The president of The Organization stated that she does not receive any monetary compensation however she receives free room and board and full access to two vehicles purchased by The Organization which according to Accurant are registered in the president's name. The value of these benefits does not suggest that Organization primarily promotes the common good and general welfare of the people of the community as a whole. An organization that primarily benefits a private group of citizens cannot qualify for exemption.

These activities and the lack of emphasis on the welfare of the animal suggest that the Organization is profit motivated and not performing a charitable function. The indication is that the Organization is operating a for profit business of the surrender and sales of dogs for the private benefit of the president.

CONCLUSION:

Based on the facts shown The Organization was required to file a form 990 information return provided that it was declaring exempt status under section 501(c) or a form 1120 corporate tax return as The Organization received over \$xx,xxx in each of the years under examination

The Organization's tax exempt status of self-declared section 501(c)(4) should be revoked for years ending December 31, 20xx, December 31, 20xx, December 31, 20xx and December 31, 20xx and the Organization is responsible for the filing of tax form 1120 for all years mentioned above.