



DEPARTMENT OF THE TREASURY

Internal Revenue Service
TE/GE EO Examinations
1100 Commerce Street MC 4920 DAL
Dallas, TX 75242

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

Date: JUN 15 2017

Number: **201751020**
Release Date: 12/22/2017

Person to Contact:
Identification Number:
Telephone Number:
In Reply Refer to:

**LAST DATE FOR FILING A PETITION
WITH THE TAX COURT:**

UIL: 501.03-00

CERTIFIED MAIL - Return Receipt Requested

Dear :

This is a Final Adverse Determination Letter that your exempt status under section 501(c)(3) of the Internal Revenue Code (IRC) is revoked. Recognition of your exemption under IRC section 501(c)(3) is revoked effective January 1, 20xx.

Our adverse determination was made for the following reason(s):

You have not established that you are operated exclusively for an exempt purpose or that you have been engaged primarily in activities that accomplish one or more exempt purposes within the meaning of IRC section 501(c)(3).

Contributions to your organization are not 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 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.

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. We 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 our assistance, which is always free, we will do everything possible to help you. Visit taxpayeradvocate.irs.gov or call 1-877-777-4778.

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,

Maria Hooke
Director, Exempt Organizations Examinations

Enclosure:

Publication 892

IRS Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities Division

Date:
June 14, 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(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,

Margaret Von Lienen
Director, EO Examinations

Enclosures:
Report of Examination
Form 6018
Publication 892
Publication 3498

Form 886-A (Rev. January 1994)	Department of the Treasury- Internal Revenue Service Explanation of Items	Schedule number or exhibit
Name of Organization/Taxpayer	Tax Identification Number	Year/Period ended December 31, 20xx

Issues:

Whether (Organization) tax exempt status under Internal Revenue Code (IRC) Section (Sec.) 501(c)(3) should be revoked.

Whether (Organization) is liable for filing Form 1120 U.S. Corporation Income Tax Return for the tax year 20xx and all years thereafter.

Facts:

The Organization filed Form 1023 for exemption on July 10, 20xx and was granted exemption under IRC Sec. 501(c)(3) on July 27, 20xx with an effective date of exemption of January 26, 20xx.

Internet research on the Secretary of State's website shows that Franchise Tax Board suspended the Corporate status of the organization on December 1, 20xx.

An organization exempt under IRC Sec. 501(c)(3) must be organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes and to foster national and amateur sports competition.

The organization was selected for audit to ensure that the Organization's activities and operations align with its approved exempt status.

The organization failed to respond to the Internal Revenue Service attempts to obtain information to perform an audit of Form 990 for the above mentioned tax period.

Correspondences for the audit were as follows:

- Initial Letter 3606 (Rev. 6-2012) with attachments were mailed to the organization on May 12, 20xx, with a response date of June 3, 20xx.
- Initial EOCA Letter 0000 was mailed on June 19, 20xx.
- Second Letter 3606 (Rev. 6-2012) with attachments were mailed to the organization at two different address per Internet research on November 10, 20xx.
- Second EOCA Letter 0000 was mailed was via regular mail to the organization at both addresses on December 9, 20xx with a response date of January 6, 20xx.
- Incomplete Form 990 for tax year ending December 31, 20xx was received from the organization on December 17, 20xx.

Telephone contacts for the audit were as follows:

- November 10, 20xx. Revenue Agent (RA) called the phone number listed on the Form 1023 application for , President. RA received voice mail and left a message for an officer to return the phone call. RA also left message that the case had been reassigned.

Form 886-A (Rev. January 1994)	Department of the Treasury- Internal Revenue Service Explanation of Items	Schedule number or exhibit
Name of Organization/Taxpayer	Tax Identification Number	Year/Period ended December 31, 20xx

- November 20, 20xx. RA received a return phone call from (President). She confirmed that she was still an organizational officer. She indicated to the RA that she contacted and informed the prior agent of the following: 1) The organization collected clothing and goods for a shelter a while ago; 2) It has not received and/or expended anything since then; and 3) It has not done anything, but she will try to hold a fundraiser by the end of the year if the organization must do so. She also indicated that remaining exempt is not the organization's priority anymore due to various life changes and commitments for all of the officers. The RA requested that the President confirm the aforementioned in writing and file Form 990-N for 20xx12 with the "Final Return/Terminated" box checked.
- November 23, 20xx. RA contacted the President to confirm that Form 990-N contains "Final Return/Terminated" box option.
- December 21, 20xx. RA attempted to return the President's call. RA left message to confirm that Form 990 for the subject year was received; however, RA informed the President to check the "Final Return/Terminated" box, sign and date the return and mail it. RA also left message informing the President to submit a brief statement to confirm that the organization has not been conducting activities and does not intend to continue to do so.
- March 3, 20xx. RA contacted the President. She indicated that she never received RA's voicemail of December 21, 20xx. RA provided the same instructions. The President indicated that she would complete and file Form 990-N. RA requested that she forward copy of Form 990-N filing acknowledgement.
- March 17, 20xx. RA contacted the President to inform her that Form 990-N was filed for the incorrect year. EO Select Check on www.irs.gov showed that the organization filed Form 990-N for tax year 20xx. RA requested again that the organization file Form 990-N for 20xx12 and submit an explanation regarding the organization's lack of activities.
- March 28, 20xx. RA made a follow-up call to the President. The President stated that she completely forgot about submitting Form 990-N until she recently found her notes. She stated that Form 990-N and statement will be submitted as soon as possible.
- March 30, 20xx. RA received voicemail from the President stating that she is experiencing technical difficulties on www.irs.gov. RA confirmed that the website was having problems. RA contacted the President to inform her that Form 990-N can only be filed electronically. The President stated that she will complete Form 990-N and mail explanation.
- April 25, 20xx. RA contacted the President to follow-up on March 30th discussion. She asked for confirmation of RA's address and stated that the mailing address did not sound familiar. She stated that she will check her records and mail everything again.
- May 6, 20xx. RA contacted the President again. She stated that she mailed the requested documents, but will either send them again via certified mail or drop them off at the RA's post of duty because she anticipates being in the area sometime within the next couple of weeks. RA emphasized that Form 990 needs to have an original signature.

No further communication was received from the President and no information was information was submitted. The Organization failed to provide evidence to support that its activities are being conducted in

Form 886-A (Rev. January 1994)	Department of the Treasury- Internal Revenue Service Explanation of Items	Schedule number or exhibit
Name of Organization/Taxpayer	Tax Identification Number	Year/Period ended December 31, 20xx

furtherance of its exempt status.

Law:

IRC Sec. 1.61-1 of the regulations provides that Gross income means all income from whatever source derived, unless excluded by law. Gross income includes income realized in any form, whether in money, property, or services. Income may be realized, therefore, in the form of services, meals, accommodations, stock, or other property, as well as in cash.

IRC Sec. 501(c)(3) of the Code provides that an organization organized and operated exclusively for charitable or educational purposes is exempt from Federal income tax, provided no part of its net earnings inures to the benefit of any private shareholder or individual.

IRC Sec. 511 of the Internal Revenue Code imposes a tax at corporate rates under section 11 on the unrelated business taxable income of certain tax-exempt organizations, including those described in section 501(c)(3).

IRC Sec. 6001 of the Code provides 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 Sec. 1.6001-1(c) of the Code provides that such permanent books and records as are required by paragraph (a) of this section with respect to the tax imposed by section 511 on unrelated business income of certain exempt organizations, 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. See section 6033 and §§ 1.6033-1 through 1.6033-3.

IRC Sec. 1.6001-1(e) of the Code provides 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.

IRC Sec. 6033(a)(1) of the Code provides, except as provided in section 6033(a)(2), every organization exempt from tax 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 purposes of carrying out the Internal Revenue laws as the Secretary may by forms or regulations prescribe, and 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.

Federal Tax Regulations (FTR) Sec. 1.6033-1(h)(2) of the regulations 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 section 6033.

Form 886-A (Rev. January 1994)	Department of the Treasury- Internal Revenue Service Explanation of Items	Schedule number or exhibit
Name of Organization/Taxpayer	Tax Identification Number	Year/Period ended December 31, 20xx

FTR Sec. 1.501(c)(3)-1(a) In order to be exempt under §501(c)(3), the organization must be both organized and operated exclusively for one or more of the purposes specified in the section (religious, charitable, scientific, testing for public safety, literary or educational).

FTR Sec. 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.

FTR Sec. 1.501(c)(3)-1(c)(1) of the Regulations provides that an organization will not be regarded as "operated exclusively" for one or more exempt purposes described in section 501(c)(3) of the Code if more than an insubstantial part of its activities is not in furtherance of a 501(c)(3) purpose. Accordingly, the organization does not qualify for exemption under section 501(c)(3) of the Code.

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 Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of section 6033 of the Code 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. Sec. 1.61-1 of the regulations provides that Gross income means all income from whatever source derived, unless excluded by law. Gross income includes income realized in any form, whether in money, property, or services. Income may be realized, therefore, in the form of services, meals, accommodations, stock, or other property, as well as in cash.

IRC Sec. 501(c)(3) of the Code provides that an organization organized and operated exclusively for charitable or educational purposes is exempt from Federal income tax, provided no part of its net earnings inures to the benefit of any private shareholder or individual.

IRC Sec. 511 of the Internal Revenue Code imposes a tax at corporate rates under section 11 on the unrelated business taxable income of certain tax-exempt organizations, including those described in section 501(c)(3).

IRC Sec. 6001 of the Code provides 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 Sec. 1.6001-1(c) of the Code provides that such permanent books and records as are required by paragraph (a) of this section with respect to the tax imposed by section 511 on unrelated business income of certain exempt organizations, 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. See section 6033 and §§ 1.6033-1 through 1.6033-3.

Form 886-A (Rev. January 1994)	Department of the Treasury- Internal Revenue Service Explanation of Items	Schedule number or exhibit
Name of Organization/Taxpayer	Tax Identification Number	Year/Period ended December 31, 20xx

IRC Sec. 1.6001-1(e) of the Code provides 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.

IRC Sec. 6033(a)(1) of the Code provides, except as provided in section 6033(a)(2), every organization exempt from tax 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 purposes of carrying out the Internal Revenue laws as the Secretary may by forms or regulations prescribe, and 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.

FTR Sec. 1.6033-1(h)(2) of the regulations 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 section 6033.

FTR Sec. 1.501(c)(3)-1(a) In order to be exempt under §501(c)(3), the organization must be both organized and operated exclusively for one or more of the purposes specified in the section (religious, charitable, scientific, testing for public safety, literary or educational).

FTR Sec. 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.

FTR Sec. 1.501(c)(3)-1(c)(1) of the Regulations provides that an organization will not be regarded as "operated exclusively" for one or more exempt purposes described in section 501(c)(3) of the Code if more than an insubstantial part of its activities is not in furtherance of a 501(c)(3) purpose. Accordingly, the organization does not qualify for exemption under section 501(c)(3) of the Code.

Rev. Rul. 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 Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of section 6033 of the Code 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.

IRC Sec. 11(a) imposes a tax for each taxable year on the taxable income of every corporation.

IRC Sec. 11(b)(1) provides the amount of the tax imposed by subsection (a), which shall be the sum of:

- IRC Sec. 11(b)(1)(A) 15 percent of so much of the taxable income as does not exceed \$50,000,
- IRC Sec. 11(b)(1)(B) 25 percent of so much of the taxable income as exceeds \$50,000 but does not exceed \$75,000,
- IRC Sec. 11(b)(1)(C) 34 percent of so much of the taxable income as exceeds \$75,000 but does not exceed \$10,000,000, and
- IRC Sec. 11(b)(1)(D) 35 percent of so much of the taxable income as exceeds \$10,000,000.

Form 886-A (Rev. January 1994)	Department of the Treasury- Internal Revenue Service Explanation of Items	Schedule number or exhibit
Name of Organization/Taxpayer	Tax Identification Number	Year/Period ended December 31, 20xx

IRC Sec. 162(a) allows as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including:

- IRC Sec. 162(a)(1) a reasonable allowance for salaries or other compensation for personal services actually rendered;
- IRC Sec. 162(a)(2) traveling expenses (including amounts expended for meals and lodging other than amounts which are lavish or extravagant under the circumstances) while away from home in the pursuit of a trade or business; and
- IRC Sec. 162(a)(3) rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity.

IRC Sec. 6020(a) states that if any person shall fail to make a return required by this title or by regulations prescribed thereunder, but shall consent to disclose all information necessary for the preparation thereof, then, and in that case, the Secretary may prepare such return which being signed by such person, may be received by the Secretary as the return of such person.

IRC Sec. 6020(b)(1) states that if any person fails to make any return required by any Internal Revenue law or regulation made thereunder at the time prescribed therefore, or makes, willfully or otherwise, a false or fraudulent return, the Secretary shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise.

IRC Sec. 6020(b)(2) states that any return so made and subscribed by the Secretary shall be prima facie good and sufficient for all legal purposes.

Government's Position

The organization has failed to provide information and/or documentation to support that Organization is conducting activities in furtherance of their exempt status, which was requested during numerous conversations with the President. Therefore, exempt status of Organization should be revoked and Form 1120, U.S. Corporation Income Tax Return, should be filed for 20xx and each year thereafter as long as the organization remains subject to Federal income tax. If the proposed revocation becomes final, appropriate State officials will be notified of such action in accordance with §6104(c) of the Internal Revenue Code.

Organization's Position

The organization has failed to provide information as requested during numerous conversations with the President.

Conclusion:

Since the organization was not operating exclusively for the exempt purpose under IRC section 501(c)(3), for which it obtained its exempt status, its Federal tax exempt status under such section should be revoked effective January 1, 20xx. is liable for filing Form 1120 U.S. Corporation Income Tax Return for the tax year ended December 31, 20xx and all years thereafter.