



DEPARTMENT OF THE TREASURY

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

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

Date: **JUL 24 2017**

Release Number: **201752013**
Release Date: 12/29/2017
UIL Code: 501.03-00

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

LAST DATE FOR FILING A PETITION
WITH THE TAX COURT: **OCT 23 2017**

CERTIFIED MAIL - Return Receipt Requested

Dear :

This is a final adverse determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code (IRC). Recognition of your exemption under IRC section 501(c)(3) is revoked effective August 1, 20xx.

Our adverse determination was made for the following reasons:

You have failed to produce documents to establish that you are operated exclusively for exempt purposes within the meaning of Internal Revenue Code 501(c)(3), 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 IRC section 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 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 July 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 judgement. 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 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

Enclosures:
Publication 892



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

Date:
January 20, 2017
Taxpayer Identification Number:

Form:

Tax Year(s) Ended:
July 31, 20xx
Person to Contact/ID Number:

Contact Numbers:
Telephone:
Fax:
Manager's Name/ID Number:

Manager's Contact Number:

Response due date:
February 20, 2017

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,

Mary A. Epps

Acting Director, EO Examinations

Enclosures:
Report of Examination
Form 6018
Publication 892
Publication 3498

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

ISSUE:

Does _____ continue to qualify as a school even though they've ceased operations and sold all of their assets with the exception of one building to house its administrative paperwork?

FACTS:

_____ was the (est. 18xx) college in _____. It was located in the town of _____. A few years ago, the _____ college reinstated its football team after a nearly xx-year hiatus in hopes of saving it from mounting debt by increasing enrollment and building excitement. Instead, the school was burdened with waves of new students who couldn't pay their bills and overwhelming football expenses.

On February 12, 20xx, _____ confirmed its bankruptcy plan (Case No. _____, Eastern District of _____). A federal judge approved a formal liquidation plan. In a property auction that followed all property and facilities, with the exception of one building (_____) were sold.

_____ is no longer operating because the U.S. Department of Education said that students can no longer use their federal aid because federal statutes disqualify schools that file for bankruptcy. Classes were suspended in 20xx, and the school filed for bankruptcy in 20xx. Currently, _____ is not involved in any type of IRC 501(c)(3) activity, and it doesn't have a Board of Regents or any other type of governing body.

LAW:

IRC 501(a) An organization described in subsection (c) or (d) or section 401(a) shall be exempt from taxation under this subtitle.

IRC 501(c)(3) 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 to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, 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 (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
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IRC 509(a) provides that organizations described in section 501(c)(3) are private foundations unless they are described in IRC 509(a)(1)-(4).

IRC 509(a)(1) includes schools, as that term is defined in IRC 170(b)(1)(A)(ii) and Treas. Reg. § 1.170A-9(c). Treas. Reg. § 1.170A-9(c) provides that the term "school" includes an educational organization "if its primary function is the presentation of formal instruction and it normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. The term includes institutions such as primary, secondary, preparatory, or high schools, and colleges and universities. It includes Federal, State, and other public-supported schools which otherwise come within the definition. It does not include organizations engaged in both educational and non-educational activities unless the latter are merely incidental to the educational activities."

IRC 170(b)(1)(A)(ii) to qualify as a school as defined in the Code, a "school" must, (a) primarily present formal instruction, (b) maintain a regular faculty and curriculum, (c) have a regularly enrolled body of students, and (d) have a facility.

Treas. Reg. § 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. § 1.501(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) of the Internal Revenue Code. 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(d)(3)(i) defines education as:

- a. "the instruction or training of the individual for the purpose of improving or developing his capabilities"
- b. "the instruction of the public on subjects useful to the individual and beneficial to the community."

Treas. Reg. § 1.509(b)-1 provides that an organization that becomes a private foundation on any date after October 9, 1969, the organization will be treated as a private foundation for all subsequent periods, unless its status as such is terminated under IRC 507.

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TAXPAYER'S POSITION:

The court designated Plan Agent/Liquidating Trustee has failed to respond to my repeated attempts to contact her. Their position is unknown.

GOVERNMENT'S POSITION:

Section 1.501(c)(3)-1(c)(1) tells us that, to qualify for exemption under IRC 501(c)(3), the organization must be engaged exclusively in activities that further its exempt purposes. If the organization changes its activities, so that it is no longer "engaged exclusively in activities that further its exempt purposes," revocation must be considered.

The criteria that an organization must meet to be considered a school are as follows; it must primarily present formal instruction, it must maintain a regular faculty and curriculum, it must have a regularly enrolled body of students and have a facility. If one or more of these criteria are missing than the entity fails to be a school as defined in IRC 170(b)(1)(A)(ii).

Consideration was also given to whether or not the _____ that houses the administrative files is considered an integral part of a school such as a bookstore, cafeteria, housing for college students or an organization that promotes alternative education. Again, since the College no longer qualifies as an educational entity as defined by the Code the building isn't an integral part of a school.

If an organization fails to qualify as a school as defined in section 170(b)(1)(A)(ii) of the Code consideration must still be given to its qualification as a 501(c)(3) organization with either a different foundation classification or private foundation status.

A school must essentially meet the four prongs outlined in the Regulations to be classified under 170(b)(1)(A)(ii). _____ clearly meets none of these. Consideration was given as to whether the College may continue to qualify as a public charity on some other basis. For example, the organization's sources of revenue may allow it to continue to meet the numerical test for public charity status under IRC 509(a)(1) and IRC 170(b)(1)(A)(vi), or perhaps more likely, IRC 509(a)(2). _____ no longer has any sources of income.

CONCLUSION:

Because _____ has ceased to exist and has distributed all of its assets except for _____, and no longer has a source of income, a governing body, a faculty, an established curriculum or student body, we have determined that _____ no longer qualifies for exemption as an organization described in section 501(c)(3) of the Internal Revenue Code.

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