



**DEPARTMENT OF THE TREASURY**

Internal Revenue Service  
TE/GE EO Examinations  
1100 Commerce Street MC4920DAL  
Dallas, TX 75424

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

Date: **DEC -7 2017**

Release Number: **201826012**  
Release Date: 6/29/2018  
UIL Code: 501.03-00

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

**LAST DATE FOR FILING A PETITION  
WITH THE TAX COURT: MAR -7 2018**

**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 January 1, 20xx.

Our adverse determination was made for the following reasons:

You are not described in section 501(c)(3) of the Code because you are not operated exclusively for exempt purposes within the meaning of Internal Revenue Code section 501(c)(3) and Treasury Regulations section 1.501(c)(3)-1(c)(1). You do not engage primarily in activities that accomplish one or more exempt purposes specified in section 501(c)(3) and Treasury Regulations section 1.501(c)(3)-1(d).

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 may write to the courts at the following:

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 help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your tax problem with the IRS. If you qualify for assistance, which is always free, we will do everything possible to help you. Visit [taxpayer.irs.gov](http://taxpayer.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, EO Examinations

Enclosures:  
Publication 892



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

Date:  
August 1, 2017  
Taxpayer Identification Number:  
Form:

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

Contact numbers:  
Telephone:  
Fax number:

Manager's Name / ID Number:

Manager's Contact Number:

Response Due Date:  
August 31, 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. 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

**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,

Director, EO Examinations

Enclosures:

Report of Examination

Form 6018

Form 4621

Copy of Form 1023EZ

Copy of Determination Letter dated 11-07-20xx

Publication 892

Publication 3498

|                  |                                                                                      |                             |
|------------------|--------------------------------------------------------------------------------------|-----------------------------|
| Form <b>886A</b> | Department of the Treasury - Internal Revenue Service<br><b>Explanation of Items</b> | Schedule No. or<br>Exhibit  |
| Name of Taxpayer |                                                                                      | Year/Period Ended<br>20xx12 |

**Date of Notice: August 1, 2017**

**Issues:**

Whether the organization continues to qualify for exemption from Federal Income Tax under Section 501(c)(3) of the Internal Revenue Code.

**Facts:**

filed the 1023EZ Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code on November 4, 20xx. Organization granted exemption as a 501(c)(3) on November 7, 20xx. Effective date is October 3, 20xx. Organization checked on Form 1023EZ they will be organized and operated exclusively for charitable purpose.

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

Organization filed Form 990EZ for December 31, 20xx tax year. Organization's Form 990EZ for December 31, 20xx identifies their mission statement as "to help the needy". They do this by having members participate in charity events in all of their regions, including program in , our program in as well as to provide other assistance to individuals in and . They provide assistance in these areas by conducting poker runs, chili cook off and Easter egg hunts. Money made from these activities is donated back to the communities where the activities were conducted. These activities are conducted by different as well as

Organization has total revenue listed as \$xx,xxx. Contributions and grants of \$xx,xxx and program service revenue of \$x,xxx. Expenses were identified as insurance, office expenses, travel, website, state filing fees, funeral expense and conferences, conventions and meetings. Expenses were in the amount of \$xx,xxx. Conference and conventions were the largest expense and were in the amount of \$x,xxx.

Letter 3606 with Form 4564 IDR, *Information Document Request*, was sent to organization on March 22, 20xx. IDR requested organization to send copy of Articles of Incorporation and any amendments, detailed list of activities they conduct, meeting minutes from October 20xx to March 22, 20xx.

Organization was asked to explain their responses to line 6 and 8 of the Form 1023EZ;

**(6)** Do you or will you donate funds to or pay expenses for individual(s)?

**(8)** Do you or will you engage in financial transactions (for example, loans, payments, rents, etc.) with any of your officers, directors, or trustees, or any entities they own or control?

|                             |                                                       |                             |
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**Organization replied on April 24, 20xx.**

The \_\_\_\_\_ was established in 19xx. On March 15, 20xx we voted to purchase xx acres of vacant land in \_\_\_\_\_ to help the family of a former member who was killed in a construction accident. During the summer of 20xx we had a few ideas of how to title the ownership of the land by establishing a business entity. After receiving council from a \_\_\_\_\_ Attorney he suggested a not for profit. This made sense to the entire membership because we were already doing a lot of charitable events. We obtained a law firm and established the 501(c)(3) under the name \_\_\_\_\_ based on a patch we wear on our vests. Since the purchase of the land we have erected a building, built showers and restrooms on the property. We hold charitable events at this location and offer its use to local organizations for their events at no cost. At the other states where we are established we organize and attend many charitable events as shown with the flyers and photos provided with this letter. We help raise funds at these events by putting on raffles, poker runs etc. We do have a web site it is \_\_\_\_\_

\_\_\_\_\_ provided a list of members of the \_\_\_\_\_ who they gave loans to and forgave loans either because the member died or could not afford to pay them back. \_\_\_\_\_ gave donations to family members of \_\_\_\_\_ to help with funeral expenses.

Included in reply from organization dated April 24, 20xx were the organizations minutes.

December 20xx

Included purchasing the property in \_\_\_\_\_ for \$xx,xxx, with all members voting unanimously to purchase.

May 5, 20xx

Officer discussed the meeting with the Attorney. Organization discussed land trust idea for property. Attorney states he had not heard of a land trust and suggested a not for profit. Vote was unanimous. Talk of spending one work day on logging of property.

September 20, 20xx

Talked about building a metal prefab building for property to store tools and equipment. Idea of getting water ran to the building for showers and toilets. Spoke to logging company and cant log until fall.

May 21, 20xx

Discussed \_\_\_\_\_ and the filing of the Form 990 and \_\_\_\_\_ annual report. Report discussed the logging of the property with the \_\_\_\_\_. Discussed the nation's chapters and how they want quality not quantity of members. Club jewelry is earned not given away. Chapter's to pay for gas when national officers have to go somewhere. Burned old patches and constitution, brought up adding \_\_\_\_\_ brothers to the Board of Directors.

September 15, 20xx

Suggestion was made all new members should have to pay \$xxx donation for the land. Brother \_\_\_\_\_ is having financial problems. All in favor of writing off loan is unanimous.

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Elections are being held. Took everyone to the spot where memorial site will be. Discussed club history and what plans are for the future. members asking for retirement, keep in touch with retired brothers, when it comes to runs need bothers to have a list of all health issues. Spoke of wreck and fundraiser for and his family. called and thanked the brothers for donations to his daughter stuff.

December 5, 20xx

Vote was made on skipping nationals to save money.

Money spent on property and building was \$xx,xxx for property and building \$xx,xxx.

### Publications

sent publications showing the charitable activities they have conducted. One of the publications show the group delivering Christmas presents to the children who spent Christmas at

Thank you letter was received by from thanking them for their support at a fundraiser and the help they received in sales of raffle tickets.

Newspaper article regarding a showed up to present gifts to a family whose daughter was discovered to have kidney cancer. The club paid for the families rent, electric bill, phones and other items.

had chili cook off with all proceeds being donated to

Various publications were received identifying other from and receiving certificates of appreciation for their help and donations.

In regards to phone conversation with on July 10, 20xx, question was asked of "Who do they meet with regarding travel, conferences and conventions"? His reply was other chapters of the

identified their website as

### Law:

IRC. § 501(c)(3) exempts from federal income tax, organizations organized and operated exclusively for religious, charitable, scientific, or educational purposes whereby no part of the net earnings 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 intervene on behalf of (or in opposition to) any candidate for public office.

|                             |                                                       |                             |
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Treas. Reg. § 1.501(c)(3)-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 purposes specified in such section. If an organization fails to meet either the organizational or the operational test, it is not exempt. An organization is organized exclusively for one or more exempt purposes only if its articles of the organization as defined in subparagraph (2) of this paragraph: (a) Limit the purposes of such organization to one or more exempt purposes; and (b) Do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Treas. Reg. 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), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. You conduct an activity that provides direct benefits to members and private individuals that is more than insubstantial in nature. For this reason you are not operating exclusively for exempt purposes (Section 1.501(c)(3)-1(c)(1) of the Regulations). As a result you do not satisfy the operational test requirement to be recognized as exempt under section 501(c)(3) of the Code, and are not as described in section 501(c)(3) of the Code.

Treas. Reg. § 1.501(c)(3)-1(c)(1) states that an organization will be regarded as "operated exclusively" for one or more purposes only if it engages primarily in activities which accomplish one or more such exempt purposes specified in section 501(c)(3). 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(c)(2) provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals. Section 1.501(a)-1(c) provides that the terms "private shareholder or individual" as used in section 501 refer to persons having a personal and private interest in the activities of the organization.

Treas. Reg. § 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized or operated exclusively for charitable purposes unless it serves a public rather than a private interest. It is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Treas. Reg. § 1.501(c)(3)-1(e) states that an organization may meet the requirements of section 501(c)(3) although it operates a trade or business as a substantial part of its activities, if it operates the trade or business in furtherance of its exempt purposes. The organization must not be organized or operated for the primary purpose of carrying on an unrelated trade or business.

In *Better Business Bureau of Washington, D.C., Inc. v. United States*, 325 U.S. 844, the Court held that the presence of a single non-exempt purpose, if substantial in nature, will destroy a claim for exemption regardless of the number or importance of truly exempt purpose.

|                  |                                                                                      |                             |
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In *Easter House v. United States*, 12 Cl. Ct. 476, 487 (1987), citing section 1.501(c)(3)-1(d)(1)(ii) of the regulations, aff'd without opinion, 846 F.2d 78 (Fed.Cir.1988), that an organization is not operated exclusively for exempt purposes if it serves a private rather than a public interest.

In *Old Dominion Box Co. v. United States*, 477 F.2d 340 (4th Cir. 1973), cert. denied 413 U.S. 910 (1973), the Fourth Circuit held that operating for the benefit of private parties constitutes a substantial nonexempt purpose.

### Governments Position:

You do not meet the operational test under Treas. Reg. § 1.501(c)(3)-1(c)(1). As stated in Treas. Reg. § 1.501(c)(3)-1(a)(1), an organization must be both organized and operated exclusively for one or more exempt purposes. You do not engage primarily in activities which accomplish one or more exempt purposes specified in section 501(c)(3) of the Code and Treas. Reg. § 1.501(c)(3)-1(d)(1). was organized and operated for the benefit of . Activities are being conducted under the name of the per flyers and thank you letters received by . **Only** members or family of members are receiving loans or donations for funeral expenses.

Your activities do not further a charitable purpose as that term is defined in Treas. Reg. § 1.501(c)(3)-1(d)(2) such as relief of the poor and distressed, advancement of education or science or the lessening of the burdens of government. Although you do charitable activities you do so under the name of the For Profit and some of the . This activity alone does not meet the operational test.

You do not meet the operational test under Treas. Reg. § 1.501(c)(3)-1(c)(1) because you do not engage in activities that accomplish one or more exempt purposes specified in section 501(c)(3) of the Code. Because you do not meet the operational test, you cannot be exempt under section 501(c)(3). (See Treas. Reg. § 1.501(c)(3)-1(a)(1)).

Very little of your activities accomplish a charitable purpose under Treas. Reg. § 1.501(c)(3)-1(d)(1). As stated above, the term charitable is to be used in its generally accepted legal sense (Treas. Reg. § 1.501(c)(3)-1(d)(2)) and the presence of a single non-exempt purpose, if substantial in nature, will destroy an exemption (*Better Business Bureau v. U.S.*).

In addition, you do not meet the requirements of section 1.501(c)(3)-1(c)(1) of the Regulations, which requires you to operate exclusively in activities which accomplish one or more exempt purposes. Your financial records show a substantial amount of your funds are paid out for the benefit of . Thus, you provide a substantial private benefit to members of , and you are not operated exclusively for one or more exempt purposes "as set forth in sections 1.501(c)(3)-1(c)(2) and 1.501(c)(3)-1(d)(1)(ii) of the Regulations because your net earnings inure in whole or in part to the benefit of private individuals.

|                             |                                                       |                             |
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**CONCLUSION:**

and is one and the same organization.

Funds that come into are from members of the  
or from fundraising done by the . These funds are used to give  
loans and pay towards funeral expenses of members only.  
does do charitable activities but they do so in the name of

is not described in Section 501(c)(3) of the Internal Revenue Code  
because they are not operated exclusively for exempt purposes according to Treas. Reg.  
Section 1.501(c)(3)-1(a)(1). does not meet the operational test under  
Section 501(c)(3) because as stated in Treas. Reg. Section 1.501(c)(3)-1(c)-1 they are not  
operated exclusively for one or more Section 501(c)(3) purposes such as religious,  
educational, charitable, scientific or testing for public safety.

Based on the facts and circumstances presented, we conclude that you do not qualify for  
recognition of exemption from federal income tax as an organization described in Section  
501(c)(3) of the Code.

Accordingly, you do not qualify for exemption as an organization described in § 501(c)(3) and  
you must file federal income tax returns.

Contributions to the organization are not deductible under § 170.

exemption is revoked to effective date of exemption, January 1, 20xx.

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