



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE
TE/GE: EO Examination
1100 Commerce, MS 4920 DAL
Dallas, Texas 75242-1100

Date: DEC 04 2017

Release Number: 201826014

Release Date: 6/29/2018

Employer Identification Number:

Person to Contact/ID Number:

Contact Numbers:

Voice:

Fax:

LAST DATE FOR FILING A PETITION
WITH THE TAX COURT:

UIL: 501.03-00

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dear :

This is a final determination regarding your foundation classification. This modifies our letter dated November 8, 20xx in which we determined that you were an organization described in section 509(a)(1) as described in section 170(b)(1)(A)(vi) of the Internal Revenue Code (IRC). We have modified your foundation status to that of a public charity described in IRC section 509(a)(2), effective for tax years beginning January 1, 20xx.

Your tax exempt status under IRC section 501(c)(3) is not affected. Grantors and contributors may rely on this determination, unless the Internal Revenue Service publishes a notice to the contrary. Because this letter could help resolve any questions about your private foundation status, please keep it with your permanent records.

We previously provided you a report of examination explaining the proposed modification of your tax-exempt status. At that time, we informed you of your right to contact the Taxpayer Advocate, as well as your appeal rights. On June 13, 20xx, you signed Form 6018, *Consent to Proposed Action - Section 7428*, in which you agreed to the modification of your foundation classification to IRC section 509(a)(2). This is a final determination letter with regards to your Federal tax-exempt status under IRC section 501(a).

You are required to file Form 990, Return of Organization Exempt from Income Tax. Form 990 must be filed by the 15th day of the fifth month after the end of your annual accounting periods. A penalty of \$20 a day is charged when a return is filed late, unless there is a reasonable cause for the delay; however, the maximum penalty charged cannot exceed \$10,000 or 5 percent of your gross receipts for the year whichever is less. In addition, organizations with gross receipts exceeding \$1,000,000 for any year will be charged a penalty of \$100 a day when a return is filed late; however, the maximum penalty charged

cannot exceed \$50,000. These penalties may also be charged if a return is not complete, so be sure your return is complete before you file it.

If you are subject to the tax on unrelated business income under IRC section 511, you must also file an income tax return on Form 990-T, Exempt Organization Business Income Tax Return.

If you decide to contest this determination in court, you must initiate a suit for a declaratory judgment in the United States Tax Court, the United States Claims Court, or the District Court of the United States for the District of Columbia before the 91st day after the date this final determination letter was mailed to you. Contact the clerk of the appropriate court for rules for initiating suits for declaratory judgment. You may write to the Tax Court at the following address:

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

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your 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.

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter.

Thank you for your cooperation.

Sincerely,

Maria Hooke
Director, Exempt Organizations Examinations

Publication 892

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

Date: 6-9-2017

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact / ID Number:

Contact numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear :

We have enclosed a copy of our report of examination explaining why we propose modifying your foundation status under section 509(a) of the Internal Revenue Code (Code).

Your exempt status under section 501(c)(3) of the Code is still in effect.

If you accept our findings, take no further action. We will issue a final letter modifying your foundation status.

If you do not agree with our proposed modification of your foundation status, you may provide additional information that you would like to have considered, or you may submit a written appeal. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

If you request a conference with Appeals, you must submit a written protest within 30 days from the date of this letter. An Appeals officer will review your case. The Appeals Office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for

Letter 3620 (Rev 11-2003)

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the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final letter.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have 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

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,

Maria Hooke
Director, EO Examinations

Enclosures:
Publication 3498
Publication 892
Report of Examination

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

Issue:

Whether _____ (formerly _____) doing business as _____, is a public charity described in IRC §170(b)(1)(A)(vi) or §509(a)(2).

Facts:

_____ is organized for charitable purposes.

_____ is currently classified as an organization exempt from income tax as a 501(c)(3) organization, further classified as a public charity described in IRC 170(b)(1)(A)(vi). _____ is completing Schedule A as a public charity described in 170(b)(1)(A)(vi), meeting the 10% facts and circumstances test.

_____ is organized for the promotion of youth sports programs by providing facilities and financial aid for youth athletic programs.

_____ owns two gymnasium facilities. The facilities are used to host tournaments, camps, and games. _____ also lets others use the gym free of charge including Special Olympics and _____ (_____) and _____ (_____).

_____ is the name used by _____ for the youth sports program. _____ hosts tournaments, camps, and games in the two gymnasiums. Both volleyball and basketball activities are conducted. _____ receives income from basketball and volleyball program fees, camp fees, tournament income, concessions, and hotel commissions.

Forms 990 for 20xx through 20xx show income was received from these same sources.

See chart for summary of income received—

Tax year ending	12/31/20xx	12/31/20xx	12/31/20xx	12/31/20xx	12/31/20xx
Gifts, grants, and contributions	\$x,xxx.xx	\$xx,xxx.xx	\$x,xxx.xx	\$x,xxx.xx	\$xx,xxx.xx
Basketball Tournament		\$xx,xxx.xx	\$xxx,xxx.xx	\$xxx,xxx.xx	\$xxx,xxx.xx
Concession stand					\$xx,xxx.xx
Basketball Program		\$xxx,xxx.xx	\$xxx,xxx.xx	\$xxx,xxx.xx	\$xxx,xxx.xx
Basketball Camp		\$xx,xxx.xx	\$xx,xxx.xx	\$xx,xxx.xx	\$xx,xxx.xx
Volleyball Program				\$xx,xxx.xx	\$xxx,xxx.xx
Volleyball Camp				\$xx,xxx.xx	\$xx,xxx.xx
Volleyball Tournament				\$xxx.xx	\$x,xxx.xx
Hotel Commissions		\$xxx.xx	\$x,xxx.xx	\$x,xxx.xx	\$x,xxx.xx
Charity Golf Outing			\$xx,xxx.xx		
Interest Income	\$x.xx	\$xx.xx	\$xx.xx	\$xxx.xx	\$xxx.xx

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

The Schedule A on the 20xx Form 990 reported Public Support as \$xx,xxx, Total Support as \$xxx,xxx, and gross receipts from related activities as \$x,xxx,xxx. The public support percentage when completing the support schedule for the 170(b)(1)(A)(vi) calculation is xx.xxx% for 20xx.

Law:

Section 170(b)(1)(A)(vi) of the Code describes an organization "which normally receives a substantial part of its support from a governmental unit...or from direct or indirect contributions from the general public."

Section 509(a)(2) of the Code describes an organization that receives not more than one-third of its support from gross investment income and more than one-third of its support from contributions, membership fees, and gross receipts from activities related to its exempt functions.

Treasury Regulation section 1.170A-9(f)(2) states that an organization is publicly supported if at least 33 1/3 percent of its support is received from grants from governmental units, and direct or indirect support from the general public.

Treasury Regulation section 1.170A-9(f)(7)(3) states that even if an organization fails to meet the 33 1/3 percent support test, it is publically supported if it normally received a substantial part of its support from governmental units, from contributions made directly or indirectly from the general public, or from a combination of these sources, and meets the other requirements of this paragraph.

Treasury Regulation section 1.170A-9(f)(3)(i) states that the percentage of support normally received by an organization from governmental units, from contributions made directly or indirectly by the general public, or from a combination of these sources must be substantial. An organization will not be treated as normally receiving substantial amount of governmental or public support unless the total amount of governmental and public support normally received equals at least 10 percent of the total support normally received by such organization.

Treasury Regulation section 1.170A-9(f)(7)(iii) states that an organization will not be treated as satisfying the 33 1/3 percent test or the 10 percent support limitation if it receives (1) almost all of its support from gross receipts from related activities; and (2) and insignificant amount of its support from governmental units and contributions made directly or indirectly from the general public.

Taxpayer's Position:

The organization has not provided a written or oral statement at this time.

Government's Position:

As provided in Treasury Regulation 1.170A-9(f)(7)(iii), an organization will not be treated as satisfying the 33 1/3 percent test or the 10 percent support limitation if it receives almost all of its support from gross receipts from related activities and and insignificant amount of its support from governmental units and contributions made directly or indirectly from the general public.

main sources of revenue are from the sports activities they host, which is an activity related to its exempt purpose.

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

Contributions for the five-year period total \$xx,xxx.

Program service revenue (tournaments, program, and camp fees) for the five-year period totals \$x,xxx,xxx.

Total support (program service revenue, contributions, hotel commissions, fundraisers, and interest) for the five-year period totals \$x,xxx,xxx.

Using the five-year totals, contributions divided by total support results in x.x percent being from public support.

does not meet the 33 1/3 percent test, or the 10 percent facts and circumstances test. A majority of its income is from program service revenue and an insignificant amount is from contributions.

does meet the public support test for an organization classified as a public charity under IRC 509(a)(2).

An organization described in IRC 509(a)(2) is an organization that normally receives more than 33 1/3 percent of its support from contributions, membership fees, and gross receipts from activities related to its exempt functions and no more than 33 1/3 percent of its support from gross investment income and unrelated business taxable income.

receives xx percent of its income from contributions and gross receipts from program activities (contributions, program service revenue, hotel commissions / total support).

receives less than x percent from investment income.

meets the requirements of an organization described in IRC 509(a)(2) since more than 33 1/3 percent of its support is from contributions, membership fees, and income from related activities, and less than 33 1/3 from investment income and unrelated business taxable income.

Conclusion:

Whether _____ (formerly _____) doing business as _____, is a public charity described in IRC §170(b)(1)(A)(vi) or §509(a)(2).

_____ is exempt from federal income tax as a 501(c)(3) organization, further described as a public charity described in IRC §509(a)(2).

The effective date of the foundation status reclassification is 1/1/20xx.