



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: **APR 26 2018**

Number: **201833023**
Release Date: **8/17/2018**

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

UIL: 501.03-00

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

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). Our favorable determination letter to you dated October 17, 20 , is hereby revoked and you are no longer exempt under section 501(a), as an organization described in section 501(c)(3) of the IRC, effective January 1, 20 .

Our adverse determination was made for the following reasons:

You have not established that you are organized and 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).

You have not established that no part of your net earnings inure to the benefit of any private shareholder or individual.

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 December 31, 20 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 Court of Federal Claims 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. 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, .

A handwritten signature in black ink that reads "Maria Hooke". The signature is written in a cursive, flowing style.

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:
October 3, 2017
Taxpayer Identification Number:
Form:

Tax Year(s) Ended:

Person to Contact / ID Number:

Contact numbers:

Telephone:

Fax number:

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. 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,

Maria Hooke

Director, EO Examinations

Enclosures:
Report of Examination
Form 6018
Form 4621
Copy of Form 1023EZ
Copy of Determination Letter dated October 17,
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

Date of Notice: October 3, 20XX

Issues:

Whether which qualified for exemption from Federal Income Tax under Section 501(c)(3) of the Internal Revenue Code, should be revoked due to its failure to meet the organizational test?

Facts:

filed the 1023EZ Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code on September 23, 20XX. Organization granted exemption as a 501(c)(3) on October 17, 20X. Effective date is August 25, 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.

An organization exempt under 501(c)(3) needs to 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 sent in a copy of their organizing documents dated August 21, 20XX. These documents have the required clauses and verbiage required. The organizing documents are date stamped by the State of

The organizations purpose is to maintain a charity which would be used for the benefit of our members in case there was ever another tragic incident in our state. This would include the loss of one life or multiple lives.

We do not at this time intend to have regular fundraising events. We need this charity so that when a fire fighter losses their life in the line of duty we have a means to accept contributions on behalf of his or her family.

Law:

Section 501(c)(3) of the Code provides, in part, for the exemption from federal income tax of organizations organized and operated exclusively for charitable, religious or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Treasury Regulation Section 1.501(c)(3)-1(a)(1) states that in order to qualify under Section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one

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

or more exempt purposes. If an organization fails to meet either the organizational or operational test, it is not exempt.

Treas. Reg. Section 1.501(c)(3)-1(b)(1)(i) provides that an organization is organized exclusively for one or more exempt purposes only if its articles of organization limit its purposes to one or more exempt purposes and do not expressly empower it to engage, otherwise than as an insubstantial part, in activities which in themselves are not in furtherance of one or more exempt purposes.

Treas. Reg. Section 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 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. Section 1.501(c)(3)-1(d)(1)(ii) states that an organization is not operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. It must not be operated for the benefit of designated individuals or the persons who created it.

Rev. Rul. 67-367, 1967-2 C.B. 188, describes an organization whose sole activity was the operation of a scholarship plan for making payments to pre-selected, specifically named individuals. The organization established a plan whereby it entered into agreements with subscribers. The subscribers deposited a certain amount of money with a designated bank. The subscriber also named a specific child to be the recipient of the scholarship money. The recipient received the scholarship around the time he or she were to begin college. The organization did not qualify for exemption under Section 501(c)(3) of the Code because it was serving the private interests of its subscribers rather than serve public charitable and educational interests.

Rev. Rul. 69-175, 1969-1 C.B. 149, describes an organization which was formed by parents of pupils attending a private school. The organization provided bus transportation to and from the school for those children whose parents belong to the organization. The organization did not qualify for exemption under Section 501(c)(3) of the Code because it served a private rather than public interest.

Rev. Rul. 81-58, 1981-1 C.B. 331, describes an organization formed to provide retirement payments to its members or death benefits to the beneficiaries of the members. Its income is used to provide direct economic benefits to members. Although the class of employees benefited by the organization consists of police officers engaged in the performance of essential and hazardous public services and there is an incidental benefit provided by the organization to the larger community, the fact remains that the primary benefits from the organization are limited to its members. The organization which is primarily engaged in providing retirement benefits to members and death benefits to the beneficiaries of members, does not qualify for exemption from federal income tax under Section 501(c)(4) of the Code as a social welfare organization.

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

In *Better Business Bureau of Washington, D.C. v. United States*, 326 U.S. 279 (1945), the Supreme Court determined that the presence of a single non-exempt purpose, if substantial in nature, will destroy exemption under Section 501(c)(3) regardless of the number or importance of any other exempt purposes.

In *Police Benevolent Association of Richmond, (PBA) v. US.*, 661 F. Supp. 765, (E.D.Va.1987), the U.S. District Court held that as a matter of law, the association could not establish that it was organized and operated for a charitable purpose under Section 501(c)(3). Because a substantial purpose of the association and its activities were intended to serve the pecuniary interests of its members, a non-exempt purpose, the court held that the association could not qualify as an organization operated exclusively for the promotion of social welfare under Section 501(c)(4), either.

Application of Law:

You failed the operational test as described in Treas. Reg. Section 1.501(c)(3)-1(c)(1). You are primarily operated for the non-exempt, private benefit of your members and not exclusively for exempt purposes.

In order to qualify for exemption under Section 501(c)(3) of the Code you must serve a public, rather than a private, interest as described in Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii). You are similar to the organization described in Rev. Rul. 67-367. Like that organization, your activities serve to benefit the private interests of your members rather than the public.

Like the organization described in Rev. Rul. 69-175, you were formed to provide benefits to your members. In your case, a substantial portion of your activities consists of providing death benefits to members. The payment of these benefits serves private interests, precluding you from exemption.

The Supreme Court held in *Better Business Bureau* that a single nonexempt purpose, if substantial in nature, precludes an organization from qualifying under Section 501(c)(3) no matter the number or importance of truly exempt purposes. Despite the other qualifying charitable activities that you conduct, your activity of providing benefits to your members in the event of death, catastrophic illness, or injury is substantial and serves private, non-exempt purposes.

Similar to the organization in Rev. Rul. 81-58, your income is used to provide direct economic benefits to your members. This ruling stated that an organization which is primarily engaged in providing benefits to members does not qualify for exemption under Section 501(c)(4) of the Code as a social welfare organization. If providing payments to members is too much private benefit under Section 501(c)(4), it is logical to conclude that it is also too much private benefit to qualify under Section 501(c)(3). This was confirmed in *Police Benevolent Association*, where the court determined that an organization providing retirement and death benefits to members could not qualify for exemption under Section 501(c)(3) or 501(c)(4) due to the private benefit to members. You are similar to these associations because your only activity is providing benefits to your members and is serving private interests, which is a non-exempt purpose and precludes you from exemption under Section 501(c)(3).

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

Conclusion:

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 and you must file federal income tax returns.

Contributions to the organization are not deductible under § 170.

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