



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY

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

Release Number: **201922031**  
Release Date: 5/31/2019  
UIL Code: 501.03-00

**Date:** NOV 30 2017

**Employer Identification Number:**

**Person to Contact/ID Number:**

**Contact Numbers:**

LAST DATE FOR FILING A PETITION  
WITH THE TAX COURT: FEB 28 2018

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Dear :

This is a final determination regarding your foundation classification. This modifies our letter dated October 19xx, in which we determined that you were an organization described in section 509(a)(3) of the Internal Revenue Code (Code). We have modified your foundation status to that of a public charity described in section 509(a)(2) of the Code, effective for tax years beginning January 1, 20xx.

Your tax exempt status under section 501(c)(3) of the Internal Revenue Code is not affected. Granters 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 September 18, 20xx, you signed Form 6018, *Consent to Proposed Action - Section 7428*, in which you agreed to the modification of your foundation classification to 509(a)(2) of the Code. This is a final determination letter with regards to your Federal tax-exempt status under section 501(a) of the Code.

You are required to file Form 990, Return of Organization Exempt from Income Tax. Form 990 must be filed by the 15<sup>th</sup> 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 section 511 of the Code, 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 91<sup>st</sup> 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](mailto: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



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

Date:  
August 10, 2017  
Taxpayer Identification Number:

Form:  
990 Return  
Tax Year(s) Ended:  
December 31, 20xx  
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

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 <b>886-A</b> (Rev. January 1994)	<b>EXPLANATION OF ITEMS</b>	Schedule Number or exhibit
Name of taxpayer	Taxpayer Identification Number	Year/Period ended December 31, 20XX

**ISSUE:**

Whether ( ) qualifies for a private foundation status modification to section 509(a)(2) of the Internal Revenue Code (Code).

**FACTS:**

is an organization exempt from federal income tax under section 501(a) of the Code. is currently described as a supporting organization under section 509(a)(3) of the Code and is therefore not a private foundation.

no longer supports any public charity within the meaning of section 509(a)(3).

has reported on its Form 990, Schedule A, for the past several years that it is not a private foundation because it classifies itself as a hospital under section 170(b)(1)(A)(iii) of the Code.

The primary activities of is the operation of a hospital. provides free and discounted care to patients needing financial assistance and complies with the requirements of section 501(r) of the Code with respect to the Patient Protection and Affordable Care Act.

On average, received 0% of its revenues from gross receipts related to its exempt function as a hospital over the past 0 years.

**LAW:**

Exemption:

Section 501(a) of the Code generally provides that an organization described in subsection (c) shall be exempt from taxation.

Section 501(c)(3) of the Code generally includes corporations, organized and operated exclusively for charitable and educational purposes.

Section 1.501(c)(3)-1(a)(1) of the Treasury Regulations states that in order to be exempt under section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section.

Private Foundation Status:

Section 170(b)(1)(A)(iii) of the Code generally describes a hospital as an organization the principal purpose or functions of which are the providing of medical or hospital care or medical education or medical research.

Section 509(a) of the Code generally provides that the term "private foundation" means a domestic or foreign organization described in section 501(c)(3) other than those described under sections 509(a)(1), (2), (3) or (4).

Section 509(a)(2) of the Code includes an organization which –

(A) Normally receives more than one-third of its support in each taxable year from any combination of –

- (i) gifts, grants, contributions, or membership fees, and
- (ii) gross receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities, in an activity which is not an unrelated trade or business (within the meaning of section 513), not including such receipts from any person or from any bureau or similar agency of a governmental unit (as described in section 170(c)(1)), in any taxable year to the extent such

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATION OF ITEMS</b>	Schedule Number or exhibit
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receipts exceed the greater of \$5,000 or 1 percent of the organization's support in such taxable year,

from persons other than disqualified persons (as defined in section 4946) with respect to the organization, from governmental units described in section 170(c)(1), or from organizations described in section 170(b)(1)(A) (other than clauses (vii) and (viii)), and

(B) Normally receives not more than one-third of its support in each taxable year from the sum of –

- (i) gross investment income (as defined in subsection (e)) and
- (ii) the excess (if any) of the amount of the unrelated business taxable income (as defined in section 512) over the amount of the tax imposed by section 511

Section 509(a)(3) of the Code generally includes an organization which is organized and operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more specified organizations described in sections 509(a)(1) or (2).

#### TAXPAYERS POSITION:

has not provided its position at this time.

#### GOVERNMENTS POSITION:

qualifies as an organization described under section 509(a)(2) of the Code therefore its private foundation status will be modified accordingly.

The Internal Revenue Service (IRS) agrees that satisfies the operational and organizational test within the meaning of section 501(c)(3) of the Code.

During the audit of , it was observed that operates a hospital within the meaning of section 170(b)(1)(A)(iii) of the Code. However, is currently described as a supporting organization under section 509(a)(3) of the Code. From its creation, believed that it was in fact described under section 170(b)(1)(A)(iii).

A modification or reclassification from a supporting organization described under section 509(a)(3) to a hospital described under section 170(b)(1)(A)(iii) requires an in-depth review by the Rulings and Agreements Division of the IRS and the issuance of a formal Determination Letter granting the modification. Organizations such as churches, schools and hospitals are granted public charity status under section 501(c)(3) based on their specific operations and activities they conduct and require additional review and documentation. The Exempt Organizations, Examinations Division is not authorized to grant a Determination Letter. Therefore is required to submit Form 8940, *Request for Miscellaneous Determination*, along with the necessary supporting information and User Fee to the IRS Service Center in order to request reclassification to a hospital under section 170(b)(1)(A)(iii).

Section 509(a)(3) of the Code generally describes organizations that are organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more specified organizations described as public charities under sections 509(a)(1) or (2).

During the review of private foundation status, it was stated by , CFO for , that no longer supports any public charity described under sections 509(a)(1) or (2). Therefore no longer satisfies the requirements of section 509(a)(3).

Section 509(a)(2) of the Code generally includes an organization which normally receives more than one-third of its support from contributions, gross receipts from activities related to its exempt functions, and no more than one-third of its support from gross investment income and unrelated business taxable income.

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATION OF ITEMS</b>	Schedule Number or exhibit
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In the 0 preceding tax years, \_\_\_\_\_ has received 0% of its revenues from gross receipts related to its exempt functions as a hospital. \_\_\_\_\_ has not received more than one-third support from investment income or unrelated business activities. Therefore \_\_\_\_\_ qualifies as an organization described under section 509(a)(2).

**CONCLUSION:**

\_\_\_\_\_ qualifies for a private foundation status modification to section 509(a)(2) of the Code effective January 1, 20XX.