



Department of the Treasury
Internal Revenue Service
Appeals Office

Date: March 07, 2019

Person to contact:
Name:
Employee ID number:
Telephone:
Fax:
Hours:
Employer ID number:

Release Number: **201922038**
Release Date: 5/31/2019

Uniform issue list (UIL):
501.03-05

Certified Mail

Dear .:

This is a final adverse determination that you do not qualify for exemption from federal income tax under Internal Revenue Code (the "Code") Section 501(a) as an organization described in Section 501(c)(3) of the Code.

We have hereby revoked the favorable determination letter to you dated August 27, 2003 and you are no longer exempt under Section 501(a) of the Code effective January 1, XXXX.

We made the adverse determination for the following reasons:

You are not operated exclusively for exempt purposes as required by section 501(c)(3) of the Code. A more than insubstantial part of your activities furthers non-exempt purposes, including serving the private interests of your donors and other designated individuals rather than serving public interests.

Contributions to your organization are not deductible under Section 170 of the Code.

You're required to file federal income tax returns on Forms 1120, U.S. Corporation Income Tax Return. Mail your form to the appropriate Internal Revenue Service Center per the form's instructions. You can get forms and instructions by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676).

We'll make this letter and the proposed adverse determination letter available for public inspection under Section 6110 of the Code after deleting certain identifying information. We provided to you, in a separate mailing, Notice 437, Notice of Intention to Disclose. Please review the Notice 437 and the documents attached that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437.

If you decide to contest this determination, you can file an action for declaratory judgment under the provisions of Section 7428 of the Code in either:

- The United States Tax Court,
- The United States Court of Federal Claims, or
- The United States District Court for the District of Columbia

You must file a petition or complaint in one of these three courts within 90 days from the date we mailed this determination letter to you. Contact the clerk of the appropriate court for rules and the appropriate forms for filing petitions for declaratory judgment. You can write to the courts at the following addresses:

United States Tax Court	US Court of Federal Claims	US District Court for the District of Columbia
400 Second Street, NW	717 Madison Place, NW	333 Constitution Avenue, NW
Washington, DC 20217	Washington, DC 20005	Washington, DC 20001

Note: We will not delay processing income tax returns and assessing any taxes due even if you file a petition for declaratory judgment under Section 7428 of the Code.

Please refer to the enclosed Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status, for more information about the Appeals process.

You also have the right to contact the Taxpayer Advocate Service (TAS). TAS is an independent organization within the IRS that can help protect your taxpayer rights. TAS 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 TAS assistance, which is always free, TAS will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 877-777-4778.

TAS assistance is not a substitute for established IRS procedures, such as the formal appeals process. TAS 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.

If you have questions, contact the person at the top of this letter.

Sincerely,

Appeals Team Manager

Enclosures: Publication 892

cc:



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

Date:
28 April 2016
Taxpayer Identification Number:

Form:
990 Return
Tax Year(s) Ended:
31 December 20XX
Person to Contact/ID Number:

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

Manager's Contact Number:

Response due date:
26 May 2016

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

Phone:

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directly to _____ as housing; the remaining \$0 was paid by check to _____. There were no supporting documents on distributions included in the _____ case file.

This _____ was established at _____ in 20XX when _____ dissolved. It notes itself as a church planting organization, but is not a church that operates in _____. It is integrated into the _____ under the guidance of _____. In his 20XX budget _____ designated a housing allowance of \$0; including amounts for housing, furnishings, utilities, and miscellaneous expenses. _____ had a beginning of the year opening balance of \$0. During the year the project received contributions totaling \$0; and made distributions totaling \$0. \$0 was paid directly to _____ for housing (\$0 monthly), and the remaining \$0 was disbursed by check to _____ for ministry work. Specifics on how the Ministry work was spent were not included in the _____ case file.

This _____ was established at _____ in 20XX when _____ dissolved. It notes itself as a church planting organization, but is not a church that operates in _____. It is integrated into the _____ under the guidance of _____. In his 20XX budget _____ designated a housing allowance of \$0; including amounts for housing, furnishings, utilities, and miscellaneous expenses. _____ had a beginning of the year opening balance of \$0. During the year the project received contributions totaling \$0; and made distributions totaling \$0. \$0 was paid directly to _____ for housing (\$0 monthly), and the remaining \$0 was disbursed by check to _____ for ministry work. Specifics on how the Ministry work was spent were not included in the _____ case file.

The _____ is a program created to provide an adequate retirement program for pastors and ministers that may not exist at their current church. The program also markets itself as a hedge against financial problems within a church that may arise, this is accomplished as the plan is not part of a church's finances; but held by _____. The church can make one payment or a series of payments to _____ and investment products will be purchased by _____ that provides for a life-time income to the minister and spouse. The church's obligation and liability for the retirement plan is completed with the funding of the plan. _____ does advise that the retirement plan is not a qualified retirement plan.

The _____ / _____ has been established to provide grants and gifts to individuals with documented medical or benevolent needs in accordance with the charitable purposes of the _____. In order to be approved for the program, the applicant must submit a _____ or _____ Application to the advisory council for review. Applications must be submitted and witnessed by someone other than the proposed recipient or a member of the proposed recipient's family.

Guidelines state that, "Donations to the _____ program from an approved recipient or from an approved recipients family members may not be used for the grant or gift to the approved recipient". Gifts from family members were noted.

During the audit of the 20XX year two (2) _____ / _____ were reviewed:
(Fund); and the _____.

For each _____ / _____ program, a copy of the medical assistance request package was requested. In addition to the medical assistance package a copy of the acceptance form sent by _____ to the recipient; copy of specific disbursement request made from the program.

The _____
The fund was established for _____ who had cancer and was under hospice care. The application was approved by the _____ committee of _____, and the funds received were used to pay for support and medical assistance for _____. During 20XX, the fund received donations totaling \$0; and made distributions totaling \$0. These distributions were made to _____ Home Mortgage (\$0);
(\$0); and _____ for _____ services (\$0).

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The

The Program was established in 20XX to promote and support spinal cord research. The project conducts several events during the year; and donations made to the project are to support spinal cord research and service to victims of spinal cord injury. The Project had an opening balance of \$0. During the year the project received contributions totaling \$0; and made distributions totaling \$0. \$0 was given to the _____ \$0 was given to _____ to purchase equipment for the lab of _____ at the _____ of _____ Campus. The remaining amount (0) was for Fuel related to a flight.

Though classified as a _____ program, its operations were more in line with a _____ program.

The _____ () is a _____ Not-For-Profit Corporation that has been established to provide contract laborers to charitable organizations and charitable projects in the United States and around the world. Charities can contract with _____ to supply contract laborers with a variety of different talents and experiences who are available to provide the agreed upon services that are needed by the charities. Network laborers are not employees of the charity or of _____ but are independent contractors. As independent contractors, the contractors are responsible for their own Worker's Compensation Insurance and other fringe benefits and agree to hold _____ and contracting charities harmless for any accident or injury incurred during performance of the work as described in the Agreement.

_____ is the fiscal agent for _____, which was founded by _____ on 25 October 20XX in _____. _____ has not filed a 1023 application with the internal revenue service; and donations made directly to _____ are not tax deductible.

The _____ () is designed to provide a valuable employment or internship experience for individuals who would like to be involved in working for approved charities. _____ is structured as a _____. _____ provides a means whereby charitable oriented individuals may receive financial support for their work in recognized charities, such as The _____, _____, _____, _____, etc. rather than from unrelated secular employment. _____ enables family, friends, other individuals and organizations to support an individual involved in charitable work through tax-deductible contributions. _____ advises that it functions as a service agency and the _____ is not a scholarship program. _____ receives donations, keeps records of them and issues tax-deductible receipts for donors. _____ pays monthly compensation checks for the charitable workers who are self-employed contractors.

_____ maintains that its _____ projects are established by the organization for a proposed one time need. Each fund will have an advisory board that is appointed by the Board of Directors of _____ to oversee the operation and distributions of the Fund. Donors may give specifically to these Funds and know that their money will be used for the purpose established by each fund

_____ are those projects that have been proposed to carry out a specific charitable purpose that fits within the organization's charitable objectives. The projects must be provisionally approved by the Foundation's Executive Team for operation with an approved budget, proposed activities and have an appointed project manager, who can be one of the donors to the project. The projects will be formally approved by the complete board at one of the two board meetings.

During the audit Two (2) _____ were reviewed; _____, and _____

For each Operating project reviewed the following documentation was requested:

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1. Copy of application package to begin a charitable project received by the organization; include application, copy of initial check received by the foundation, any committee notes on the project, official letter of acceptance, and a copy of the approved application.
2. Copy of quarterly printouts for each quarter 20XX showing received donations, disbursements, administrative charges incurred against the project account.
3. Copy of disbursement request form received by the including information source documents related to the disbursement request.

This project was established to provide for the missionary activities of and in and . The Project was established on 4 April 20XX with a gift from the Estate of totaling \$0. During the year the project received contributions totaling \$0; and made distributions totaling \$0. The distribution request form included in the file advises to send the balance of the project account every two months minus the 0% admin fee, leaving a minimum balance of \$0 in the account. \$0 was transferred by wire to the account listed by the at . The remaining \$0 was transferred by wire to as a housing allowance.

The received a Form 1099-Misc for the income they received from the project. For the year ending 31 December 20XX, received a Form 1099-Misc for \$0.

This program was established on 27 January 20XX to promote and implement the church planting movement in through the activities of and . is also a participant in the and established this project to fund his ministry activities in . The project had an opening balance of \$0. The 20XX budget submitted to included \$0 in projected income and \$0 in projected expenses. During the year the project received contributions totaling \$0; and made distributions totaling \$0. The file did not include a distribution request form. Each month a distribution was made from the project account for \$0 for general program support, and \$0 as a housing allowance. The housing allowance was paid directly to . The Fund was charged \$0 as an annual registration fee.

On its Form 990 – *Return of Private Foundation*, Schedule D – Supplemental Financial Statements; indicated that at the end of 20XX it had 0 Donor advised funds and 0 other type funds and accounts. The aggregate value of its donor advised funds at the end of 20XX was \$0; and its other funds had an aggregate value of \$0. reports that contributions to its Donor advised funds totaled \$0; and grants from Donor advised funds totaled \$0. Other funds received contributions totaling \$0; and made grants totaling \$0 during the same period.

During the audit of , four (4) Donor advised funds were reviewed; ; ; and .

For each project reviewed the following documentation was requested:

1. Copy of the fund or endowment agreement creating the donor advised fund
2. Copy of 20XX bank statements for the fund if receipts were kept in a separate account
3. Information on specific distributions made during the year from the fund

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advised that the was originally classified as a Donor advised fund, but during the audit determined that it is more of an operating project and would be treated as such. The made total distributions totaling \$0 during 20XX. Of the distributions made during the year \$0 was sent to in , \$0 was sent to in , and the remaining \$0 was distributed to in . The Distribution to for \$0 is shown in the accounting system as , and the Check for this transaction was made to Cash. It was included in the total distributions for

Documentation included in the file for included a copy of the fund's application to begin a charitable project with ; A summary of the fund as prepared by ; copies of distribution request forms, and newsletter received from. detailing their journey. No copies of receipts were included in the file

In addition to these documents the file included a report on donations by to in the amount of \$0 during 20XX. Specifically, Organization information and mailing address for , copies of checks, and corresponding receipt from for each of the 0 distributions made during 20XX.

The was formed at on 2 December 20XX with a \$0 opening contribution. The Fund had an opening balance of \$0; of this total \$0 was held in a long term investment account maintained by on the funds behalf. During 20XX the made one distribution totaling \$0 to the County in

Documentation included in the file for included a copy of the fund's application to begin a charitable project with ; a summary of the funds distributions for the year prepared by ; and a copy of its sole distribution request for 20XX.

The was formed at on 5 December 20XX with a \$0 opening contribution. The fund had an opening balance of \$0. During 20XX the made distributions totaling 0 with \$0 of the total being sent to . It is noted that the check was mailed directly to . \$0 was sent to the and the remaining \$0 was sent to the show.

Documentation included in the file for included a copy of the fund's application to begin a charitable project with ; A summary of the funds distributions for the year prepared by ; and a copy of each distribution request for 20XX. There were no receipts included in the file.

was formed at on 16 July 20XX with a \$0 opening contribution. The fund had an opening balance of \$0. of this total \$0 was held in a long term investment account maintained by on the funds behalf. During 20XX the made distributions totaling \$0; all of the distributions were made to the

Documentation included in the file for included a copy of the fund's application to begin a charitable project with ; A summary of the funds distributions for the year prepared by ; and a copy of each distribution request for 20XX. There were no receipts included in the file.

treats the as a Donor advised fund. It is noted that the fund does not meet the qualifications to be a Donor advised fund as the fund was setup to support a specific organization, and all the funds go to a single entity.

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To establish a Donor advised fund or a project as an Operating Project or an applicant must first complete an application form, sign it, and mail it to offices. Upon acceptance by Executive Committee, the application is given provisional approval and placed on the agenda of the next meeting of the Board of Directors for review and final approval. A minimum initial donation of \$0 is required to begin the project. Though a project's fund balance will be permitted to drop below the \$0 minimum level, an average balance of \$0 must be maintained throughout the year.

Disbursements from any project or Donor advised funds requires that an individual fill out a Foundation Distribution Request form. Request forms in excess of 0 require receipts be attached to the distribution request form.

For all donations made, makes a one-time up-front charge of between zero and zero percent on all donations. This amount is based on the size of donated funds. This charge covers services to and supervision of charitable projects, as well as a substantial amount of the Foundation's administrative and overhead costs. The fee structure is broken down as follows:

Contributions (Calendar Year) Cash or FMV of Gift	Service Charge %
\$100,000 or less	0
\$100,001 – \$500,000	0
\$500,001 – \$1,000,000	0
\$1,000,001 – \$ 2,000,000	0
Greater than \$2,000,000	0

During 20XX, reported the following admin fees received from contributions made during the year:

Admin Fees Received	Total
Admin Fee Income	0
Admin Fee Income 0%	0
CC Admin Fee Income 0%	0
Refund admin fees to a/c	(0)
Return of 6/16 check	(0)
Admin Fee Income CC 0%	0
Grand Total	0

encourages all project managers to be active in fundraising activities on behalf of their charitable project. maintains that within zero years (0) of project establishment, a total sum of at least \$0 will have been donated to the project.

Law:

Internal Revenue Code Section 501(c)(3) provides for tax exemption to organizations operated exclusively for charitable purposes. Treas. Reg. § 1.501(c)(3)-1(c)(1) provides 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). 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)(1)(ii) provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, to meet the

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requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

The "presence of a single [nonexempt] purpose, if substantial in nature, will destroy the exemption, regardless of the number or importance of truly [exempt] purposes." Better Business Bureau of Washington, D.C. v. United States, 326 U.S. 279, 283, 66 S. Ct. 112 (1945) (BBB). The operational test focuses on the actual purposes an organization's activities advance rather than the organization's stated purpose or the nature of its activities. American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989).

Rev. Rul. 62-113, 1962-1 C.B. 10 holds that: If contributions to a fund are earmarked by the donor for a particular individual, they are treated, in effect, as being gifts to the designated individual and are not deductible. However, a deduction will be allowable where it is established that a gift is intended by a donor for the use of the organization and not as a gift to an individual. The test in each case is whether the organization has full control of the donated funds, and discretion as to their use, so as to insure that they will be used to carry out its functions and purposes

Rev. Rul. 68-484, 1968-2 C.B. 105 provides that for purposes of determining that a contribution is made to or for the use of an organization described in IRC §170 rather than to a particular individual who ultimately benefits from the contribution, the organization must have full control of the use of the donated funds and the contributor's intent in making the payment must have been to benefit the charitable organization itself and not the individual recipient.

Rev. Rul. 68-489, 1968-2 C.B. 210 provides that An organization will not jeopardize its exemption under section 501(c)(3) of the Code, even though it distributes funds to nonexempt organizations, provided it retains control and discretion over use of the funds for section 501(c)(3) purposes

Rev. Rul. 83-104, 1983-2 C.B. 46 sets out factors, the presence of one or more of which create the presumption that payment to an organization that operates a charity is not a charitable contribution deductible under IRC 170. This ruling further state that several other factors may suggest that a payment is not a charitable contribution especially when more than one is present.

Revenue Ruling 98-115, I.R.B. 1998-12, 6, (March 4, 1998) provides that for purposes of determining exemption under §501(c)(3), the activities of a partnership, including an LLC treated as a partnership for federal tax purposes, are considered to be the activities of the partners. A §501(c)(3) organization may form and participate in a partnership and meet the operational test if 1) participation in the partnership furthers a charitable purpose, and 2) the partnership arrangement permits the exempt organization to act exclusively in furtherance of its exempt purpose and only incidentally for the benefit of the for-profit partners.

S.E. Thomason v. Commissioner, 2 T.C. 441 (1943), the taxpayer paid an educational institution the tuition and maintenance of a particular individual, who was the ward of a public charity, and claimed a charitable deduction. The court held that the taxpayer was not entitled to the deduction because the contributions were for the benefit of a particular individual.

In Tripp v. Commissioner, 337 F.2d 432 (7th Cir. 1964), the court held that payments made to an educational institution and earmarked for the educational expenses of a particular individual were not deductible because they were neither made to the college for use as it saw fit nor made for the benefit of an indefinite number of persons, as, for example, a scholarship fund.

Singer v. U.S., 449 F.2d 413 (Ct.Cl. 1971) Holds: If a transaction is structured in the form of a quid pro quo, where it is understood that the taxpayer's money will not pass to the charitable organization unless the taxpayer

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receives a specific benefit in return, and where the taxpayer cannot receive the benefit unless he pays the required price, then the transaction does not qualify for the deduction under IRC 170

In *Graves v. Commissioner*, T.C.M. 1994-616, the Tax Court held that amounts paid by the taxpayers to the Owl Foundation, which in turn paid their children's tuition to educational institutions, were not contributions within the meaning of IRC 170(c).

In *Davis v. United States*, 495 U.S. 472 (1990), the Supreme Court held that funds transferred by the taxpayers to their two sons while they served as full-time, unpaid missionaries of the Church of Jesus Christ of Latter-day Saints (Church) did not qualify as a charitable contribution made "for the use of" the Church in absence of evidence that funds were transferred "in trust for" the Church.

National Foundation, Inc. v. United States, 13 Cl. Ct. 486, 493 (1987), the court held that an organization that raised and distributed funds to other charities and administered a wide variety of charitable projects, mostly recommended by its donors, qualified for exemption under IRC 501(c)(3).

New Dynamics Found. v. United States, 70 Fed. Cl. 782 (2006), the court determined that New Dynamics Foundation (NDF) did not qualify for exemption because it permitted donors to use funds to serve their private interests. NDF was designed to "warehouse wealth," that is, to allow donors to "contribute" property and cash to their foundations, control the investment of those resources, and then allegedly have the income and appreciation on that corpus accrue or be realized tax-free.

In *Housing Pioneers v. Commissioner*, 65 T.C.M. (CCH) 2191 (1993), *aff'd*, 49 F.3d 1395 (9th Cir. 1995) ("Housing Pioneers"), the Tax Court concluded that an organization did not qualify as a §501(c)(3) organization because its activities performed as co-general partner in for-profit limited partnerships substantially furthered a non-exempt purpose, and serving that purpose caused the organization to serve private interests. The organization entered into partnerships as a one percent co-general partner of existing limited partnerships for the purpose of splitting the tax benefits with the for-profit partners. Under the management agreement, the organization's authority as co-general partner was narrowly circumscribed. It had no management responsibilities and could describe only a vague charitable function of surveying tenant needs.

In *Plumstead Theatre Society, Inc. v. Commissioner*, 74 T.C. 1324 (1980), *aff'd*, 675 F.2d 244 (9th Cir. 1982) ("Plumstead"), the Tax Court held that a charitable organization's participation as a general partner in a limited partnership did not jeopardize its exempt status. The organization co-produced a play as one of its charitable activities. Prior to the opening of the play, the organization encountered financial difficulties in raising its share of costs. In order to meet its funding obligations, the organization formed a limited partnership in which it served as general partner, and two individuals and a for-profit corporation were the limited partners. One of the significant factors supporting the Tax Court's holding was its finding that the limited partners had no control over the organization's operations.

Effective date of revocation

An organization may ordinarily rely on a favorable determination letter received from the Internal Revenue Service. Treas. Reg. §1.501(a)-1(a)(2). An organization may not rely on a favorable determination letter, however, if the organization omitted or misstated a material fact in its application or in supporting documents. In addition, an organization may not rely on a favorable determination if there is a material change, inconsistent with exemption, in the organization's character, purposes, or methods of operation after the determination letter is issued. Treas. Reg. § 601.201(n)(3)(ii); Rev. Proc. 2008-9, Section 12

The Commissioner may revoke a favorable determination letter for good cause. Treas. Reg. § 1.501(a)-1(a)(2). Revocation of a determination letter may be retroactive if the organization omitted or misstated a material fact or

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operated in a manner materially different from that originally represented. Treas. Reg. § 601.201(n)(6)(i), Rev. Proc. 2008-9, Section 12.

Government's Position:

The Internal Revenue Service has held for an organization to be exempt under §501(c)(3) the organization needs to meet both the organization and operational tests under Treasury Regulation §1.501(c)(3)-1(a). In addition, §501(c)(3) and Treasury Regulation §1.501(c)(3)-1(c)(2) hold that an organization shall not be exempt if any of its earnings inure to the private benefit of any of its shareholders. The organization does not meet the operational test because it is not operated exclusively for IRC §501(c)(3) purposes as required and defied by Treasury regulation §1.510(c)(3)-1(d)(1)(i), and has been used as a vehicle to serve the private interests of its members rather than public interest as prescribed under Treasury Regulation §1.510(c)(3)-1(d)(1)(ii). These tests focus on the purposes the organization promotes by means of its activities

operations during the audit period were fairly simple and centered on it acting as a sponsoring organization for Donor Advised Funds and Fiscal Sponsorships. Fiscal Sponsorships are classified as either or . Once Initial Funding is received, reduces it by its administrative fee and a project or fund account is setup and web space is created. The project or fund is then required to do its own fundraising and outreach to build its own financial base. The fee received by is used to cover the cost of backend services including accounting, budgeting, and fund finances.

Though not specifically excluded from exemption under IRC §501(c)(3), sponsoring organizations need to not only have discretion and control over projects; but, also the funds that are expended by these projects. Otherwise these fiscal agreements become a conduit in nature and become a non-exempt activity. Specifically, Rev. Rul. 68-489, 1968-2 C.B. 210 provides that An organization will not jeopardize its exemption under §501(c)(3) of the Code, even though it distributes funds to nonexempt organizations, provided it retains control and discretion over use of the funds for section 501(c)(3) purposes.

Rev. Rul. 66-79, 1966-1 C.B. 48 gives specific clarification on what adequate control of donated funds solicited domestically and then remitted overseas looks like, including: the board of directors reviewing all requests for funds; requirement that requests specify how the funds are to be used; recipients are required to provide a periodic accounting to show that funds were expended in the manner for which they were granted; the board in its absolute discretion can refuse to make any grants or contributions or otherwise render financial assistance.

was unable to provide sufficient evidence that it had sufficient control over its programs and the funds expended by those projects. A substantial number of distribution requests were accompanied only with a brief description of who was to receive the transfer and where the funds should be wired. did not provide minutes or resolutions showing that distribution requests were reviewed before being disbursed. did not provide invoices, purchase orders, building contracts, or other source documents that would show that it knew how the funds were being used once they were transferred to the recipient organization. There were no indicators that before making transfers that completed pre-grant review of organization or subsequently followed up at any time to ensure that funds were expended in the manner for which they were granted.

Both of the reviewed, and the show that the funds were transferred to personal accounts of the project managers, with a large portion dedicated as a housing allowance. Though issued 1099 on these amounts, never received hard documentation that the projects were operating in a manner consistent with 501(c)(3) or that the funds were used as stated in the request for funds. In addition, did not receive documentation from its programs showing that these individuals were performing ministerial duties as defined under Treasury Regulations §§1.107-1(a); 1.1402(c)-5(b)(2). As such, the individuals received a private benefit which is prohibited under IRC §501(c)(3).

As noted in Rev. Rul. 63-252, the requirements of IRC §170(c)(2)(A) of the Code would be nullified if contributions inevitably committed to a foreign organization were held to be deductible solely because, in the course of transmittal

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to a foreign organization, they came to rest momentarily in a qualifying domestic organization. In such cases the domestic organization is only nominally the recipient; the real recipient is ultimately a foreign organization.

Essentially acted as a conduit for funds to pass from donor X to individual Z; wherein funds momentarily passed through a operating project before being transferred overseas. Many of the individuals that ultimately receive funds were not verified to be doing projects that meet the requirements of §501(c)(3).

By not exercising appropriate discretion and control over its projects, has failed the operational tests as set out in Treasury Regulation §1.501(c)(3)-1(a)

Not only did act as a sponsoring organization for fiscal arrangements; it also acted as a sponsoring organization for a number of Donor advised funds. Unlike fiscal sponsorship, donor advised funds have specific rules and regulations that must be met. These regulations are precise and specific and failing to follow any of the steps in the regulations not only subjects the sponsoring organization to substantial excise taxes; but can also jeopardize the exempt status of the sponsoring organization.

Review of received files did not show that conducted any pre-grant inquiries into any of the recipient organizations to determine charitable status, or for foreign organization if the activity was sufficient to be charitable. In addition, did not receive follow-up documentation showing how funds received were used. When it did not receive this reports, failed to formally request supporting documentation or the funds to be returned.

As with its operating projects, in multiple instances donor advised funds were being used as conduits to provide support and funds directly to individuals. In one instance a fund classified as a donor advised fund did not meet the basic requirements of being a Donor advised fund as it was setup to primarily support a single designated organization. In another instance, Donor requested a disbursement from their fund be made, and the proceeds of that donation should be made directly to him. This is not only in contradiction to the rules of Donor advised funds, but against the base rules of being an exempt organization under Treasury Regulation §1.501(c)(3)-1(d)(ii).

Overall has failed to show that that it has taken appropriate actions to ensure that its donor advised funds meet the expenditure responsibility as outlined in IRC §4945(h); and Treasury Regulation §53.4945-5(b). as the sponsoring organization failed to make pre-grant inquiries; request supporting documentation on the use of funds; and failed to request funds be repaid when it could not adequately determine if the granted funds were used for the purpose for which they were granted let alone that they were charitable in nature.

receives a substantial amount of its operating income from a one-time up-front charge of zero percent (0%) of the initial donation amount to start a project or donor advised fund. An additional fee of between zero (0%) and zero percent (0%) is assessed on all subsequent donations to any project or fund. This secondary fee is based on the size of donated funds. This charge covers services to and supervision of charitable projects, as well as a substantial amount of the Foundation's administrative and overhead costs. The administrative charge is made on all donations coming into the Foundation. Though maintains that the amount is probably the lowest administrative expense in the industry, it is still a fee for services. Once these fees are paid, the remaining amounts are distributed to specified fund or project accounts.

As noted, during 20XX recorded the following amounts in its Admin Fee Account:

Total Number of Transactions	Total Admin Fees Received
0	\$0

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Average Admin Fee	Minimum Admin Fee
\$0	\$0
Max Admin Fee	
\$0	

For-profit business enterprises are supported by fees paid by those who receive services. While charitable institutions often do provide services to individuals, the cost is generally subsidized by contributors who do not receive anything in return. In B.S.W. Group, Inc. v. Commissioner, the court cited lack of solicitation and sole support from fees as negative factors. Like in B.S.W, the administrative fee received by is more for the support services received in accepting funds, accounting for the funds and allocating them as donors instructed.

The "presence of a single [nonexempt] purpose, if substantial in nature, will destroy the exemption, regardless of the number or importance of truly [exempt] purposes." Better Business Bureau of Washington, D.C. v. United States, 326 U.S. 279, 283, 66 S. Ct. 112 (1945) (BBB).

In addition to these fees, also runs a retirement program for ministers. This retirement plan is held at as an investment account for the Minister, and once the minister reaches retirement age, or requests disbursement from the account, will begin making payments to the individual. This retirement is not a qualified retirement plan as the plan is not registered with the Internal Revenue Service, nor are annual plan documents submitted. During the year under review had a single retirement plan account. Fees received from the administration of this account

Providing management and accounting services for its operating projects and donors under the circumstances described is an ordinary commercial service which has no causal relationship to promoting charitable, religious, educational, literary, or scientific purposes except for the sole purpose of generating income. Therefore, the furnishing of such services does not 'contribute importantly' to the accomplishment of the subject organization's exempt purpose within the meaning of Treasury Regulation §1.513-1(d)(2).

was not able to provide any documentation that demonstrated that this activity was charitable in nature but for the fact that the retirement accounts allowed for ministers to have a retirement fund when one would not otherwise be available. As such these individuals received a substantial private benefit, which is specifically prohibited under IRC §501(c)(3).

In Orange County Agricultural Society V. Commissioner, the organization had substantial nonexempt activities and acted in a manner consistent with a for-profit business than a non-profit organization. The courts held that an organization with substantial nonexempt activities can't avoid revocation of its tax exempt status simply by paying taxes or penalties. In the case of NEWH, the primary activities of the organization have given rise to Non-Exempt activities.

As a whole, donor advised funds, operating projects, and associate ministers program account for substantially all of the organizations primary activities. is unable to provide sufficient documentation to show that at the time of disbursements it had sufficient discretion and control over funds expended; furthermore, whether those funds were used in a manner consistent with the rules and regulation under IRC §501(c)(3). As such these activities cannot be held as exempt.

In addition to its primary activities conducted UBI activities that include fees for account management and operating an unqualified retirement program. These activities are undertaken for their ability to generate income for and not to advance any specific charitable activity. There is great potential for the income and assets of to be used to benefit a small group of individuals as opposed to the general public, which are expressly prohibited under IRC §501(c)(3) and Treasury Regulations §§1.501(c)(3)-1(c)(2).

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As such _____ has failed the operational test under Treasury Regulation §§1.501(c)(3)-1(a), 1.501(c)(3)-1(c), 1.501(c)(3)-1(c)(2); and 1.501(c)(3)-1(d)(ii).

Taxpayer's Position:

The organization has no stated position.

Conclusion:

Therefore, it is the Government's position that the organization no longer meets the guidelines under Internal Revenue Code §501(c)(3) and Treasury Regulation 1.501(c)(3)-1(c), as the income of the organization inures to the personal benefit of the members, and that the activities of the organization are incidental to providing for the personal benefits of the members of the organization. Nor does the organization meet the operational test because it is not operated exclusively for IRC §501(c)(3) purposes as required and defined by Treasury regulation §1.510(c)(3)-1(d)(1)(i), and has been used as a vehicle to serve the private interests of its partners rather than public interest as prescribed under Treasury Regulation §1.510(c)(3)-1(d)(1)(ii).

It is recommended that that exempt status of this organization be Revoked as of January 1, 20XX