



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
1100 Commerce Street, MC 4920DAL
Dallas, TX 75242

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Number: 202110029
Release Date: 3/12/2021

UIL: 501.03-00

Date:
September 18, 2020
Taxpayer ID Number:

Form:

Tax Period(s) Ending:

Person to Contact:

Identification Number:

Telephone Number:

CERTIFIED MAIL – Return Receipt Requested
LAST DAY FOR FILING A PETITION WITH THE TAX COURT:

Dear :

This is a final determination that you do not qualify for exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a) as an organization described in IRC Section 501(c)(3), effective January 1, 20XX. Your determination letter dated December 11, 20XX is revoked.

Our adverse determination as to your exempt status was made for the following reasons:

Organizations described in IRC Section 501(c)(3) and exempt under Section 501(a) must be both organized and operated exclusively for exempt purposes. You have not demonstrated that you are operated exclusively for charitable, educational, or other exempt purposes within the meaning of 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. You have not established that you have operated exclusively for an exempt purpose.

As such, you failed to meet the requirements of IRC Section 501(c)(3) and Treasury Regulations Section 1.501(c)(3)-1(a), in that you have not established that you were organized and operated exclusively for exempt purposes and that no part of your earnings inured to the benefit of private shareholders or individuals.

Contributions to your organization are no longer deductible under IRC Section 170.

Organizations that are not exempt under IRC Section 501 generally are required to file federal income tax returns and pay tax, where applicable. For further instructions, forms, and information please visit www.irs.gov.

If you decide to contest this determination, you may file an action for declaratory judgment under the provisions of IRC Section 7428 in one of the following three venues: 1) United States Tax Court, 2) the United States Court of Federal Claims, or 3) the United States District Court for the District of Columbia. A petition or complaint in one of these three courts must be filed within 90 days from the date this determination was mailed to you. Please contact the clerk of the appropriate court for rules and the appropriate forms for filing petitions for declaratory judgment by referring to the enclosed Publication 892. You may write to the courts at the following addresses:

United States Tax Court
400 Second Street, NW
Washington, DC 20217

U. S. Court of Federal Claims
717 Madison Place, NW
Washington, DC 20439

U. S. District Court for the District of Columbia
333 Constitution Ave., N.W.
Washington, DC 20001

Processing of income tax returns and assessments of any taxes due will not be delayed if you file a petition for declaratory judgment under IRC Section 7428.

We'll notify the appropriate state officials (as permitted by law) of our determination that you aren't an organization described in IRC Section 501(c)(3).

You may be eligible for help from 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 1-877-777-4778.

Taxpayer Advocate assistance can't be used as substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determination, nor extend the time fixed by law that you have to file a petition in 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.

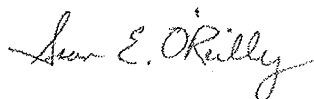
You can get any of the forms or publications mentioned in this letter by calling 800-TAX-FORM (800-829-3676) or visiting our website at www.irs.gov/forms-pubs.

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

Sincerely,

Enclosures:

Publication 892



Sean E. O'Reilly
Director, Exempt Organizations Examinations



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

Date:
05/11/2020
Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:

Name:
ID number:
Telephone:
Fax:

Manager's contact information:

Name:
ID number:
Telephone:
Response due date:

CERTIFIED MAIL – Return Receipt Requested

Dear _____ :

Why you're receiving this letter

If you agree

If you haven't already, please sign the enclosed Form 6018, Consent to Proposed Action, and return it to the contact person shown at the top of this letter. We'll issue a final adverse letter determining that you aren't an organization described in IRC Section 501(c)(3) for the periods above.

If you disagree

1. Request a meeting or telephone conference with the manager shown at the top of this letter.
2. Send any information you want us to consider.
3. File a protest with the IRS Appeals Office. If you request a meeting with the manager or send additional information as stated in 1 and 2, above, you'll still be able to file a protest with IRS Appeals Office after the meeting or after we consider the information.

The IRS Appeals Office is independent of the Exempt Organizations division and resolves most disputes informally. If you file a protest, the auditing agent may ask you to sign a consent to extend the period of limitations for assessing tax. This is to allow the IRS Appeals Office enough time to consider your case. For your protest to be valid, it must contain certain specific information, including a statement of the facts, applicable law, and arguments in support of your position. For specific information needed for a valid protest, refer to Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status.

Fast Track Mediation (FTM) referred to in Publication 3498, The Examination Process, generally doesn't apply now that we've issued this letter.

4. Request technical advice from the Office of Associate Chief Counsel (Tax Exempt Government Entities) if you feel the issue hasn't been addressed in published precedent or has been treated inconsistently by the IRS.

If you're considering requesting technical advice, contact the person shown at the top of this letter. If you disagree with the technical advice decision, you will be able to appeal to the IRS Appeals Office, as explained above. A decision made in a technical advice memorandum, however, generally is final and binding on Appeals.

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 adverse determination letter.

Contacting the Taxpayer Advocate Office is a taxpayer right

The Taxpayer Advocate Service (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.

Additional information

You can get any of the forms and publications mentioned in this letter by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676).

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

Sincerely,



for Maria Hooke

Director, Exempt Organizations Examinations

Enclosures:

Form 886-A Explanation of Items

Form 6018 Consent to Proposed Action

Form 4621-A Report of Examination

Publication 892 How to Appeal

Publication 3498-A The Examination Process

Copy of Original Form 1023EZ Application for Recognition of Exemption

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended 20XX

Issues:

Whether the exempt status of _____ under IRC § 501(c)(3) should be revoked, effective January 01, 20XX because it has not proven it is organized exclusively for exempt purposes within the meaning of section 501(c)(3) and Treas. Reg. § 1.501(c)(3)-1(b)?

Facts:

_____ applied for tax-exempt status by filing the Form 1023-EZ, *Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, on December 11, 20XX and was granted tax-exempt status as a 501(c)(3) on December 17, 20XX, with an effective date of October 29, 20XX.

The organization was selected for audit to ensure that the activities and operations align with their approved exempt status.

The organization failed to adequately respond to the Internal Revenue Service attempts to obtain information to perform an audit of Form 990-EZ for the tax year ended December 31, 20XX.

The organization attested on Form 1023-EZ, part II, box 2 that they have the organizing document necessary for their organizational structure.

The organization further attested that their organizing document contains the dissolution provision required under section 501(c)(3) or that they did not need an express dissolution provision in your organizing document because they rely on the operation of state law in the state in which you are formed for your dissolution provision. The organization failed to provide a copy of its organizing document.

The Form 1023-EZ application did not list a contact phone number for _____. However, the IRS agent made several attempts to contact _____ to request that it conform its organizing and dissolving documents. Specifically, the IRS agent made contact with the organization by letter on two occasions, by email on two occasions, and by telephone on eleven occasions. All correspondence was sent to the address on record:

Chronology for the audit was as follows:

- June 07, 20XX: Letter 3606 (Rev. 6-2012) with attachments, was mailed to the organization with a response due date of July 08, 20XX. This letter was not returned by the post office as being undeliverable.

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- July 09, 20XX: Received incoming telephone call from the President of _____, (formerly _____) phone number _____. _____ stated _____ is no longer active, was never truly active and has no plans to reactivate. _____ was advised the IRS agent would research the best resolution to this case with management and would contact her shortly.
- July 22, 20XX: Made outgoing call to President _____ phone # _____; there was no answer. The IRS agent left a message. The purpose of the call was to request the organization file Articles of Dissolution with the state of _____.
- July 25, 20XX: Letter 3844-B (Rev. 11-2015) with attachments, was mailed certified to the President, _____, with a response due date of August 22, 20XX. The purpose of the Letter 3844-B was to request file a "final" Form 990-N and also Articles of Dissolution with the State of _____ and provide the IRS with copies. Per the United States Postal Service (USPS) tracking, this was returned with a signature on July 31, 20XX.
- July 29, 20XX: Made outgoing call to President _____ phone # _____; there was no answer. The IRS agent left a message. The purpose of the call was to 1) see if the organization had received the Letter 3844-B, and 2) to see if the President, _____, had received the email sent by the IRS agent with links to the _____ state website.
- August 26, 20XX: Made outgoing call to President _____ phone # _____; there was no answer. The IRS agent left a message. The purpose of the call was to discuss the lack of response to the Letter 3844-B, which was due August 22, 20XX.
- August 30, 20XX: Made outgoing call to President _____ phone # _____; there was no answer. The IRS agent left a message requesting a return phone call.
- September 03, 20XX: Made outgoing call to President _____ phone # _____; there was no answer. The IRS agent left a message. The purpose of the call was to discuss the lack of response to the Letter 3844-B, which was due August 22, 20XX.
- September 06, 20XX: Received incoming call from President _____ phone # _____. The purpose of the call was to advise the IRS of her attempts to provide a copy of the "finalizing documents" the organization had recently filed with the State of _____. The organization also claimed to have filed Articles of Dissolution and advised the IRS agent they could access

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the _____ state website if a copy was needed. IRS agent requested provide IRS with a copy. _____ stated she would email or fax a copy in the next few days.

- September 06, 20XX: Received incoming call from President _____ phone # _____. The purpose of the call was to advise the IRS of her attempts to provide a copy of the "finalizing documents" the organization had recently filed with the State of _____. The organization also claimed to have filed Articles of Dissolution and advised the IRS agent they could access the _____ state website if a copy is needed.
- September 06, 20XX: Received two incoming emails from President _____. The first email contained a screenshot of a filing the organization did with the state titled "Confirmation of Business Ending Filing". The second email contained a forwarded message from the secretary of state website confirming the organization had filed an "Annual Report for 20XX, Dissolution."
- October 10, 20XX: Made outgoing call to President _____ phone # _____. Explained to _____ that the information emailed to the IRS on September 06, 20XX is insufficient. The IRS needs a copy of official Articles of Dissolution and a Form 990-N for the year ended December 31, 20XX marked "final".
- November 29, 20XX: Received incoming email from President _____. The purpose of the email was to advise the IRS the organization had filed a "final" Form 990-N for the year ended December 31, 20XX.
- February 07, 20XX: Made outgoing call to President _____ phone # _____. There was no answer; the voicemail box stated the mailbox was full and could not accept messages. The purpose of the call was to advise the organization that the Form 990-N filed for 20XX was not, in fact, marked final, and the organization will need to file a "final" Form 990-N for 20XX.
- February 13, 20XX: Made outgoing call to President _____ phone # _____. There was no answer; the voicemail box stated the mailbox was full and could not accept messages. The purpose of the call was a second attempt to advise the organization they need to file a "final" Form 990-N for 20XX.
- February 13, 20XX: Sent outgoing email to President _____ containing links to irs.gov filing locations for online Form 990-N filing.

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Law:

Internal Revenue Code (IRC) §501(c)(3) of the Code provides that an organization organized and operated exclusively for charitable or educational purposes is exempt from Federal income tax, provided no part of its net earnings inures to the benefit of any private shareholder or individual.

IRC §511 of the Internal Revenue Code imposes a tax at corporate rates under section 11 on the unrelated business taxable income of certain tax-exempt organizations.

IRC §6001 of the Code provides that every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show if such person is liable for tax under this title.

IRC §6033(a)(1) of the Code provides, except as provided in section 6033(a)(2), every organization exempt from tax under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Treasury Regulations (Regulation) 1.501(c)(3)-1 In order to be exempt under §501(c)(3) the organization must be both organized and operated exclusively for one or more of the purposes specified in the section. (religious, charitable, scientific, testing for public safety, literary or educational).

Regulation §1.501(c)(3)-1(a)(1) of the regulations states that to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Regulation 1.501(c)(3)-1(b)(4) An organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, for example, if, upon dissolution, such assets would, by reason of a provision in the organization's articles or by operation of law, be distributed for one or more exempt purposes, or to the Federal Government, or to a State or local government, for a public purpose, or would be distributed by a court to another organization to be used in such manner as in the judgment of the court will best accomplish the general purposes for which the dissolved

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organization was organized. However, an organization does not meet the organizational test if its articles or the law of the State in which it was created provide that its assets would, upon dissolution, be distributed to its members or shareholders.

Regulation 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will not be regarded as "operated exclusively" for one or more exempt purposes described in section 501(c)(3) of the Code if more than an insubstantial part of its activities is not in furtherance of a 501(c)(3) purpose. Accordingly, the organization does not qualify for exemption under section 501(c)(3) of the Code.

Regulation §1.6001-1(c) of the Code provides that such permanent books and records as are required by paragraph (a) of this section with respect to the tax imposed by section 511 on unrelated business income of certain exempt organizations, every organization exempt from tax under section 501(a) shall keep such permanent books of account or records, including inventories, as are sufficient to show specifically the items of gross income, receipts and disbursements. Such organizations shall also keep such books and records as are required to substantiate the information required by section 6033. See section 6033 and §§ 1.6033-1 through 1.6033-3.

Regulation §1.6001-1(e) of the Code provides that the books or records required by this section shall be kept at all time available for inspection by authorized internal revenue officers or employees, and shall be retained if the contents thereof may be material in the administration of any internal revenue law.

Regulation §1.6033-1(h)(2) of the regulations provides that every organization which has established its right to exemption from tax, if it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and section 6033.

Regulation §1.61-1 of the regulations provides that Gross income means all income from whatever source derived, unless excluded by law. Gross income includes income realized in any form, whether in money, property, or services. Income may be realized, therefore, in the form of services, meals, accommodations, stock, or other property, as well as in cash.

In **Community Education Foundation v. Commissioner TC Memo. 2016-223, USTC**, revocation of an organization's exemption was supported due to a long, extended period of inactivity. The organization did not meet the operational test in Treasury Regulations 1.501(c)(3)-1(c).

Rev. Rul. 59-95, 1959-1 C.B. 627, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of section 6033 of the Code and the regulations

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which implement it, may result in the termination of the exempt status of an organization previously held exempt, because the organization has not established that it is observing the conditions required for the continuation of exempt status.

Organization's Position

Organization stated it was never truly active, is not currently active, and has no plans to reactivate.

Government's Position

Based on the above facts, the organization has not demonstrated that it is organized and operated exclusively for one or more of the purposes specified in IRC Section 501(c)(3). If an organization fails to meet either the organizational test or the operational test, it is not exempt.

In accordance with the above-cited provisions of the Code and regulations under sections 6001 and 6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax.

Organization was difficult to contact due to the lack of contact information provided on the application. Organization's officer, when eventually reached, stated that the Organization "is no longer active, was never truly active and has no plans to reactivate." After numerous written and oral communications regarding the procedures to terminate the Organization's existence and exempt status, Organization verbally stated that it had filed Articles of Dissolution with the state of and filed a "final" 990-N with the IRS. However, Organization has not provided the examination agent with a copy of the Articles of Dissolution and the 20XX Form 990-N filed with the IRS was not marked "final."

Organization has not demonstrated that it is organized exclusively for exempt purposes under section 501(c)(3) because it did not provide its organizational documents to demonstrate that it met the requirements under 509(a)(2).

Further, Organization has not demonstrated that is operated exclusively for exempt purposes as described in section 501(c)(3). Organization stated that it has never operated and has no plans to commence operating. Organization is like the organization *Community Education Foundation*, in that it did not over time meaningfully allocate time or resources to any exempt activities.

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Conclusion:

The organization does not qualify for exemption under section 501(c)(3) and its tax-exempt status should be revoked.

It is the IRS's position that the organization has not demonstrated that it is organized or operated exclusively for exempt purposes as described in IRC § 501(c)(3). Accordingly, the organization's exempt status is revoked effective August 1, 20XX.

Form 1120, *U.S. Corporation Income Tax Return*, should be filed for the tax periods after January 1, 20XX.