



# DEPARTMENT OF THE TREASURY

Internal Revenue Service  
TE/GE EO Examinations

1100 Commerce Street, MC 4920 DAL  
Dallas, TX 75242

501.03-00

**TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION**

January 31, 2011

Release Number: 201119035

Release Date: 5/13/2011

**LEGEND**

ORG = Organization name

XX - Date Address = address

Person to Contact:

Identification Number:

Contact Telephone Number:

Refer Reply to: TE/GE Review Staff

EIN:

ORG

ADDRESS

**CERTIFIED MAIL – Return Receipt Requested**

Dear

This is a final revocation letter as to your exempt status under section 501(c)(3) of the Internal Revenue Code. The Internal Revenue Service's recognition of your organization as an organization described in section 501(c)(3) is hereby revoked effective January 1, 20XX.

We have made this determination for the following reasons:

You have not demonstrated that you are operated exclusively for charitable, educational, or other exempt purposes within the meaning of I.R.C. section 501(c)(3). Organizations described in I.R.C. section 501(c)(3) and exempt under section 501(a) must be organized and operated exclusively for an exempt purpose. You have provided no information regarding your receipts, expenditures or activities. You have not established that you have operated exclusively for an exempt purpose.

As such, you failed to meet the requirements of I.R.C. section 501(c)(3) and Treas. Reg. section 1.501(c)(3)-1(d) in that you failed to establish that you were operated exclusively for an exempt purpose.

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code, effective January 1, 20XX.

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, 20XX, 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 Claim 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 determination was mailed to you. Contact the clerk of the appropriate court for the rules for initiating suits for declaratory judgment.

You also have the right to contact the office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers.

You may call 1-877-777-4778 and ask for Taxpayer Advocate assistance. If you prefer, you may contact your local Taxpayer Advocate at:

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

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

Nanette M. Downing  
Director, EO Examinations

**Internal Revenue Service**

**Department of the Treasury**  
Tax Exempt & Govt. Entities Division  
625 Fulton Street  
Brooklyn, New York 11201

Date: April 20, 2010

ORG  
ADDRESS

Taxpayer Identification Number:  
Form:  
Tax Year(s) Ended:  
Person to Contact/ID Number:  
Contact Telephone Number:  
Contact Fax Number:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dear

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, please sign and return the enclosed Form 6018, Consent to Proposed Action – Section 7428. If you have already given us a signed Form 6018, you need not repeat this process. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

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. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations 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.

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 revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

In lieu of Letter 3618

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:

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,

Nanette M. Downing  
Acting Director, EO Examinations

Enclosures:  
Publication 892  
Publication 3498  
Report of Examination

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b>		<b>Year/Period Ended</b>
ORG		20XX12

**LEGEND**

ORG = Organization name      XX = Date      State = state

**Issue:**

Should the tax exempt status of ORG be revoked as of January 1, 20XX for failing to file the annual Form 990?

**Facts:**

The ORG was incorporated in the state of State on April 9, 20XX. In July of 20XX the organization filed a Form 1023 with the Internal Revenue Service requesting tax exempt status under Section 501(c)(3) of the Internal Revenue Code. According to the articles of incorporation which were filed with Internal Revenue Service as part of the Form 1023 Application for Exemption, the purpose of the organization is to encourage and support the development of quality child care in City through provision of technical assistance and training programs to family day care providers, group family day care providers and day care center staff. To provide technical assistance to other organizations working with child care providers and to conduct any and all lawful activities which may be useful in accomplishing the foregoing purposes.

On August 31, 20XX the organization was granted tax exemption as an organization described under Internal Revenue Code Section 501(c)(3). The determination letter further stated that the organization was determined to be a public charity under IRC Section 170(b)(1)(A)(vi).

We received information from the Social Security Administration that your organization paid wages during the tax year ending December 31, 20XX. Your organization issued 3 Form W-2's but failed to file a Form 941 to report the wages paid, federal income tax withheld, both the employer's and employee's share of social security and Medicare taxes. In addition, it was also noted that the organization had not filed a Form 990 since their tax year ending December 31, 20XX. For the tax years ending December 31, 20XX and 20XX the gross revenue reported by the organization was \$ and \$ respectively.

A letter concerning your Form 941 and 990 filing requirement was sent via certified mail to the organization on December 16, 20XX. The letter was never claimed by the organization. A second requested was sent via certified mail on January 5, 20XX. Again, this letter was never claimed by the organization. A final letter was sent via regular mail on January 26, 20XX. To date we have not received a response or any contact from the organization.

**Law:**

Section 501(c)(3) of the Internal Revenue Code exempts from federal income tax organizations organized and operated exclusively for charitable, educational, and other exempt purposes, provided that no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
<b>Explanation of Items</b>		
<b>Name of Taxpayer</b>		<b>Year/Period Ended</b>
ORG		20XX12

Treasury Regulation 1.501(c)(3)-1(a)(1) provides that in order 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.

Internal Revenue Code Section 6033(a)(1) provides, except as provided in IRC 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 form 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 Regulation 1.6033-1(h)(2) provides that every organization which has established its right to exemption from tax, whether or not 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 IRC Section 6033.

Treasury Regulation 1.6033-2(i)(2) provides that every organization which is exempt from tax, whether or not it is required to file an annual information return, shall submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into its exempt status and administering the provisions of Subchapter F, Chapter 1 of Subtitle A of the Code, IRC Section 6033, and Chapter 42 of Subtitle D of the Code.

Revenue Ruling 59-95, 1959-01 CB 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 IRC Section 6033 and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

#### **Taxpayer's Position:**

The taxpayer's position is not known.

#### **Governments Position:**

It is the government's position that the tax exempt status of the ORG under section 501(c)(3) of the Internal Revenue Code should be revoked for failing to file their annual Form 990 when required to do so.

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
<b>Explanation of Items</b>		
<b>Name of Taxpayer</b>		<b>Year/Period Ended</b>
ORG		20XX12

Internal Revenue Code Section 6033(a)(1) states in part that, "Except as provided in paragraph (3), every organization exempt from taxation under section 501(a) shall file an annual return..."

The organization did not meet any of the exceptions stated in section 6033(a)(3) of the Internal Revenue Code. For the tax years ending December 31, 20XX and 20XX the gross revenue reported by the organization was \$ and \$. Based on this information, it has been determined that the organization exceeded the \$ exclusion for not filing an annual Form 990.

Revenue Ruling 59-95 held that failure or inability to file the required information return or otherwise to comply with the provision of section 6033 of the Internal Revenue Code and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of an exempt status.

Using this revenue ruling as precedent, it is the government's position that the tax exempt status of the ORG under Section 501(c)(3) of the Internal Revenue Code should be revoked.

### **Conclusion**

The tax exempt status of ORG under Section 501(c)(3) of the Internal Revenue Code should be revoked because the organization has not established that it is observing conditions required for the continuation of exempt status such as filing annual Form 990 information returns and failing to provide information that was requested from them by the Internal Revenue Service.

The effective date of revocation is January 1, 20XX the first day of the tax year under examination.

The organization will be required to file Form 1120 beginning in 20XX for all tax periods subsequent to the revocation of their tax exempt status.

A report addressing your employment tax liability will be issued under separate cover.