

Internal Revenue Service
Appeals Office
100 First Street, Suite 2000
San Francisco, CA 94105

Number: **201426035**
Release Date: 6/27/2014

Date: April 4, 2014

A

B

Department of the Treasury

Employer Identification Number:

Person to Contact:

Employee ID Number:
Tel: _____
Fax: _____

UIL: 0501 .03-08

Certified Mail

Dear

This is a final adverse determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code (the "Code"). It is determined that you do not qualify as exempt from Federal income tax under section 501(c)(3) of the Code effective January 1, 2005.

Our adverse determination was made for the following reason(s):

You are not operated exclusively for charitable, educational, or other exempt purposes as required in section 501(c)(3). You did not engage primarily in activities which accomplish one or more of the exempt purposes specified in section 501(c)(3). Treas. Reg. 1.501(c)(3)-1(c)(1) More than an insubstantial part of your activities were in furtherance of a non-exempt purpose.

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

You are required to file Federal income tax returns on Forms 1120. File your return with the appropriate Internal Revenue Service Center per the instructions of the return. For further instructions, forms, and information please visit www.irs.gov.

If you were a private foundation as of the effective date of the adverse determination, you are considered to be taxable private foundation until you terminate your private foundation status under section 507 of the Code. In addition to your income tax return, you must also continue to file Form 990-PF by the 15th Day of the fifth month after the end of your annual accounting period.

Processing of income tax returns and assessments of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Code.

We will make this letter and the proposed adverse determination letter available for public inspection under Code section 6110 after deleting certain identifying information. We have 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 may file an action for declaratory judgment under the provisions of section 7428 of the Code 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 letter was mailed to you. Please contact the clerk of the appropriate court for rules for filing petitions for declaratory judgment. To secure a petition form from the United States Tax Court, write

to the United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217. See also Publication 892.

You also 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 matters that may not have been resolved through normal channels get prompt and proper handling. If you want Taxpayer Advocate assistance, please contact the Taxpayer Advocate for the IRS office that issued this letter. You may call toll-free, 1-877-777-4778, for the Taxpayer Advocate or visit www.irs.gov/advocate for more information.

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

Sincerely Yours,

A handwritten signature in cursive script, appearing to read "Nan Shimizu".

Nan M. Shimizu
Appeals Team Manager

Enclosure: Publication 892

cc:



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
Internal Revenue Service

December 19, 2008

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

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 believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. 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.

Letter 3618 (04-2002)
Catalog Number 34809F

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.

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,

Acting Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination

Form 886-A (Rev. January 199x)	EXPLANATION OF ITEMS		Schedule number or exhibit
Name of Organization/Taxpayer	Tax Identification Number	Year/Period ended	
ORG	EIN	12/31/20XX	

Legend

ORG =Final Name of organization

NN=Name of individual

EIN=EIN of the organization

UR=Unrelated organization

City = City State = State

x =Amount

XX=Year

P = Program

ISSUE:

Whether ORG operated exclusively for exempt purposes within the meaning of Internal Revenue Code § 501(c)(3):

- Whether ORG is engaged primarily in activities that accomplish an exempt purpose?
- Whether more than an insubstantial part of ORG's activities is in furtherance of a non-exempt purpose?
- Whether ORG was operated for the purpose of serving a private benefit rather than public interests?

FACTS:

Background of ORG

ORG, Employer identification Number ("EIN"), was incorporated on April 05, 20XX as a not-for-profit corporation in the State of State. NN was listed as the incorporator in the Articles of Incorporation (AOI). The Article II of the AOI stated its principal place of business address as City, State.

The Article III of the AOI stated the organization's specific purpose as follows:

"We will be helping the community who needs financial help enter a debt management program that will help them get out of debt and educate them." ORG filed Form 1023, Application for Recognition of Exemption under Section 501(c)(3) of the Internal Revenue Code, on May 13, 20XX for a publicly supported organization described under Internal Revenue Code sections 509(a)(1) and 170(b)(1)(A)(vi) with the Internal Revenue Service (Service). The Service sent a follow up letter on August 12, 20XX to inform the organization to amend its Articles of Incorporation in order to meet the organizational test of section 501(c)(3). ORG filed Articles of Amendment on September 03, 20XX to amend the above Article III. The amended Article III includes the requisite language as follows:

"Said organization is organized exclusively for charitable, religious, educational, and scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code."

Notwithstanding any other provision of this document, the organization shall not carry on any other activities not permitted to be carried on (a) by an organization exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future Federal tax code, or (b) by an organization contributions to which are deductible under section 170(c)(2) of the Internal Revenue Code, or corresponding section of any future federal tax code."

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"Upon the dissolution of the organization, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, of corresponding section of any future federal tax code, or shall be distributed to the federal government, or to a state or local government. For a public purpose. Any such assets not disposed of shall be disposed of by the Court of Common Pleas of the county in which the principal office of the organization is then located, exclusively for such purposes or to - such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes."

NN signed the Form 1023 and was listed as President of ORG, NN listed as Treasurer, and NN was listed as Vice President. The activities and operational information as described in the Form 1023 were:

(1) "Solicit customers to enter the debt management program to help them reduce their interest, lower their monthly payment and help them get out of debt within x to x months. This will be about x0% of time and resources committed to this activity. This will allow the Company to grow and be able to reach more people in the community. This will be done in two ways.

* Advertise in the media, through brochures and word of mouth. We need to let the community know that we are here to help.

* Recruit independent Companies to refer business to us so that we can grow the foundation.

(2) Educate the community about credit and how to use it effectively so they will not get into debt again. This will include education on credit cards, loans, financial lenders, homes, and other credit that is available. This will be about x0% of time and resources dedicated to it. It will be done by a professional from the community and will begin as soon as we have about x000 clients. We will be offering classes, brochures and other educational material to help clients.

(3) Processing contracts by writing proposal letters to the creditors so that the customers can receive the benefits of reduced interest and payments. This process will take about x0% of our time and resources depending on the amount of contracts that will be processed monthly. We estimate about xx0 contracts. This will be done by a Processor and begin immediately when we begin operating.

(4) Customer Service. We will continually be servicing these clients to ensure that they are receiving the benefits and that they continue in the program. There will be a quarterly review for each client and a bimonthly call so that the customers are satisfied. This activity will take about x0% of our time and resource. The organization's sources of financial support stated as:

"I, NN will invest the initial investment of \$xx. This will be a loan payable beginning in 20XX and if the Non Profit is able to pay me. The amount will be \$xx per month until it is paid off. The other source of income will be the \$xx to \$xx monthly charge to customers, which is a token fee to handle their accounts. This will cover postage, phone calls, letters to their creditor and customer service. The other source will be x-x% that the creditor will pay the foundation to help customers enter a debt management program."

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The IRS recognized ORG as a publicly supported organization described under Internal Revenue Code sections 509(a)(1) on October 07, 20XX.

Board of Directors:

ORG listed four directors on the Form 990 as follows:

Name	Title	Compensation
NN	President	\$ xx,xxx
NN	Treasurer	\$ 0
NN	Director	\$ 0
NN	Director	\$ 0

NN is in charge of ORG's daily operations. She is familiar with all the aspects of the debt management business before she began working at ORG. She used to own a marketing company in that enrolled debt management clients for a non-profit company.

NN, the Vice President of ORG, and NN, Director, were not listed on the Form 990. However, NN worked for ORG and was compensated from March 20XX through May 10, 20XX. She was Customer Service Manager at a debt management company before she worked for ORG. NN helped ORG with accounting issues and general issues that the board encountered. She did not specifically have experience in debt management.

Minutes

ORG held three board meetings in 20XX. The issues discussed through the first meeting on January 20, 20XX were summarized as follows:

- * As of January 1, 20XX, according to new law changes within the industry and IRS, ORG will no longer pay marketing fees and no longer have centers. If the Center chooses to send a contract, the company will review the contract and choose to resume responsibility for the client or not.
 - * ORG is in progress of getting certified by ISO/BSI: 9001 by the end of March or early April. Changed the name of Marketing Department to Educational Outreach Department. This department will now advertise in radio and television and market themselves as an Educational Outreach Program and offer educational information on debt and finances. The company will offer free information and offer open meetings that they can attend. This department will dedicate their resources to help the consumer or refer towards the proper road. This department will perform a thorough evaluation and see if in fact the consumer qualified for the DMP or requires another service.
 - * NN, Director, offers information in regards to the laws of Bankruptcy.
 - * NN will contact the Bankruptcy court to request current information.
 - * The President reviews the company's expenses to all board members and breaks down numbers.
- NN, NN, NN, NN, and NN signed the minutes.

The issues discussed through the first meeting on June 17, 20XX were summarized as follows:

- * ORG moves its office to City.

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* ORG is pretty much done with all the requirements for ISO 9001 certificate.

NN left ORG in May 20XX.

The issues discussed through the first meeting on October 15, 20XX were summarized as follows:

* NN resigned from the Board on September 01, 20XX.

* ORG has received a grant from Bank of UR for \$X for P Program. The program is designed to educate the client in the comfort of their homes and to pace the education at their convenience. The program includes that ORG creates an individualized budget for each individual; the individual will set short term and long term goals; a financial education is sent to each individual. (see below for the detail of the P Program)

* ORG continues to struggle financially due to a diminishment in fair share.

ORG have not been able to get certified in ISO 9000 because of insufficient funds.

* ORG is selling some of its clients to pay off the debt. It received offers from UR, State, at \$x in payments, UR, State, at \$x per client, UR, State, at \$x per client, but retracted the offer stating that Hispanic clients were worth less because they were unstable, UR, State, at \$x per client, and UR, State, at \$x per client. The other part of the offer from UR is that a consulting Company would help ORG stay in business by providing clients, finance and other support to help ORG grow. In addition the Consulting Company will pay off some old debt ORG has. After discussing all five companies, it was confirmed that UR was the best Company for ORG. The board agreed to sell all State and State clients to UR and the monies will be used to pay off the debt to the President NN.

* The president of ORG will have her salary reduced to \$x,000 per month.

* ORG will have one certified counselor to handle the x00 clients ORG will continue to service.

* No immediate advertising plans are at this time.

In January 20XX, ORG held a board meeting on January 20, 20XX. The minutes stated ORG received an initial payment of \$x from UR (UR), a for-profit corporation, for selling the clients of State and State. UR later transferred x,xxx clients they purchased from UR, a non-profit Corporation whose office was destroyed by Hurricane NN, but UR could not service these clients because UR is not a non-profit organization. The meeting also stated that NN's salary will be raised to \$x per month.

Activities

In 20XX, ORG enrolled xxx new clients to its debt management plans (hereinafter DMPs). ORG had a total number of clients of xxx before it purchased more than x,000 clients from UR in November 20XX. In that year, ORG was in a difficult financial situation and decided to close its business. It sold 31x DMP accounts to UR, a for-profit organization (see Asset Purchase Agreement for details) to resolve its cash flow problem. Part of the reason that ORG sold its DMP accounts to UR is that UR said it can help ORG stay in business by bringing in more DMP accounts to ORG. UR sold ORG a total of x,xxx DMP accounts that UR purchased from UR and other non-profit organizations. These organizations closed their businesses because of Hurricane NN UR cannot service those accounts because it is not a non-profit organization (See Debt Management Account Purchase Agreement for detail). Of the x,xxx transferred clients, x accounts became active and ORG agreed to pay UR \$x per account. The payment on these accounts were on a monthly installment agreement.

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There was exactly no timeline when ORG was required to pay off the full amount for the purchase. It also does not state how much ORG needed to pay for each installment.

ORG moved its main office from the city of City to the city of City in the midst of 20XX. ORG hired x employees. x worked in the customer service area and one provided financial education to the clients. Before it moved its office to the city of City, ORG processed its DMP accounts by using its own employees in its City office. However, when it moved to the city of City, it had only x employees and ORG signed a contract agreement with UR to process its DMP accounts.

Asset Purchase Agreement

ORG entered into an agreement with UR for the sale of ORG's clients.

The Asset Purchase Agreement spelled out the purchase terms and price. It is stated as follows:

Purchase of DMP Accounts:

UR shall purchase certain debt management accounts from ORG, which accounts are located in UR's permitted states and which accounts the clients return UR's consent agreement, including all rights of ORG respecting the DMP Accounts of any nature, kind and description, whether tangible or intangible, pertaining to said accounts. Without limiting the generality of the foregoing, the DMP Accounts shall include all work in progress, together with all related work-product, client files and information stored in any database maintained by ORG and existing as of the Closing.

Purchase Price:

The purchase price for the DMP Accounts (the "Purchase Price") will be x (\$x) per account which returns a signed UR client agreement and pay x (x) creditor payments from the consumer to UR, payable as follows:

- (a) An initial good faith payment in the amount of \$xx,xxx.00 will be paid to ORG as an advance toward the purchase price. UR will receive a credit for this advance toward the total purchase price paid for the accounts. This good faith advance shall be paid within 5 business days of the execution of this agreement by both parties;
- (b) UR will pay ORG an advance equal to \$xx.x0 representing x/x of the \$xxx.00 per account purchase price less the advance credit of \$xx,xxx.00 after UR has received the first of the two (2) consecutive creditor payments from the client on the transferred account;
- (c) UR will pay the second M (\$x) of the purchase price after receipt of the second consecutive creditor payments from the client on the transferred account, less any advances which are outstanding;
- (d) All payments to ORG shall become due and payable to ORG by UR on the fifth business day following receipt of and proof of good funds received from the client.

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Debt Management Account Purchase Agreement

ORG also entered into another agreement with UR to purchase DMP client accounts which UR purchased from UR. UR did not provide any services on these accounts since they were located in other states where UR did not have a license to operate. The agreement was executed as of Oct. 31, 20XX by NN, President and CEO of UR, and NN.

The term of transfer states as follows:

Transfer of DMP Accounts:

UR shall transfer to ORG and ORG shall accept certain debt management accounts from UR, which accounts are specified on Exhibit "1," including all rights of UR respecting the DMP Accounts of any nature, kind and description, whether tangible or intangible, pertaining to said accounts. Without limiting the generality of the foregoing, the DMP Accounts shall include all work in progress, together with all related work-product, client files and information stored in any database maintained by UR and existing as of the Closing. The effective date of the transfer shall be December 1, 20XX. All creditor payment received on or after the effective date shall be transferred to ORG, and ORG shall be responsible for all payments due creditors on and after the effective date. The purchase price was blacked out. Once the clients were transferred to ORG in November of 20XX, ORG made initial calls to the clients welcoming them to ORG and requesting new signed DMP contracts.

Consultant agreement:

ORG entered into an agreement with UR (UR) (hereinafter "Consultant") to provide DMP processing services to the clients of ORG (hereinafter "Client"). UR is referred by UR as mentioned under the section of the minutes of board meetings. The Consultant Agreement states as follows:

"General consultant responsibilities:

Be available to provide consulting services and advise Client for a period of x months from the signing of this agreement on the areas of business management, client development, state licensing, insurance and bonding, government regulation, vendor relationships, software and computer systems, training, education and outreach program development, and other necessary and desirable aspects of operating a credit counseling agency as requested by client.

Guaranteed minimum gross income:

For a period of xx months from the effective date of this Agreement, Consultant guarantees Client shall receive a minimum gross monthly income of x Thousand Dollars (\$xx,000) (hereinafter "Minimum Monthly Gross Guaranteed"). Said amount shall be calculated by adding together the total of all dollars received from each client in a debt management plan for set up fees, monthly fees, administration fees, NSF fees, and all other amounts received (excluding payments to disbursed to creditors), plus the total amount received from Creditors (including, but not limited to, all Fair Share and any grants received), and the amount of all fees received from any seminars or other educational programs conducted by Client. In the event a creditor pays fair share less often than monthly, the amount received or due from said creditor shall be prorated into a monthly amount. Consultant shall

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promptly make the payment of any short fall under this guarantee immediately, in order that the debts and payroll of Client can be timely paid. The Minimum Monthly Gross Guarantee shall be reduced by the amount of any persons removed from payroll as of September 30, 20XX, and the amount of any savings obtained by Consultant for the benefit of Client. Client agrees to allow access to all accounting records and bank statements of Client and its officers and directors.

Consultant compensation:

Until Client is servicing x00 consumers in its debt management plan, Consultant shall not receive any compensation. Client shall pay Consultant \$x0.00 per month for each consumer it is servicing above x00 clients each month. Such compensation shall be due on the first day of each month for the previous month. A consumer shall be deemed to be participating in a debt management plan if at any time during the month Client received funds from that consumer." The Client made a monthly processing payment of \$xx. The processing fee varied depending on the requirement of different states, most states allowed the charge of \$xx.00 per month. Of the \$xx, ORG paid \$x0 to the UR. There was no payment made to UR in 20XX. ORG paid UR \$xxx,000 in 20XX and \$xxx,x00 in the first half year of 20XX.

Debt management program (DMP):

Qualification for a DMP

ORG set the following requirements for its potential clients:

- * Client must owe at least \$x,000 in unsecured debt.
- * Client must be making the minimum payment to his/her original creditors for x months.
- * Client must be in such dire need to enroll that he has no other alternatives.
- * Client must have had credit cards for at least 9 months.

If client does not have enough disposable income to pay their accounts in the program, ORG suggests they enroll only a partial number of credit card accounts and make arrangements for the other accounts to pay directly to their creditors.

Steps to enroll in DMP

Once an individual calls ORG, the customer service representative will go through the screening questionnaires to fill out client's personal information such as debt and income data into the computer software program to evaluate if the individual qualifies for the DMP program. When a potential client agrees to enroll in a DMP, the first step is to mail out an enrollment package. The client must fill out and sign the agreement and send them back to ORG. Once ORG receives the client's signed forms along with copies of their creditor statements, they forward the information to the Consultant for DMP processing.

The enrollment package includes a debt management program Agreement and Authorization Agreement for Automatic Withdrawal of Funds. The debt management program Agreement states as follows:

"This Agreement, Disclosure and Authorization (the 'Agreement') is entered into by and between individual or individuals signing below ('Client') and ORG, its officers, employees and agents, (all

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hereinafter referred to as ORG) to review its financial affairs, which includes but is not limited to monthly budget, living expenses and outstanding debts. Client gives ORG full authority to work with and negotiate on its behalf with creditors to waive or reduce finance charges/interest rates and fees wherever possible if allowed in its companies' policies for credit counseling programs.

Whereas Client has outstanding financial obligations which have payments due on a monthly basis and Client wishes to retain the services of ORG to develop and implement a debt consolidation re-payment schedule. Client agrees to provide complete and accurate information regarding all debts and agrees that ORG, Inc. has made no promises, warranties or guarantees other than those as follows:

1. Client has the right to review any file maintained by any consumer reporting agency ORG cannot guarantee the enhancement or improvement of a Client's credit rating and/or history and Client understands it can assume no responsibility and/or liability for past or future credit reporting.
2. ORG will develop and implement a payment schedule for Client within a reasonable time from the receipt of any fees and documentation provided to Client. Client acknowledges and agrees that a monthly administrative fee of \$xx.00 is included in the scheduled payment to ORG.
3. Client acknowledges and agrees that any monthly payment quoted by ORG is based entirely on information provided by Client at the time of application and additional debts as well as higher balances with creditors may result in an adjusted payment presented to Client. This initial figure is entirely an ESTIMATE.
4. Client is advised and understands that in initiating the debt management plan there is a conversion period of up to x0 days from the time that ORG receives all the Client creditor information and documentation. During this conversion period ORG will be attempting to obtain new payment terms with all your creditors. As a result non-delinquent Clients are advised that it may be necessary to continue to make timely minimum payments to their creditors until the new terms are in effect.
5. Client acknowledges that their credit report may reflect a consumer credit counseling status. ORG is not responsible nor can it repair credit rating that may appear on Client's credit report, past, present or future.
6. Client acknowledges and agrees that his/her prompt initial payment and monthly on-time payments are a vital part of the debt management program....
7. This agreement shall be governed by and interpreted under the laws of the state of State excluding the conflicts of laws provisions thereof....
8. Client understands they are responsible for their debts and when Client makes monthly deposit, creditors will receive payments on Client's behalf through the ORG client trust account. ORG does not accept personal checks..... Client understands and agrees to the following:
 - * This is not a loan.
 - * Client is responsible for any funds dispersed on their behalf.
 - * Creditors may continue to charge interest.
 - * There is a \$xx.00 monthly administrative fee (non-refundable).
 - * ORG does not accept personal checks.
 - * All questions concerning your account should be directed to:

ORG

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Attn: Customer Service
 xxxxx _____ Blvd, Suite x0x
 City, State xxxxx
 (xxx) xxx-xxxx

All processing and payment dispersal is handled at this address. It is our policy to mail or fax proposals upon receipt of the file. However, we will not contact the creditor by phone until client had made the first payment. Client authorizes ORG to obtain and receive any information regarding Client account. Client authorizes creditors to send any additional information needed to ORG. This release agreement for information on my account may be copied and the copy may be deemed to be equivalent to the original and may be used as a duplicate original.

Your total monthly payment terms are as follows:

Month payment of _____ due on _____, and the every month thereafter."
 The automatic withdrawal of funds stated that the client agreed that ORG will withdraw funds from the client's bank account.

Hardship program

ORG claimed that it has a hardship program. For clients who cannot pay any monthly administrative fees, they are still in the DMP program. ORG had xxx clients who did not pay any administrative fee. The fee is waived as long as they are in the DMP program. Of the x,xxx transferred clients from UR, xxx of them did not pay any contribution fees. According to the clients' data provided by ORG, there were xxx clients who did not pay any monthly fees for at least one month.

The determination to waive the monthly fees is made by a supervisor or the President of ORG. The qualification to determine the waived fees is based on the clients' applications and their budget. ORG claimed that the initial enrollment fee is voluntary and 95% of its clients did not pay an up-front fee.

Sample of clients' files

During the course of examination, xx clients' files were randomly selected for review. A summary of the clients' files are as follows:

Client ID # xxxxx from State:

This client was transferred from UR. The client's file includes a letter dated November 7, 20XX from UR to the client. It notified the client that his account would be processed by ORG and asked him to sign the enclosed enrollment and authorization to transfer his information to ORG. The enrollment agreement stated that the client's monthly administrative fee was \$xx.00 and monthly payment was \$xxx.00 due on the xxth every month. The client signed the agreement on Dec. 01, 20XX. The file also includes the debt information, proposals to creditors, and account audit forms and notes.

Client ID # xxxxx from State:

The client signed the enrollment agreement on Nov. 20, 20XX. The file includes the

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enrollment agreement, authorization agreement for automatic withdrawal of funds, debt information, proposals to creditors, and account audit forms and notes. The client's monthly administrative fee was \$xxx.00 and monthly payment was \$xxx.00 due on the xxth every month.

Client ID # xxxxx from State:

The client signed the enrollment agreement on Dec. 6, 20XX. The file includes the enrollment agreement, debt information, proposals to creditors, written request from the client, and account audit form and note. The client's monthly administrative fee was \$xx.00 and monthly payment was \$xxx.00 due on the xxth every month.

Client ID # xxxxx from State:

The client signed the enrollment agreement on Dec. 5, 20XX. The file includes the enrollment agreement, authorization agreement for automatic withdrawal of funds, debt information, and account audit forms and notes. The client's monthly administrative fee was \$xx.00 and monthly payment was \$xxx.00 due on the xxth every month.

Client ID # xxxxx from State:

The client signed the enrollment agreement on Nov. 18, 20XX. The file includes the enrollment agreement, authorization agreement for automatic withdrawal of funds, debt information, proposal to a creditor, and account audit forms and notes. The client's monthly administrative fee was \$xx.00 and monthly payment was \$xxx.00 due on the xxth every month.

Client ID # xxxx from State:

The client signed the enrollment agreement on Nov. 14, 20XX. The file includes the enrollment agreement, authorization agreement for automatic withdrawal of funds, debt information, and a proposal status sheet. The client's monthly administrative fee was \$xx.00 and monthly payment was \$xxx.00 due on the xxth every month.

The other six clients' files include similar information as listed above.

P Program:

ORG received \$x0,000 credit counseling grant from Bank of UR. The ORG's mission statement stated in the application as following:

"ORG's mission is to provide education to our community through one on one counseling sessions, monthly educational workshops and material such as books, computer disks and pamphlets. Our goal is to provide information and knowledge about debt, credit, finance and other financial information. In addition, we provide a credit counseling program for those who are in serious debt and who need our services."

ORG stated its purpose of funding request as follows:

"7 minute educational segment on National TV as part of a program on UR, a national Spanish speaking channel.

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In addition, there would be x ads during the one hour segment that would relate to tips for financial education such as budgets, bankruptcy, how to review your credit reports, how to apply for a loan etc. the total cost would be \$xx,x00.00 for xx weeks. The name of the show is "Anything Goes" which is the premise of the show that will feature many entertainment segments such as gossip, interviews, special interests etc.

We at ORG are providing our clients (approximately x000+) with an educational financial package that includes a CD ROM and a booklet that covers topics such as; applying for a loan, Household Budgets, Managing Credit Card Debt, Reviewing and Understanding Credit Reports, Bankruptcy, Financial Security etc. In addition, when our company receives calls from the community, we also mail these booklets to them as well. We expect to send out an additional x00 booklets during 20XX for all consumers that call into our organization and need information. The cost of these booklets (financial packages) with the CD Rom is \$x0.00 plus \$x.x0 for postage. The grand total for this budget will be \$xx,0x0.00. This includes a total of x,x00 packages including shipping charges."

The grant outcome states the following:

"Should ORG be awarded with a grant, the first measure would be to implement the Educational Outreach Program. Our goal is to reach the community and inform them of the services that are available to them. Setting up the television segments are important in order to reach the communities therefore, after choosing the timeslots which we feel will reach the most consumers, the segments will be aired. The second step would be to order all the necessary materials to have them readily available to all consumers and clients as well. ORG also realizes that if more communities are reached, more consumers are inclined to attend seminars and receive information. Therefore, expanding our venues and increasing the number of qualified staff members will also be required to meet the new demands. A system has been developed to trace and track all new incoming calls. A call center will be set up in order to attend all new calls from our Educational Outreach Program. The Education department's manager will be responsible to measure the volume of all calls as well as the number of Educational information requested and sent out." ORG has one employee conducting this program. According to the conversation with him, there are currently x0 clients in the program and he contacts them at a monthly basis. According to the notes he recorded during his conversation with xx clients, all of the xx clients were current or former DMP clients and the conversations with xx out of xx were related to the clients' DMP accounts. He discussed the Financial Education booklet information with four clients and the notes were as follows:

"Contacted client to inform her I would be the new financial education representative. Discussed Financial Education goals & guidelines. Also briefly covered the chapters in Financial Ed booklet and the materials in Ed Packet (2/x/XX). Covered topics in Chapter 1 & 2. Reviewed Q&A at the end of both chpts. Discussed how to apply budgeting principles to her small business (3/1/XX).

The DMP accounts related discussion was as follows:

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"Has been sending in monthly payment on time; however, now being harassed by creditors; when she calls ORG, she has been put on hold; payments are not being made; problem accts: UR Visa?; ongoing problem has lasted x to x months (2/x/XX).

Client still incurring problems w/Aspire acct; will check this acct; talked to wife; we agreed to co-call creditor on this acct on 7/xx; call early (7/xx)."

"Has not received statements needed to send along with payment; receiving creditor calls on two accts: UR & UR; last payment received in May XX; over x months ago (2/x/XX)."

ORG's employees and qualifications:

ORG Employees' job descriptions:

ORG employs x persons (hereinafter referred to as employees). X employees work as customer service representatives and x as a financial education representative. The customer service representatives answer clients' phone calls. Most phone calls ask about late fees, change payment date, and checking account status. They also send proposals to creditors after ORG received the first payment from a client. They open the mail, separate the mail, input the customer's payment into the system and then send the payment to the Consultant for processing (processing center). When receiving a phone call from a potential client, the customer service representative will go through the screening questionnaires and send the client's information to the processing center to process for enrollment. The customer service representative tracks the number of calls on their computer system. For the year under examination, the financial education representative provided financial education to about x0 clients which included x0 clients who did not enroll into a DMP. He called the clients on a monthly basis to ask if the clients needed any help. He conducted research to find out information for the clients. He utilized language translation software to translate information in Spanish and sent it to clients. Most clients requested information about credit cards, credit score, car purchasing and budget.

All employees received DMP computer system training, including the input of a client's information into the computer system, reviewing accounts, processing payments, checking due dates, verifying client's information, calling creditors, and adding notes to the system for each call.

Advertisement:

ORG advertised its services through internet, media, and yellow pages in 20XX.

Media:

ORG bought a video spot in City/ UR station at x spots with x0 seconds for each spot between 12:00 noon to x:00 pm on Tuesday and Wednesday, x spots of x0 seconds for each spot between 12:00 noon to x:00 pm on Thursday and Friday. ORG paid \$xx0 for each spot.

The-three commercials are in Spanish and the contents of the commercials are as follows:

Commercial 1:

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Do you feel trapped about your debts? Are the payments too much that you feel like burning yourself? Are/is the interest rate so high that the payments don't go down? Your debts probably do not let you sleep. Are your debts so much that you feel you are drowning? Stop there and call ORG and feel tranquility in your pocket. Instead of several payments, just have one. Stop the high interest rate and pay your debts sooner. Call us at 1 x00 xxx-xxxx.

Commercial 2:

Next, I want to pay my debt. This is for interest, this is for insurance, and this is for late payments and this for the principle. Just that amount for my debts? Yes, just that amount for your debt. I'm never going to finish paying my debts. Never, never, never. Don't worry. With ORG, you can reduce or eliminate the high interest on your credit cards with just one monthly payment. Remember your possibilities. I'm here for my appointment. I want to consolidate my debts. Yes sir, take a seat. All of our knowledgeable consultants can/will do a free credit analysis for you. And by you making one monthly payment, you will pay your debt off in less time and save thousands of dollars. The dream of all people in debt is to stay debt free. ORG is a company that has helped hundreds of Hispanics reduce or eliminate high interest rates. We are a company approved by the Department of Banks of and by the Internal Revenue Service. Call us now at 1 x00 xxx-xxxx.

Commercial 3:

Visa, MasterCard, American Express. How am I going to do it? Debts are a frustration. They separate families, they give headaches. Stop those debts by calling ORG. We can reduce high interest rates. Call today; make your family happy. Debts are a headache. Call today. Call now and approach this offer. It benefits you. Approach this offer. There is nothing like it. Only one monthly payment, much lower than what you are paying now. I found the solution. Credit card debts. The credit card debts, department store debts and hospital debts. You need to call today and rest. We have the answers. Listen to me.

Publications:

ORG advertised its program on El Clasificado, a Spanish publication, x issues a month, with a size of 1/8 of a page. The advertisement was in Spanish which was translated in English as follows:

Do you feel ruined because of your debt?
We can help you
ORG

- * Reduce or eliminate your interest rate
- * Eliminate your over the limit credit //ate fees
- * Make only one monthly payment
- * Free yourself of debt
- * Avoid bankruptcy
- * Free consultation

Save thousands of dollars on interest payments
License & Bonded
Member of AADMO

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Call now for analysis of debt!

ORG also advertised its program on the Spanish Yellow Pages, the advertisement is similar as above.

Internet:

ORG advertised its program at www.ORG.org. The website provides both Spanish and English versions. The website includes x tabs on the top and x tabs listed on the side. The tabs listed on the top are as follows:

- * Home
- * Consumer information
- * About debt relief
- * Sample savings
- * Debt calculator
- * Types of debt
- * Questions & answers

The tabs listed on the side are as follows:

- * Our privacy pledge
- * The legal side
- * Education
- * Credit reports
- * Debt statistics
- * Thinking of bankruptcy
- * The best solution
- * Financial package

Under the tab of Home, it is a welcome page and it also links to its DMP program. The welcome page states as follows:

Now there is Debt Management Relief through ORG.

This debt management program has helped tens of thousands of people nationwide consolidate millions of dollars in credit cards, department store cards, media bills, finance companies & other unsecured creditors into one low affordable monthly payment.

It doesn't matter how little you owe. What matters is that our Consumer debt management program lowers your monthly payments, lowers your interest rates, stops collection calls and could provide more spendable income each month for you and your family!

This Consumer debt management program could reduce your monthly payments by X0% to X0% and pay off your credit card debt in x0 to x0 months instead of x0-x0 years! In addition, this proven Consumer debt management program, in most cases, can lower credit card interest rates between x% to 1x% and some creditors will eliminate interest

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rates down to zero (0%) percent, stop late fees, over-limit fees and re-age past-due accounts to current. Over the past several years this Consumer Debt Relief Program has successfully consolidated .millions of dollars in unsecured debt for thousands of people UR!

[Click Here for Consumer debt management program](#)

The DMP includes the following information:

- * Credit Counseling Application: it asks for the client's personal information, employment information, income and expenses information, and credit card and unsecured debt information. At the end of the application, it summarized the total combined income, total secured payment, total household expenses payment, summary of consolidation payment, amount needed for creditors, estimated maintenance fee payment, total monthly payment to Agency, and disposable income.
- * DMP Agreement: same as the one listed under earlier section
- * Disclosure statements

Under the tab of Consumer information, the following information was provided:

1. Focus on debt
2. Financial health: the five tips may help to be financial health are set financial goals, keep a budget, economize when possible, use credit with caution, and maintain a good credit rating.
3. Danger signs: the five danger signs are paying bl1s late, transferring balances from one account to another in order to obtain lower interest and payments, depending on overtime at work to cover monthly bills, hoping that checks you've written don't clear the bank before payday, and borrowing from friends and relatives to cover basic living expenses.
4. Steps to living a debt free life: the three steps are stated as follows:
The first step: begins by sitting down and taking a realistic look at your lifestyle and the cost of maintaining it. analyze your household budget. If you're making minimum payments on your credit cards, you have a problem.

The second step: you must realize the problem and sincerely want to fix it. Filing bankruptcy (chapter 7 or 13) is certainly a cure for this problem, but should only be considered as a last resort. For many people, a Consumer debt management program is the best solution and alternative to filing bankruptcy.

A Consumer debt management program may be the only solution for those people that are unable to pay their credit card and other unsecured bills. Most credit card companies encourage people to seek help through a Consumer debt management program ... like ORG.

The third step: consolidating your credit cards and other unsecured debts into a Consumer debt management program is easy and painless. All personal and financial information is private and confidential, between you and a certified credit counselor. After creating a realistic livable household budget, all of your credit cards and other unsecured debts will then be consolidated into one low affordable payment. Payments can be x0% to x0% lower than the combined payments you were making prior to consolidating your debts.

Under the tab of About Debt Relief, it introduced its DMP as follows:

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A fully implemented Consumer debt management program can help a consumer in these following areas below:

- * Consolidate Unsecured Debt
- * Lower Monthly Payments
- * Lower Interest Rates
- * Stop Late & Over-limit Fees
- * Re-age Past-Due Accounts
- * Avoid Collections
- * Avoid Bankruptcy
- * Stop Collection Calls
- * Get Rid of Debt

How The Program Works

ORG is not a lending institution, nor a collection agency. It's a Federally-Approved, Non-Profit "Debt Management" Agency formed for the American people that offers a Consumer debt management program. This Consumer debt management program will allow individuals and families to gather all their credit cards, medical bills & unsecured debts to be consolidated into one low affordable monthly payment.

Once your bills are consolidated, our objectives are to: (1) Help you become "stress free" in x0 days or less and 2) Help you become "debt free" in x0 to x0 months, instead of x0-x0 years! We realize that many clients feel the financial stress from creditors that are calling day and night and have no plan to become debt free. We are ready and here to help.

Creditors nationwide approve and accept our Consumer debt management program because it has been designed to help those individuals and families repay their debts, while eliminating financial stress, today, tomorrow, and well into the future.

Under the tab of the legal side, ORG provides answers for commonly asked questions about consumer's rights under the Fair Debt Collection Practices Act.

There is no information under the tab of education.

Under the tab of thinking of bankruptcy, ORG states a DMP is a better alternative than filing for bankruptcy.

Under the tab of the best solution, ORG explains its DMP can help consumers to beef up his/her credit score.

Educational activities

ORG stated its educational activities in response to the question asked by the Service as follows:

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"We held education seminars during 20XX and had a very poor showing. Most clients did not want to attend although they lived close. We also tried to provide financial education at various locations but the response was dismal. Instead we decided to provide monthly educational newsletters. Many returned the newsletters with their payment. Still we sent them during 20XX.

The other program we developed was the P Program. We received a \$x0,000.00 grant from Bank of UR on August of 20XX so that we could hire an employee and educate clients and the community."

ORG did not conduct any seminars since 20XX.

Newsletter:

A sample of their newsletter was provided: It was a one page newsletter including questions of What is Debt Load, What is a Debt-to-Income Ratio, How do I calculate my Debt-to-Income Ratio and answers for the three questions. The newsletter had English and Spanish versions.

There was no data showing how many clients received newsletters in 20XX and no newsletters were sent to its clients in 20XX.

P Program:

In 20XX, there were x0 clients in the P Program including x0 clients that were not in a DMP and x0 existing DMP clients. ORG has one employee which conducted the DMP program. The detail was listed above.

Educational materials:

ORG provided to its clients a Money Management Educational Package including the following books:

- * Understanding Credit Restoration and How to Use it Legally,
- * Understanding How to Consolidate and Obtain Federal and Other Student Loans (one is in English version and one is in Spanish version),
- * Understanding Bankruptcy, Unpaid Debts and Debt Collection,
- * Understanding Household Budgets, Credit Cards and Electronic Banking,
- * Understanding Deal and Settle Past Due Taxes with the IRS.

The package also comes with a workbook and a CD. There was no data that showed how many clients received the educational materials. According to NN, about x0% of the DMP clients received the package.

Website:

ORG did not have educational information via the internet.

Financial Information on Form 990 and its filing

ORG filed their Form 990 for its fiscal year ended December 31, 20XX. The following financial information was reported on the Form 990:

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Financial Information on Form 990 and its filing ORG filed their Form 990 for its fiscal year ended December 31, 20XX. The following financial information was reported on the Form 990:

	December 31 20XX
Revenue	
Direct public support	\$
Program service revenue	\$
Interest on savings	\$
Net gain from sales of assets	\$
Other revenue	\$
Total revenue	\$
Expenses	
Compensation of officers	\$
Other salaries and wages	\$
Other employee benefit	
Payroll taxes	\$
Accounting fees	\$
Legal fees	\$
Telephone	\$
Postage and shipping	\$
Occupancy	\$
Equipment rental	\$
Printing and publications	\$
Travel	\$
Conferences Conventions	\$
Interest	\$
Depreciation	\$
Others	\$
Total expenses	\$
Net Income	\$

ORG stated its program service as, "to provide debt management service and to educate community about credit and finance."

According to its financial records, the revenue and expenses were allocated as follows:

EXPLANATION OF ITEMS

Schedule number or exhibit

Name of Organization/Taxpayer

Tax Identification Number

Year/Period ended

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	December 31, 20XX	% of Total
Revenue		
Fair Share Payments	\$	%
Debt Management Fees	\$	%
Grant received from Bank of UR	\$	%
Net gain from sales its DMP	\$	%
Interest	\$	%
Total revenue	\$	%
Expenses		
Compensation of officers	\$	%
Other salaries and wages	\$	%
Payroll taxes	\$	%
Accounting fees	\$	%
Legal fees	\$	%
Telephone	\$	%
Postage and shipping	\$	%
Occupancy	\$	%
Equipment rental	\$	%
Printing and publications	\$	%
Travel	\$	%
Conferences, Conventions	\$	%
Interest	\$	%
Depreciation	\$	%
Advertising	\$	%
Bank charges	\$	%
Contract labor	\$	%
Dues and subscriptions	\$	%
Education expense	\$	%
Insurance	\$	%
License & permit	\$	%
Maintenance	\$	%
Miscellaneous	\$	%
Office	\$	%
Parking	\$	%
Repair	\$	%
Utilities	\$	%
Website	\$	%
Total expenses	\$	%

APPLICABLE LEGAL PRINCIPLES:

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Section 501(a) of the internal Revenue Code provides that an organization described in section 501(c) (3) is exempt from income tax. Section 501(c)(3) of the Code exempts from federal income tax corporations organized and operated exclusively for charitable, educational, and other purposes, provided that no part of the net earnings inure to the benefit of any private shareholder or individual. The term charitable includes relief of the poor and distressed. Section 1.501(c) (3)-1(d) (2), income Tax Regulations.

The term educational includes (a) instruction or training of the individual for the purpose of improving or developing his capabilities and (b) instruction of the public on subjects useful to the individual and beneficial to the community. Treas. Reg. 1.501(c) (3)-1(d) (3). In other words, the two components of education are public education and individual training.

Section 1.501(c)(3)-1(a)(1) of the regulations 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. Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities that 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. The existence of a substantial nonexempt purpose, regardless of the number or importance of exempt purposes, will cause failure of the operational test. Better Business Bureau of Washington, D.C. v. U.S., 326 U.S. 279 (1945).

Educational purposes include instruction or training of the individual for the purpose of improving or developing his capabilities and instruction of the public on useful and beneficial subjects. Treas. Reg. g 1.501(c) (3)-1(d) (3). In Better Business Bureau of Washington D.C., Inc. v. United States, 326 U.S. 279 (1945), the Supreme Court held that the presence of a single non-exempt purposes, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes. The Court found that the trade association had an "underlying commercial motive" that distinguished its educational program from that carried out by a university.

In American Institute for Economic Research v. United States, 302 F. 2d 934 (Ct. Cl. 1962), the Court considered the status of an organization that provided analyses of securities and industries and of the economic climate in general. The organization sold subscriptions to various periodicals and services providing advice for purchases of individual securities. Although the court noted that education is a broad concept, and assumed for the sake of argument that the organization had an educational purpose, it held that the organization had a significant non-exempt commercial purpose that was not incidental to the educational purpose and was not entitled to be regarded as exempt.

An organization must establish that it serves a public rather than a private interest and "that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests." Treas. Reg. 1.501(c)(3)-1(d)(1)(ii). Prohibited private interests include those of

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unrelated third parties as well as insiders. Christian Stewardship Assistance, Inc. v. Commissioner, 70 T.C.1037 (1978); American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989). Private benefits include an "advantage; profit; fruit; privilege; gain; [or] interest." Retired Teachers Legal Fund v. Commissioner, 78 T.C. 280, 286 (1982).

An organization formed to educate people in Hawaii in the theory and practice of "est" was determined by the Tax Court to a part of a "franchise system which is operated for private benefit," and, therefore, should not be recognized as exempt under section 501(c)(3) of the Code. est of Hawaii v. Commissioner, 71 T.C. 1067, 1080 (1979). Although the organization was not formally controlled by the same individuals who controlled the for-profit entity that owned the license to the "est" body of knowledge, publications, and methods, the for-profit entity exerted considerable control over the applicant's activities by setting pricing, the number and frequency of different kinds of seminars and training, and providing the trainers and Management personnel who are responsible to it in addition to setting price for the training. The court stated that the fact that the organization's rights were dependent upon its tax-exempt status showed the likelihood that the for-profit entities were trading on that status. The question for the court was not whether the payments made to the for-profit were excessive, but whether the for-profit entity benefited substantially from the operation of the organization. The court determined that there was a substantial private benefit because the organization "was simply the instrument to subsidize the for-profit corporations and not vice versa and had no life independent of those corporations."

The Service has issued two rulings holding credit counseling organizations to be tax exempt. Rev. Rul. 65-299, 1965-2 C.B. 165, granted exemption to a 501(c)(4) organization whose purpose was to assist families and individuals with financial problems and to help reduce the incidence of personal bankruptcy. Its primary activity appears to have been meeting with people in financial difficulties to "analyze the specific problems involved and counsel on the payment of their debts." The organization also advised applicants on proration and payment of debts, negotiated with creditors and set up debt repayment plans. It did not restrict its services to the needy. It made no charge for the counseling services, indicating they were separate from the debt repayment arrangements. It made "a nominal charge" for monthly prorating services to cover postage and supplies. For financial support, it relied upon voluntary contributions from local businesses, lending agencies, and labor unions.

Rev. Rul. 69-441, 1969-2 C.B. 115, granted 501(c)(3) status to an organization with two functions: it educated the public on personal money Management, using films, speakers, and publications, and provided individual counseling to "low-income individuals and families." As part of its counseling, it established budget plans, i.e., debt management plans, for some of its clients. The debt management services were provided without charge. The organization was supported by contributions primarily from creditors. By virtue of aiding low income people, without charge, as well as providing education to the public, the organization qualified for section 501(c)(3) status.

In the case of Consumer Credit Counseling Service of Alabama, Inc. v. U.S., 44 A.F.T.R.2d 78-5052 (D.D.C. 1978), the District Court for the District of Columbia held that a credit counseling organization qualified as charitable and educational under section 501(c)(3). It fulfilled charitable purposes by

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educating the public on subjects useful to the individual and beneficial to the community. Treas. Reg. 1.501(c)(3)-1(d)(3)(i)(b). For this, it charged no fee. The court found that the counseling programs were also educational and charitable; the debt Management and creditor intercession activities were "an integral part" of the agencies' counseling function and thus were charitable and educational. Even if this were not the case, the court viewed the debt management and creditor intercession activities as incidental to the agencies' principal functions, as only approximately 12 percent of the counselors' time was applied to debt management programs and the charge for the service was "nominal." The court also considered the facts that the agency was publicly supported and that it had a board dominated by members of the general public as factors indicating a charitable operation. See also, Credit Counseling Centers of Oklahoma, Inc. v. United States, 79-2 U.S.T.C. 9468 (D.D.C. 1979), in which the facts and legal analysis were virtually identical to those in Consumer Credit Counseling Centers of Alabama, Inc. v. United States, discussed immediately above.

The organizations included in the above decision waived the monthly fees when the payments would work a financial hardship. The professional counselors employed by the organizations spent about 88 percent of their time in activities such as information dissemination and counseling assistance rather than those connected with the debt management programs. The primary sources of revenue for these organizations were provided by government and private foundation grants, contributions, and assistance from labor agencies and United Way.

Outside the context of credit counseling, individual counseling has, in a number of instances, been held to be a tax-exempt charitable activity. Rev. Rul. 78-99, 1978-1 C.B. 152 (free individual and group counseling of widows); Rev. Rul. 76-205, 1976-1 C.B. 154 (free counseling and English instruction for immigrants); Rev. Rul. 73-569, 1973-2 C.B. 179 (free counseling to pregnant women); Rev. Rul. 70-590, 1970-2 C.B. 116 (clinic to help users of mind-altering drugs); Rev. Rul. 70-640, 1970-2 C.B. 117 (free marriage counseling); Rev. Rul. 68-71, 1968-1 C.B. 249 (career planning education through free vocational counseling and publications sold at a nominal charge). Overwhelmingly, the counseling activities described in these rulings were provided free, and the organizations were supported by contributions from the public.

Internal Revenue Code section 501(c)(3) specifies that an exempt organization described therein is one in which "no part of the net of earnings inures to the benefit of any private shareholder or individual." The words "private shareholder or individual" in section 501 to refer to persons having a personal and private interest in the activities of the organization. Treas. Reg. Section 1.501(a)-1(c). The inurement prohibition provision "is designed to prevent the siphoning of charitable receipts to insiders of the charity..." United Cancer Council v. Commissioner, 165 F.3d 1173 (7th Cir. 1999). Reasonable compensation does not constitute inurement. Birmingham Business College v. Commissioner, 276 F.2d 476, 480 (5th Cir. 1960).

Where an organization provided a source of credit to companies of which a private shareholder was either an employee or an owner, the court found that a portion of the organization's net earnings inured to the benefit of that private shareholder. Easter House v. United States, 12 Cl. Ct. 476 (1987). That such loans were made showed that the companies controlled by the private shareholder had a "source of loan credit" in the organization.

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In Revenue Ruling 98-15, the Service ruled that an important factor in evaluating joint ventures between exempt organizations and for-profit entities is the degree of control retained by the exempt entity in operating the joint venture. Section 501(c)(3) of the Internal Revenue Code prohibits an organization from participating in, or intervening in any political campaign on behalf of (or in opposition to) any candidate for public office.

Internal Revenue Service section 501(c)(3) specifies that an exempt organization described therein is one in which "no part of the net of earnings inures to the benefit of any private shareholder or individual." The words "private shareholder or individual" in section 501 to refer to persons having a personal and private interest in the activities of the organization. Treas. Reg. Section 1.501(a)-1(c). The inurement prohibition provision "is designed to prevent the siphoning of charitable receipts to insiders of the charity...." United Cancer Council v. Commissioner, 165 F.3d 1173 (7th Cir. 1999). Reasonable compensation does not constitute inurement. Birmingham Business College v. Commissioner, 276 F.2d 476, 480 (5th Cir. 1960).

ORGANIZATION'S POSITION

ORG did not agree to the Government's position. The following is a summary of ORG's positions as stated in the letter date May 20, 20XX.

1. ORG applied for an exemption from tax in 20XX. The company listed in detail its proposed tax exempt purposes and activities in the application for recognition of exemption on Form 1023. The IRS granted the tax exemption based on the proposed activities. ORG actively educated and assisted low-income persons in resolving their debt problems in 20XX. The company operated exclusively for these charitable and educational purposes. ORG did not undertake any non-charitable activities during the years in question, or any activities that were not described in the exemption application.
2. Since the IRS is proposing to revoke ORG's tax-exempt for the 20XX, the tax laws in effect in 20XX must be considered. The law was clear at that time that a credit counseling organization could provide debt management services and creditor intercession programs as part of its non-profit and credit counseling services.
3. ORG met the factors considered by the IRS in CCA 200431023. These factors include:
 - a. Public support and public control.
 - b. Charitable class and below-costs services.
 - c. Earnings of the organization.
 - d. Manner in which business is conducted.
4. ORG spent most of its time and efforts during 20XX and 20XX on educational activities and credit counseling.

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5. Under the current tax laws, an organization that provides credit counseling services as part of its exempt functions must comply with section 501(q)(1) of the Internal Revenue Code. The IRS cannot apply these rules to ORG retroactively to 20XX.

Under the transition rule, credit counseling and debt management organizations that were in existence on August 17, 20XX will be subject to these requirements only for tax years beginning after August 17, 20XX. ORG is actively working to meet the requirement for the 20XX tax year.

Refer to ORG's letter dated May 20, 20XX for details.

GOVERNMENTS POSITION

The Service contends that ORG has not operated exclusively for exempt purposes as described within Internal Revenue Code section 501(c)(3). In addition, ORG was operated for the purpose of serving a private benefit rather than public interests. Both of these reasons are grounds for revoking the section 501(c) (3) exempt status of ORG.

ORG stated that it is organized exclusively for charitable, religious, educational, and scientific purposes. ORG stated that it spent x0% of its time and resources to solicit customers to enter the DMP, x0% of its time and resources to educate the community about credit, and x0% of its time to process contracts by writing proposal letters to the creditors. ORG further stated that the organization is not organized for the private gain of any individuals.

On the contrary, the primary activities engaged in by ORG during the year 20XX was the sale and purchase DMP accounts, and to provide customer services to its DMP accounts. ORG sold some of its DMP accounts (the accounts that UR can service) to UR, a for-profit corporation. It also purchased some DMP accounts (accounts that UR cannot service because it is not a non-profit organization) from UR and contract UR, a for-profit corporation referred by UR, to do processing for its DMP accounts. ORG purchased more than x,000 clients from UR. UR cannot service these accounts because it is not a non-profit organization. At the same time, ORG contracted UR, referred by UR, to process all its DMP accounts. ORG paid \$x0 per month for each account enrolled in DMP. ORG operated as a customer service center of DMP accounts. ORG has x employees including x employees working as customer service representatives.

ORG stated that it sent newsletters to its DMP clients and conducted community educational seminars, but had a very poor response. There was no record to show the number of clients who received the newsletter. They did not conduct any seminars in 20XX and no newsletters were sent out in 20XX. ORG received a \$x0,000 grant from Bank of UR to conduct the P Program. ORG stated that it requested the grant to advertise its credit counseling services on TV to reach more consumers and they also planned to provide educational material to the consumers. On the contrary, ORG's advertisements on TV were for its DMP. ORG also claimed that they provided to their DMP clients a Money Management Educational Package, but there was no data that showed how many clients received the educational materials. A review of its clients' files showed that there were no records that

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the clients received credit counseling services or received any educational materials. There were no records that ORG conducted any educational follow up with the clients from the clients' files. Upon reviewing ORG's expenses for 20XX, it spent X.XX% of its total expenses on educational activity.

ORG advertised its DMP program through media and publications. There is no advertisement mentioned that ORG provided educational services to the communities. ORG received about xx% of its revenues from fair share payments and DMP fees, xx% from the sales of its DMP accounts, and xx% from Bank of UR for its P Program. Selling and purchasing DMP accounts are not a tax exempt activity. Operating as a customer service call center for its DMP clients is not a tax exempt activity. These substantial activities ORG conducted were not for exempt purposes.

ORG operated for the benefit of for-profit entities, UR and UR, by purchasing the clients that UR cannot service and contracting UR to do processing of its DMP accounts. ORG's existence is to benefit the for profit entities by using its tax exempt status to operate as a nonprofit and therefore, can receive fair share contributions while UR or UR can't.

ORG did not provide any education to the communities and provided limited education to less than xx of its DMP clients. Therefore, the lack of the educational aspect will result in the loss of the tax exempt status. Therefore, ORG was not operated exclusively for exempt purposes, because more than an insubstantial part of ORG's activities are in furtherance of a non-exempt purpose. In addition, ORG was operated for the purpose of serving a private benefit rather than public interest by generating income to other for-profit entities. Accordingly, the Service determines that ORG does not qualify for exemption from Federal income Tax under section 501(c) (3), effective Jan. 1, 20XX. ORG is liable to file corporate income tax return (Form 1120) for year 20XX and years after.

On page 2 your letter dated May 20, 20XX, you stated and hereby quoted, "ORG actively educated and assisted low-income persons in resolving their debt problem in 20XX. The company operated exclusively for these charitable and educational purposes. ORG did not undertake any non-charitable activities during the years in questions, or any activities that were not described in the exemption application."

The Government's Position:

You have raised the argument that you satisfy the requirements of section 501(c)(3) because you serve a charitable purpose of relief of the financially distressed. While there are circumstances in which the Service has recognized relief of the distressed without regard to financial condition as a charitable purpose, these situations are narrowly defined. ORG has not established that it serves such a charitable purpose.

A credit counseling organization that limits its debt management plan services to low-income individuals with financial problems is serving a recognized charitable class. See Rev. Rul. 69-441; Treas. Reg. § 1.501(c)(3)-1(d)(2) (charitable includes "relief of the poor and distressed"). A credit counseling organization is not charitable if the recipients of its services are not a recognized

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charitable class. See Rev. Rul. 65-299 (individuals with financial problems are not a charitable class). Cf. Consumer Credit Counseling Services of Alabama Inc. v. United States, 44 A.F.T.R. 2d (RIA) 5122 (D.D.C. 1978) (no finding that providing debt management plan services to individuals with financial problems relieved the poor and distressed). See also, Aid to Artisans, Inc. v. Commissioner, 71 T.C. 202, 215-216; American Campaign Academy v. Commissioner, 92 T.C. 1053, 1076; Victims of Terrorism Tax Relief Act of 2001, P.L. 107-134, section 104 (January 23, 2002) (payments must serve a charitable class).

In exceptional circumstances, a class of recipients may be charitable solely on the basis that they are distressed, without regard to their current financial condition. See Victims of Terrorism Act (Congress adopted special rule because of "extraordinary distress caused by the attacks"); Rev. Rul. 72-124 ("unique forms of 'distress' to which the aged, as a class, are highly susceptible"); Rev. Rul. 79-17 (alleviating the "distress, pain and physical difficulties generally experienced by dying persons"); Rev. Rul. 79-18 ("major forms of distress to which the elderly of susceptible"); Rev. Rul. 79-19 ("physically handicapped as a class are subject to 'distress,' and 'may have greater need for financial security'"). Congress and the Service have recognized that organizations which limit their services to such a class of distressed individuals may qualify for exemption when they also protect these individuals from becoming poor or destitute in the future. See Rev. Rul. 72-124 (organization maintained residents who subsequently became unable to pay); Rev. Rul. 79-18 (same); Rev. Rul. 79-19 (same); Victims of Terrorism Act (assistance for rent or mortgage on principal residence was "appropriate to forestall losses of a home . . . that would cause additional trauma to families already suffering"). Also, Congress generally has recognized the special needs of these charitable classes through the enactment of specific legislation. See, e.g., The Older Americans Act of 1965; Americans with Disabilities Act; Victims of Terrorism Act. No case, ruling or statute specifically has recognized members of the general public with financial problems as a charitable class. Cf. Rev. Rul. 69-441 (individuals with financial problems are not "proper recipients of charity").

In such exceptional circumstances as described above, an organization must establish that it operates for the purpose of relief of a charitable class. ORG has not established that it does so. First, ORG has not made any objective determination that the recipients of its debt management plan services qualify as members of a charitable class. See Rev. Rul. 69-441 (plans limited to proper recipients of charity); Aid to Artisans, 71 T.C. at 213 (program limited to "those communities which have been objectively determined to be disadvantaged"); American Campaign Academy, 92 T.C. at 1077 (beneficiaries must possess "charitable characteristics"); Victims of Terrorism Act General Explanation, at 189, 190 (under existing law, must make specific assessment of charitable need); Rev. Rul. 72-124 (limited to persons at least 65); Rev. Rul. 79-17 (physician determination that terminally ill); Rev. Rul. 79-18 (limited to persons at least 65); Rev. Rul. 79-19 (required to demonstrate need for specially designed facilities). ORG made no such objective determination. In fact, ORG offered DMPs to anyone who responded to its advertisements. The only determination ORG made is whether the client meets the following requirements:

- * Client must owe at least \$x,000 in unsecured debt.
- * Client must be making the minimum payment to his/her original creditors for 6 months.
- * Client must be in such dire need to enroll that he has no other alternatives.
- * Client must have had credits for the last 9 months.

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The class of persons who meet the above requirements for a DMP may include persons who only have many small debts, persons with high income levels, etc. Based on the review of the DMP client folders that ORG provided, there was no evidence that these individuals were low-income individuals. There was no evidence that ORG obtained income verification to determine that the DMP clients were low-income individuals. There is no objective assessment made of the potential client's financial distress by ORG.

Second, the organization's services must be specifically designed to relieve the recipient's distress. See Rev. Rul. 69-441 (debt management plans for low-income with financial difficulties established only when necessary); Rev. Rul. 72-124 (services "specially designed" to satisfy the elderly's primary physical, emotional and other special needs "associated with later years of life"); Rev. Rul. 79-17 (specialized services for "lessening the distress, pain and physical difficulties" of "dying persons"); Rev. Rul. 79-18 ("designed, constructed, and equipped . . . to meet the special needs of its elderly residents"); Rev. Rul. 79-19 ("specially designed" housing "to enable the handicapped to achieve a greater degree of living independence and mobility, and to make daily living easier"). ORG's debt management plan services are not specifically designed to relieve a debtor's distress. ORG did not tailor its program to relieve the financial distress of an individual client; instead, it offered a "one size fits all" DMP. If the potential client meets the creditor requirements for DMPs, service is offered. If not, there is no service. This is evidenced by the fact that ORG's customer service personnel, not professional counselors, asked all the people who call ORG, regardless of their situations, needs, and circumstances, the same pre-determined questions listed on the Screening Questionnaire.

Finally, the organization's programs must benefit the members of that charitable class in a "nonselective manner." See American Campaign Academy, 92 T.C. at 1077; Aid to Artisans, 71 T.C. at 215-216; Treas. Reg. @ 1.501(c)(3)-1(d)(1)(ii) (must serve public rather than private interests). A credit counseling organization that only enrolls individuals in debt management plans who meet criteria established by a private party (e.g., credit card companies) is not treating all charitable class members (i.e., financially distressed individuals) in a neutral manner, instead, the private party's criteria may have the effect of limiting the organization's services to the most able (e.g., those with jobs or marketable skills) and the least distressed (i.e., those with sufficient income or assets to repay much of their debt). In that circumstance, the credit counseling organization impermissibly would be benefiting private interests by applying the creditors' selective criteria to limit services to more financially able individuals, instead of treating all members of the charitable class (financially distressed individuals) in a nonselective manner.

On page 2 of your letter dated May 20, 20XX, you stated and hereby quoted, "Law in Effect in 20XX - Since the IRS is proposing to revoke ORG's tax-exempt status for 20XX, the laws in effect in 20XX must be considered. The law was clear at that time that a credit counseling organization could provide debt Management services and creditor intercession program as part of its non-profit and credit counseling services. In Consumer Credit Counseling of Alabama v. United States, 44 AFTR 2d 79-5122 (1978), the IRS attempted to deny tax-exempt status to Consumer Credit Counseling because the organization provide debt Management services as part of its exempt functions. The court rejected the position of the IRS. The Court determined that the debt management and creditor

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intercession activities were an integral part of the organization's counseling functions, and were thus charitable and educational in nature.

The result was similar in Credit Counseling of Oklahoma, Inc. v. United States, 79-2 USTC 9468 (D.D.C.1979). In that case, the IRS again revoked the tax-exempt status of a credit counseling and debt Management organization because its tax-exempt functions were not limited to credit counseling and education. The Court granted the plaintiff relief from declaratory judgment and determined that the plaintiff was a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code. It ordered the IRS to restore the tax-exempt status to the credit counseling company."

The Government's Position:

ORG was not operated exclusively for exempt purposes as described in IRC section 501(c)(3) for the following reasons:

(a) The primary activities that ORG engaged in 20XX were

1. Selling and buying DMP clients - This included the selling and buying DMP clients to and from UR Processing Corporation.
2. Soliciting clients into DMP and servicing DMP clients - ORG employed three employees during 20XX. Two of the three employees were customer services personnel whose duties and responsibilities included screening prospects for DMP and handling DMP clients' questions.

ORG conducted no educational seminars and workshops in 20XX. ORG claimed that it sent monthly educational newsletter to clients in 20XX. However, there was no record of the number of clients who received the newsletters. No newsletters were sent in 20XX. Based on a review of the clients' file, there was no evidence that ORG contacted the clients to follow up on the newsletter that was sent to them (i.e. if the clients needed further explanation on any topics covered in the newsletter, if any issues covered in the newsletter is a concern to the clients, etc.) Simply sending out a monthly newsletter to DMP clients without any follow up on them was not by any mean educational.

in 20XX, ORG received grant of \$x0,000 from Bank of UR to run advertisements educating DMP clients and the public. However, the contents of the ads primarily promote DMP.

Commercial 1:

Do you feel trapped about your debts? Are the payments too much that you feel like burning yourself? Are/is the interest rate so high that the payments don't go down? Your debts probably do not let you sleep. Are your debts so much that you feel you are drowning? Stop there and call ORG and feel tranquility in your pocket. Instead of several payments, just have one. Stop the high interest rate and pay your debts sooner. Call us at 1 x00 xxx-xxxx.

Commercial 2:

Next, I want to pay my debt. This is for interest, this is for insurance, and this is for late payments and this for the principle. Just that amount for my debts? Yes, just that amount for your debt. I'm never

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going to finish paying my debts. Never, never, never. Don't worry. With ORG, you can reduce or eliminate the high interest on your credit cards with just one monthly payment. Remember your possibilities, I'm here for my appointment. I want to consolidate my debts. Yes sir, take a seat. All of our knowledgeable consultants can/will do a free credit Analysis for you. And by you making one monthly payment, you will pay your debt off in less time and save thousands of dollars. The dream of all people in debt is to stay debt free. ORG is a company that has helped hundreds of Hispanics reduce or eliminate high interest rates. We are a company approved by the Department of Banks of and by the Internal Revenue Service. Call us now at 1800 xxx-xxxx

Commercial 3:

Visa, MasterCard, American Express. How am I going to do it? Debts are a frustration. They separate families, they give headaches. Stop those debts by calling ORG. We can reduce high interest rates. Call today; make your family happy. Debts are a headache. Call today. Call now and approach this offer. It benefits you. Approach this offer. There is nothing like it. Only one monthly payment, much lower than what you are paying now, I found the solution. Credit card debts. The credit card debts, department store debts and hospital debts. You need to call today and rest. We have the answers. Listen to me.

(b)The facts of this case are substantially different than those of the Consumer Credit Counseling of Alabama v. United States and Credit Counseling of Oklahoma, Inc. v. United States. In Consumer Credit Counseling of Alabama and Credit Counseling of Oklahoma, Inc., only xx percent of the time of the professional counselors was applied to DMP. The remaining balance of these organizations' time and effort applied by providing educational information to the general public, counseling on the budgeting and the appropriate use of consumer credit, and general Management. Unlike Consumer Credit Counseling of Alabama and Credit Counseling of Oklahoma, Inc., ORG's principal activity was soliciting clients into DMP and servicing DMP clients. ORG expended approximately:

- > 40 percent of time to soliciting customers to enter into DMP.
- > 20 percent of time to writing proposals to creditors and processing DMP contracts.
- > 30 percent of time to servicing DMP clients to ensure that they are receiving the benefits and that they continue in the program.

In aggregate, ORG spends 90 percent on its DMP and DMP related activities. Since ORG's primary activity was operating DMP, it was not operated exclusively for exempt purposes as described in IRC section 501(c)(3). Offering DMP for a fee is neither educational nor charitable but as a commercial activity.

On page 4 of your letter dated May 20, 20XX, you stated and hereby quoted,

"In our case, ORG was separate and independent from other organizations. None of the officers or directors of ORG were involved in any organization or corporation that benefited directly or indirectly from the activities of ORG. ORG was established to assist low-income wages earners and to educate the community regarding debt Management. It was not established to subsidize related for profit organizations."

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The Government's Position:

While ORG was not operated for the benefits of its officers and directors, ORG was operated for the private benefits of the credit card companies. By offering and soliciting debtors into DMP, ORG facilitated and allowed for the repayments of debts to credit card companies that they otherwise might not be able to collect; and, in return, ORG received fair share contributions from the credit card companies for the services it performed.

D. Charitable class and Below-Costs Services:

On page 4 of your letter dated May 20, 20XX, you stated and hereby quoted,

"Charitable Class and Below-Costs Services. The second factor that the IRS stated was important in its 20XX Chief Counsel Opinion was whether an organization serves an exclusively charitable class and offers some of its services free or below cost. In our case, ORG offered benefits only to low-cost wage earners and others in serious financial trouble who needed education and counseling in debt Management and financial matters.

There were x,xx0 clients transferred from UR, xxx of whom did not pay any contribution fees. There were xxx clients in 20XX and 20XX who did not pay any monthly fees for at least one month."

The Government's Position:

The Government maintains that while the DMP clients that ORG was serving might have difficulties meeting their credit card debt obligations, these DMP clients were not necessarily low-income individual making them a recognized charitable class. Based on the review of the DMP client folders that ORG provided, there was no evidence that these individuals were low-income individuals. There was no evidence that ORG obtained income verification to determine that the DMP clients were low income individuals. While ORG had waived monthly service fees for at least one month for some of its clients, waiving one month service fee does not consider below cost services or free services since ORG does not permanently waive the fees for those clients.

A credit counseling organization that limits its debt management plan services to low-income individuals with financial problems is serving a recognized charitable class. See Rev. Rul. 69-441; Treas. Reg. 1.501(c)(3)-1(d)(2) (charitable includes "relief of the poor and distressed"). A credit counseling organization is not charitable if the recipients of its services are not a recognized charitable class. Rev. Rul. 65-299 (individuals with financial problems are not a charitable class). Cf. Consumer Credit Counseling Services of Alabama Inc. v. United States, 44 A.F.T.R. 2d (RIA) 5122 (D.D.C. 1978) (no finding that providing debt management plan services to individuals with financial problems relieved the poor and distressed). See also, Aid to Artisans, Inc. v. Commissioner, 71 T.C. 202, 215-216; American Campaign Academy v. Commissioner, 92 T.C. 1053, 1076; Victims of Terrorism Tax Relief Act of 2001, P.L. 107-13x, section 10x (January 23, 2002) (payments must serve a charitable class).

In exceptional circumstances, a class of recipients may be charitable solely on the basis that they are distressed, without regard to their current financial condition. See Victims of Terrorism Act (Congress

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adopted special rule because of "extraordinary distress caused by the attacks"); Rev. Rul. 72-124 ("unique forms of 'distress' to which the aged, as a class, are highly susceptible"); Rev. Rul. 79-17 (alleviating the "distress, pain and physical difficulties generally experienced by dying persons"); Rev. Rul. 79-18 ("major forms of distress to which the elderly of susceptible"); Rev. Rul. 79-19 ("physically handicapped as a class are subject to 'distress,' and "may have greater need for financial security"). Congress and the Service have recognized that organizations which limit their services to such a class of distressed individuals may qualify for exemption when they also protect these individuals from becoming poor or destitute in the future. See Rev. Rul. 72-124 (organization maintained residents who subsequently became unable to pay); Rev. Rul. 79-18 (same); Rev. Rul. 79-19 (same); Victims of Terrorism Act (assistance for rent or mortgage on principal residence was "appropriate to forestall losses of a home . . . that would cause additional trauma to families already suffering"). Also, Congress generally has recognized the special needs of these charitable classes through the enactment of specific legislation. See, e.g. The Older Americans Act of 1965; Americans with Disabilities Act; Victims of Terrorism Act. No case, ruling or statute specifically has recognized members of the general public with financial problems as a charitable class. C.f. Rev. Rul. 69-441 (individuals with financial problems are not "proper recipients of charity").

In such exceptional circumstances as described above, an organization must establish that it operates for the purpose of relief of a charitable class. ORG has not established that it does so. First, ORG has not made any objective determination that the recipients of its debt management plan services qualify as members of a charitable class. See Rev. Rul. 69-441 (plans limited to proper recipients of charity); Aid to Artisans, 71 T.C. at 213 (program limited to "those communities which have been objectively determined to be disadvantaged"); American Campaign Academy, 92 T.C. at 1077 (beneficiaries must possess "charitable characteristics"); Victims of Terrorism Act General Explanation, at 189, 190 (under existing law, must make specific assessment of charitable need); Rev. Rul. 72-124 (limited to persons at least 65); Rev. Rul. 79-17 (physician determination that terminally ill); Rev. Rul. 79-18 (limited to persons at least 65); Rev. Rul. 79-19 (required to demonstrate need for specially designed facilities). ORG makes no such objective determination. In fact, it offers DMPs to anyone who responds to its advertisements. The only determination ORG makes is whether the client fits within the strict requirements made by the creditors to enroll in a DMP. The class of persons who meet requirements for a DMP may include persons who only have many small debts, persons with high income levels, persons who are able to make payments without financial difficulty, etc. There is no objective assessment made of the potential client's financial distress by ORG.

Second, the organization's services must be specifically designed to relieve the recipient's distress. See Rev. Rul. 69-441 (debt management plans for low-income with financial difficulties established only when necessary); Rev. Rul. 72-124 (services "specially designed" to satisfy the elderly's primary physical, emotional and other special needs "associated with later years of life"); Rev. Rul. 79-17 (specialized services for "lessening the distress, pain and physical difficulties" of "dying persons"); Rev. Rul. 79-18 ("designed, constructed, and equipped . . . to meet the special needs of its elderly residents"); Rev. Rul. 79-19 ("specially designed" housing "to enable the handicapped to achieve a greater degree of living independence and mobility, and to make daily living easier"). ORG's debt management plan services are not specifically designed to relieve a debtor's distress.

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ORG does not tailor its program to relieve the financial distress of an individual client; instead, it offers a "one size fits all" DMP. If the potential client meets the creditor requirements for DMPs, service is offered. If not, there is no service. This is evidenced by the fact that ORG's customer service personnel, not professional counselors, ask all the people who call ORG, regardless of their situations, needs, and circumstances, the same pre-determined questions listed on the Screening Questionnaire.

Finally, the organization's programs must benefit the members of that charitable class in a "nonselect manner." See American Campaign Academy, 92 T.C. at 1077; Aid to Artisans, 71 T.C. at 215-216; Treas. Reg. 9 1.501(c)(3)-1(d)(1)(ii) (must serve public rather than private interests). A credit counseling organization that only enrolls individuals in debt management plans who meet criteria established by a private party (e.g., credit card companies) is not treating all charitable class members (i.e., financially distressed individuals) in a neutral manner. Instead, the private party's criteria may have the effect of limiting the organization's services to the most able (e.g., those with jobs or marketable skills) and the least distressed (i.e., those with sufficient income or assets to repay much of their debt). In that circumstance, the credit counseling organization impermissibly would be benefiting private interests by applying the creditors' selective criteria to limit services to more financially able individuals, instead of treating all members of the charitable class (financially distressed individuals) in a nonselective manner. Therefore, ORG was not operated to serve a charitable class.

CONCLUSION:

Since ORG Corporation (ORG) was (not) operated exclusively for exempt purposes as described within Internal Revenue Code section 501(c) (3), its Federal tax exempt status under IRC section 501(c)(3) should be revoked effective January 1, 20XX. ORG is responsible for filing Form 1120 US Corporation Income Tax Return for the tax years ended December 31, 20XX and all years after.