



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

**Date:** March 29, 2023

**Taxpayer ID number (last 4 digits):**

**Form:**

**Tax periods ended:**

**Person to contact:**

**Name:**

**ID number:**

**Telephone:**

**Fax:**

**Last day to file petition with United States  
Tax Court:**

**Release Number:** 202325009

**Release Date:** 6/23/2023

**UIL Code:** 501.03-00

**CERTIFIED MAIL - Return Receipt Requested**

Dear

..:

**Why we are sending you this letter**

This is a final determination that you don't qualify for exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a) as an organization described in IRC Section 501(c)(3), effective . Your determination letter dated is revoked.

Our adverse determination as to your exempt status was made for the following reasons: Organizations described in IRC Section 501(c)(3) and exempt from tax under IRC Section 501(a) must be both organized and operated exclusively for exempt purposes and no part of the net earnings may inure to the benefit of any private shareholder or individual. You were primarily operated for the benefit of private interests of designated individuals rather than serving public interests. As such, you failed to operate exclusively for exempt purposes as required under IRC Section 501(c)(3).

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

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

**What you must do if you disagree with this determination**

If you want to contest our final determination, you have 90 days from the date this determination letter was mailed to you to file a petition or complaint in one of the three federal courts listed below.

**How to file your action for declaratory judgment**

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

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

You must file a petition or complaint in one of these three courts within 90 days from the date we mailed this determination letter to you. You can download a fillable petition or complaint form and get information about filing at each respective court's website listed below or by contacting the Office of the Clerk of the Court at one of the addresses below. Be sure to include a copy of this letter and any attachments and the applicable filing fee with the petition or complaint.

You can eFile your completed U.S. Tax Court petition by following the instructions and user guides available on the Tax Court website at [ustaxcourt.gov/dawson.html](http://ustaxcourt.gov/dawson.html). You will need to register for a DAWSON account to do so. You may also file your petition at the address below:

**United States Tax Court**  
400 Second Street, NW  
Washington, DC 20217  
[ustaxcourt.gov](http://ustaxcourt.gov)

The websites of the U.S. Court of Federal Claims and the U.S. District Court for the District of Columbia contain instructions about how to file your completed complaint electronically. You may also file your complaint at one of the addresses below:

**US Court of Federal Claims**  
717 Madison Place, NW  
Washington, DC 20439  
[uscfc.uscourts.gov](http://uscfc.uscourts.gov)

**US District Court for the District of Columbia**  
333 Constitution Avenue, NW  
Washington, DC 20001  
[dcd.uscourts.gov](http://dcd.uscourts.gov)

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

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

#### **Information about the IRS Taxpayer Advocate Service**

The IRS office whose phone number appears at the top of the notice can best address and access your tax information and help get you answers. However, you may be eligible for free help from the Taxpayer Advocate Service (TAS) if you can't resolve your tax problem with the IRS, or you believe an IRS procedure just isn't working as it should. TAS is an independent organization within the IRS that helps taxpayers and protects taxpayer rights. Contact your local Taxpayer Advocate Office at:

Internal Revenue Service  
Taxpayer Advocate Office

Or call TAS at 877-777-4778. For more information about TAS and your rights under the Taxpayer Bill of Rights, go to [taxpayeradvocate.irs.gov](http://taxpayeradvocate.irs.gov). Do not send your federal court pleading to the TAS address listed above. Use the applicable federal court address provided earlier in the letter. Contacting TAS does not extend the time to file an action for declaratory judgment.

#### **Where you can find more information**

Enclosed are Publication 1, Your Rights as a Taxpayer, and Publication 594, The IRS Collection Process, for more comprehensive information.

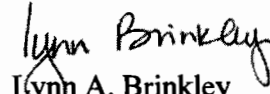
Find tax forms or publications by visiting [IRS.gov/forms](http://IRS.gov/forms) or calling 800-TAX-FORM (800-829-3676). If you have questions, you can call the person shown at the top of this letter.

If you prefer to write, use the address shown at the top of this letter. Include your telephone number, the best time to call, and a copy of this letter.

You may fax your documents to the fax number shown above, using either a fax machine or online fax service. Protect yourself when sending digital data by understanding the fax service's privacy and security policies.

Keep the original letter for your records.

Sincerely,



Lynn A. Brinkley

Director, Exempt Organizations Examinations

Enclosures:

Publication 1

Publication 594

Publication 892



**Department of the Treasury**

**Date:**

2/1/2023

**Taxpayer ID number:**

**Form:**

**Tax periods ended:**

**Person to contact:**

Name:

ID number:

Telephone:

Fax:

Address:

**Manager's contact information:**

Name:

ID number:

Telephone:

**Response due date:**

March 2, 2023

**CERTIFIED MAIL – Return Receipt Requested**

Dear \_\_\_\_\_ :

**Why you're receiving this letter**

We enclosed a copy of our audit report, Form 886-A, Explanation of Items, explaining that we propose to revoke your tax-exempt status as an organization described in Internal Revenue Code (IRC) Section 501(c)(3).

**If you agree**

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

After we issue the final adverse determination letter, we'll announce that your organization is no longer eligible to receive tax deductible contributions under IRC Section 170.

**If you disagree**

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

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

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

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

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

**If we don't hear from you**

If you don't respond to this proposal within 30 calendar days from the date of this letter, we'll issue a final adverse determination letter.

**Contacting the Taxpayer Advocate Office is a taxpayer right**

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit [www.taxpayeradvocate.irs.gov](http://www.taxpayeradvocate.irs.gov) or call 877-777-4778.

**For additional information**

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

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

Sincerely,

*Navi Mishra* Navi Mishra, Acting Group Manager

For Lynn Brinkley  
Director, Exempt Organizations  
Examinations

Enclosures:  
Form 886-A  
Form 6018

Form <b>886-A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule number or exhibit 1
Name of taxpayer	Tax Identification Number (last 4 digits)	Year/Period ended

**Issue**

- Whether (EO) 501(c)(3) status should be revoked on the grounds that its vehicle expenses inured to the benefit of a disqualified person.

**Facts**

\_\_\_\_\_ was formed on \_\_\_\_\_, in the state of \_\_\_\_\_. The purpose of the organization is to offer \_\_\_\_\_.

From \_\_\_\_\_, the EO operated a residential guidance home on \_\_\_\_\_. In \_\_\_\_\_, \_\_\_\_\_ sold their property and shifted their focus to outreach and training/education services at the \_\_\_\_\_.

Due to the pandemic in \_\_\_\_\_ and \_\_\_\_\_, the \_\_\_\_\_ closed for in-person groups. This prevented the organization from performing substantial exempt activities. The organizations biggest activity for FY ending \_\_\_\_\_, is procuring \_\_\_\_\_ (with \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_) for \_\_\_\_\_.

Stated in the \_\_\_\_\_, Minutes, the \_\_\_\_\_ is still closed for in-person groups and unable to perform its exempt purpose for outreach and educational classes. The organization is planning another \_\_\_\_\_ event for FY ending \_\_\_\_\_.

The organization had accrued auto insurance expenses and vehicle registration expenses during the year ending \_\_\_\_\_. No vehicle was found in the organization's financial statements. During the interview, it was mentioned the vehicle was used to drive to and from the \_\_\_\_\_ when the EO perform their primary charitable activities.

The organization did not keep an accountable plan for vehicle usage for charitable purpose.

Vehicle expenses according to the bank statements:

<u>Expenses</u>	
DMV	\$ _____
Auto Insurance	\$ _____
<b>Total</b>	<b>\$ _____</b>

The EO's total net earnings for the year is \$ . The vehicle expenses make up % of the total net earnings.

Stated in the , Minutes, the Board discussed whether to dissolve the organization due to lack of activities because of the closure. The Board ultimately decided to wait and evaluate annually if the will reopen and provide the opportunity to host special events and classes.

## **Law**

IRC §501(c)(3) of the Internal Revenue Code provides for exemption from Income Tax for corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

IRC §4958(c) defines the term "excess benefit transaction" as any transaction in which an economic benefit is provided by an applicable tax-exempt organization directly or indirectly to or for the use of any disqualified person if the value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing such benefit. For purposes of the preceding sentence, an economic benefit shall not be treated as consideration for performance of services unless such organization clearly indicated its intent to so treat such benefit.

IRC §4958(e) defines "applicable tax-exempt organization" as an organization described in either §501(c)(3) or §501(c)(4) of the Internal Revenue Code or an organization which was so described at any time during the five-year period ending on the date of the excess benefit transaction.

IRC §4958(f)(1) defines a "disqualified person" as (A) any person who was, at any time during the five-year period ending on the date of such transaction, in a position to exercise substantial influence over the affairs of the organization, (B) a member of the family of a disqualified person, and (C) a 35% controlled entity.

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

Treas. Reg. §1.501(c)(3)-1(c)(2) provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals



Treas. Reg. §1.501(c)(3)-1(f)(2)(ii) provides that, in determining whether to continue to recognize the tax-exempt status of an applicable tax-exempt organization (as defined in section 4958(e) and §53.4958-2) described in section 501(c)(3) that engages in one or more excess benefit transactions that violate the prohibition on inurement under section 501(c)(3), the Commissioner will consider all relevant facts and circumstances, including, but not limited to, the following —

- (A) The size and scope of the organization's regular and ongoing activities that further exempt purposes before and after the excess benefit transaction or transactions occurred;
- (B) The size and scope of the excess benefit transaction or transactions (collectively, if more than one) in relation to the size and scope of the organization's regular and ongoing activities that further exempt purposes;
- (C) Whether the organization has been involved in multiple excess benefit transactions with one or more persons;
- (D) Whether the organization has implemented safeguards that are reasonably calculated to prevent excess benefit transactions; and
- (E) Whether the excess benefit transaction has been corrected (within the meaning of section 4958(f)(6) and §53.4958-7), or the organization has made good faith efforts to seek correction from the disqualified person(s) who benefited from the excess benefit transaction.

### **Taxpayer's Position**

CEO, \_\_\_\_\_ had agreed to accept the proposed action.

### **Government's Position**

The \$ \_\_\_\_\_ of vehicle expense detailed in this report is a significant amount of inurement; particularly for an organization that generates a total of \$ \_\_\_\_\_ revenue for the year.

### **Conclusion**

EO's vehicle expenses have inured, in substantial part, to the benefit of its disqualified person. This violates §1.501(c)(3)-1(c)(2) of the Treasury Regulations, and warrants revocation of EO's 501(c)(3) status effective \_\_\_\_\_.