DEPARTMENT OF THE TREASURY
Internal Revenue Service
TE/GE EO Examinations
1100 Commerce Street
Dallas, TX 75242

TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

Date: March 31, 2015

UIL: 501.03-00

Number: **201526018**
Release Date: 6/26/2015

Person to Contact:
Identification Number:
Contact Telephone Number:
In Reply Refer to:
EIN:

LAST DATE FOR FILING A PETITION
WITH THE TAX COURT:

CERTIFIED MAIL – Return Receipt Requested

Dear :

This is a Final Adverse Determination Letter as to your exempt status under section 501(c)(3) of the Internal Revenue Code. Your exemption from Federal income tax under section 501(c)(3) of the code is hereby revoked effective January 1, 20XX.

Our adverse determination was made for the following reasons:

> You have not demonstrated that you are operated exclusively for charitable, educational, or other exempt purposes within the meaning of I.R.C. section 501(c)(3). You have failed to produce documents or otherwise establish that you are operated exclusively for exempt purposes and that no part of your net earnings inures to the benefit of private shareholders or individuals. You failed to keep adequate books and records as required by I.R.C. § 6001, 6033(a)(1) and Rev. Rul. 59-95, 1959-1 C.B. 627.

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code.

You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the year ending December 31, 20XX and for all years thereafter.

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

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If you decide to contest this determination in court, you must initiate a suit for declaratory judgment in the United States Tax Court, the United States Claim Court or the District Court of the United States for the District of Columbia before the 91st day after the date this determination was mailed to you. Contact the clerk of the appropriate court for the rules for initiating suits for declaratory judgment.

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

You can call 1-877-777-4778 and ask for Taxpayer Advocate assistance. Or you can contact the Taxpayer Advocate from the site where the tax deficiency was determined by calling, Tel: or write:

Taxpayer Advocate

Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations, nor extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

We will notify the appropriate State Officials of this action, as required by section 6104(c) of the Internal Revenue Code.

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

Sincerely yours,

Margaret Von Lienen
Director, EO Examinations

Enclosure:
Publication 892

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IRS

Department of the Treasury
Internal Revenue Service
Mail Stop 1112, PO Box 12307
Ogden, UT 84412

Date:
September 3, 2014
Person to Contact/ID Number:

Contact Numbers:
Telephone: Toll Free
Long Distance
Fax:

Taxpayer Identification Number:
Form:
Tax Year(s) Ended:

Certified Mail - Return Receipt Requested

Dear :

We have enclosed a copy of our report of examination explaining why we believe revocation of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process*, explains 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.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action*. We will then send you a final letter revoking your exempt status. If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final. In that event, you will be required to file Federal income tax returns for the tax

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period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

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,

Barbara L. Harris

Barbara L. Harris
Acting Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination

Letter 3610 (Rev. 11-2003)
Catalog Number: 34801V

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Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit 1
Name of taxpayer	Tax Identification Number	Year/Period ended **December 31, 20XX**

Issue:

Should 501(c)(3) exempt organization be revoked due to its failure to respond and produce records?

Facts:

(hereafter referred to as the "organization") has not provided the requested information for the examination of the Form 990 for the tax year ending December 31, 20XX. The organization received their approval for tax exemption in November 20XX. The organization was established for the purpose of encouraging and promoting the diversity, dignity and the inherent worth of everyone in the city of .

Exhibit A (below) provides a list of the Internal Revenue Service correspondence or phone contact made to you requesting that you provide information pertaining to your Form 990N for the year ending December 31, 20XX.

Summary of Exhibit A

Contact type	**Correspondence sent / Phone contact**	**Date sent or called**	**Certified Mail? Y/N**	**Receipt Signed date or phone response**
Phone	Called per listing Not in service	04-02-XX	N/A	No response
Letter	Sent Letter 3606C to	04-02-XX	N	No response
Phone	Received Voice Mail from	05-06-XX	N/A	Voice mail from (note voice mail was hard to hear)
Phone	Called	05-06-XX	N/A	Called number but it was out of service
Letter	Sent No response letter	07-15-XX	N	No response
Letter	Sent No response letter	08-14-XX	Certified Mail	Letter return as unclaimed mail
Letter	DRAFT report of examination	02-27-XX	Certified Mail	No response

has failed to meaningfully respond to the Internal Revenue Service correspondence for information pertaining to the Form 990 for the tax period ending December 31, 20XX.

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Law:

501(c)(3)
IRC §501(c)(3) requires that tax exempt entities be organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes and to foster national and amatuer sports competition.

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

IRC § 6001 provides that every person liable for any tax imposed by the IRC, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

Treas. Reg. § 1.6001-1(a) in conjunction with **Treas. Reg. § 1.6001-1(c)** provides that every organization exempt from tax under IRC § 501(a) and subject to the tax imposed by IRC § 511 on its unrelated business income must keep such permanent books or accounts or records, including inventories, as are sufficient to establish the amount of gross income, deduction, credits, or other matters required to be shown by such person in any return of such tax. Such organization shall also keep such books and records as are required to substantiate the information required by IRC § 6033.

Treas. Reg. § 1.6001-1(e) states that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.

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

Treas. Reg § 1.6033-1(h)(2) provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and IRC § 6033.

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

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comply with the provisions of IRC § 6033 and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

IRC § 6033(b) sets out an affirmative duty on the part of the organization to furnish annual information in such a manner as the Secretary may prescribe via forms or regulations. Tax exemption is a matter of legislative grace, and an organization seeking an exemption must prove that it "comes squarely within the terms of the law conferring the benefit sought". Nelson v. Commissioner, 30 T.C. 1151, 1154 (1958); see also Fla. Hosp. Trust v. Commissioner, 103 T.C. 140, 153, (1994), affd. 71 F.3d 808 (11th Cir.1996). Because an exemption from tax is a deviation from the norm of taxation, courts have reasoned that "a heavy burden" to establish satisfaction of all requisites for such status falls on the entity. Harding Hosp., Inc. v. United States, 505 F.2d 1068, 1071 (6th Cir.1974); Western Catholic Church v. Commissioner, 73 T.C. 196, 210 (1979).

Government's Position:

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

Several attempts have been made to contact the organization, and the organization has failed to meaningfully respond to requests for information. Because of the organization's failure to meaningfully respond and provide information, the organization has not established that it is observing the conditions required for the continuation of its exempt status. The organization has not established that it is organized and operated exclusively for an exempt purpose.

Organization's Position:

Several attempts to contact the organization have been made by either letters or phone calls. The organization did not receive the initial letter based on the return mail indicated it was "unclaimed". The DRAFT letter was sent certified but no response was received.

Due to the lack of response, the organization's position is unknown.

Conclusion:

It is the IRS's position that the organization failed to establish that it meets the reporting requirements under IRC §§ 6001 and 6033 to be recognized as exempt from federal income

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tax under IRC § 501(c)(3). Furthermore, the organization has not established that it is observing the conditions required for the continuation of its exempt status or that it is organized and operated exclusively for an exempt purpose. Accordingly, the organization's exempt status is revoked effective January 1, 20XX.

Form(s) 1120, U.S. Corporation Income Tax Return should be filed for the tax periods ending on or after December 31, 20XX.

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