DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
TE/GE: EO Examinations
1100 Commerce Street, MC 4920DAL
Dallas, TX 75242

TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

March 17, 2015

Release Number: **201527044**
Release Date: 7/2/2015

UIL:501.03-08

Taxpayer Identification Number:

Person to Contact:

Identification Number:

Contact Telephone Number:

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). Our favorable determination letter to you dated October 5, 1983 is hereby revoked and you are no longer exempt under section 501(a) of the Code effective August 1, 20XX.

You have failed to establish that you are operated exclusively for exempt purposes within the meaning of Internal Revenue Code section 501(c)(3), and that no part of your net earnings inure to the benefit of private shareholders or individuals. You failed to respond to repeated reasonable requests to allow the Internal Revenue Service to examine your records regarding your receipts, expenditures, or activities as required by I.R.C. sections 6001, 6033(a)(1), Treasury Regulation 1.6033-2(i)(2) and Rev. Rul. 59-95, 1959-1 C.B. 627.

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

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

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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 Internal Revenue Code.

If you decide to contest this determination under the declaratory judgment provisions of section 7428 of the Code, a petition to the United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia must be filed before the 91st Day after the date this determination was mailed to you. Please contact the clerk of the appropriate court for rules regarding filing petitions for declaratory judgments by referring to the enclosed Publication 892. You may write to these courts at the following addresses:

United States Tax Court
400 Second Street, NW
Washington, D.C. 20217

United States Court of Federal Claims
717 Madison Place, NW
Washington, D.C. 20005

United States District Court for the District of Columbia
333 Constitution Avenue, NW
Washington, D.C. 20001

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 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:

Internal Revenue Service
Office of the Taxpayer Advocate

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

Sincerely,

Margaret Von Lienen
Director, EO Examinations

Enclosure:
Publication 892

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Internal Revenue Service
Tax Exempt and Government Entities Division
Exempt Organizations: Examinations

Department of the Treasury

Taxpayer Identification Number:

Date: November 4, 2014

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:
Telephone:
Fax:

Certified Mail – Return Receipt Requested

Dear :

We propose to revoke our recognition of your exempt status as an organization described in section 501(c)(3) of the Internal Revenue Code (the Code). We enclosed our report of examination explaining why we are proposing this action.

If you accept our proposal, please sign and return the enclosed Form 6018, *Consent to Proposed Action - Section 7428*, unless you have already provided us a signed Form 6018. We will issue a final revocation letter determining you are not an organization described in section 501(c)(3). After the issuance of the final revocation letter we will publish an announcement that you have been deleted from the cumulative list of organizations contributions to which are deductible under section 170 of the Code. If you do not respond to this proposal, we will similarly issue a final revocation letter. Failing to respond to this proposal may adversely impact your legal standing to seek a declaratory judgment because you may be deemed to have failed to exhaust administrative remedies.

If you do not agree with our proposed revocation and wish to protest our proposed revocation to the Appeals Office of the Internal Revenue Service, then 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. This written request is called a protest. For your protest to be valid it needs to contain certain specific information which generally includes a statement of the facts, the applicable law, and arguments in support of your position. For the specific information needed for a valid protest, please refer to page 6 of the enclosed Publication 3498, *The Examination Process*, and page 1 of the enclosed Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status.*

If you do submit a valid protest, then 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 and Publication 892 explain

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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. Please note that Fast Track Mediation Services referred to in Publication 3498, generally do not apply after issuance of this letter.

You may also request that we refer this matter for Technical Advice as explained in Publication 892 and an annual revenue procedure. Please contact the individual identified on the first page of this letter if you are considering requesting Technical Advice. If we issue a determination letter to you based on a Technical Advice Memorandum issued by the EO Rulings and Agreements function, then no further administrative appeal will be available to you within the IRS on the matter.

If you receive a final revocation letter, you will be required to file Federal income tax returns for the tax period(s) shown above as well as for subsequent years.

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:

Internal Revenue Service
Office of the Taxpayer Advocate

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,

Stephen A. Martin
Acting Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination

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

ISSUE:

Does continue to qualify as tax exempt under Internal Revenue Code §501(c)(3) after failing to comply with the Service's request to conduct an examination to substantiate its Form 990 return?

FACTS:

(the Organization) was formed and incorporated in the state of on December 8, 19XX. The Organization was granted exemption from federal income taxes under Internal Revenue Code (IRC) §501(a) as described in §501(c)(3), on October 5, 19XX.

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On July 1, 20XX, the Internal Revenue Service (Service) initiated an examination of the Organization's Form 990, *Return of Organization Exempt From Income Tax*, for the July 31, 20XX tax year. A letter dated July 1, 20XX was sent via certified mail to the Organization arranging an appointment to begin the examination process by reviewing the Organization's books and records that substantiate its filed return. The letter indicated the examination would take place on July 29, 20XX, at 9:00am at the Organization's facility. The letter also stated to contact the examining revenue agent to confirm the appointment, and if the Organization had any questions. Included with the letter were Form 4564, *Information Document Request* (IDR), Publication 1, *Your Rights as a Taxpayer*, and a partially completed Form 2848, *Power of Attorney and Declaration of Representative*.

Telephone contact was made with the Organization's President, on July 14, 20XX to discuss the July 1, 20XX, letter. stated he did not receive the correspondence at the initial attempted delivery, and would retrieve it from the local post office. When verbally informed of the scheduled examination date, indicated he was already scheduled to be out of town (from July 27, 20XX, through August 9, 20XX), and would contact the examining agent to reschedule the appointment upon reviewing the IDR.

Telephone contact was made with on July 21, 20XX to discuss scheduling the new appointment. indicated that he did not locate the correspondence. The revenue agent notified that the correspondence would be resent. Before ending the telephone call, tentatively agreed to an updated examination appointment of August 26, 20XX at 9:00am, depending on the availability of the Organization's accountant. An updated letter dated July 21, 20XX was sent to indicating the updated appointment date; the correspondence also included an updated IDR (with the new examination date), and Publication 1.

On July 28, 20XX, the initial correspondence mailed to the Organization on July 1, 20XX, was returned to the agent as "Unclaimed".

Telephone contact was made with on August 11, 20XX to get an update on the Organization's progress gathering the documents identified on the IDR. indicated he received the correspondence dated July 21, 20XX, and would talk with his accountant to confirm her availability because she possessed the requested documents to be reviewed.

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Telephone contact to was attempted on August 12, 20XX to discuss moving the appointment date to August 27, 20XX due to a new unexpected scheduling conflict. was not available; a voice mail message was left indicating the request to move the appointment and to return the call.

Telephone contact to was attempted on August 14, 20XX to discuss moving the appointment date to August 27, 20XX due to a new unexpected scheduling conflict. was not available; a voice mail message was left indicating the request to move the appointment and to return the call. Due to being unable to reach via telephone, an updated appointment letter dated August 14, 20XX, an updated IDR, and Publication 1 was mailed to the Organization via certified mail.

Telephone contact to was attempted on August 25, 20XX to confirm the August 27, 20XX appointment date. was not available; a voice mail message was left to return the call.

The revenue agent visited the Organization's facility, which also serves as residence, on August 27, 20XX to conduct the examination. indicated he did not have the requested documents, and he has not been able to get in touch with the Organization's accountant. The revenue agent reiterated to the Service's need to conduct the examination, and notified him of potential examination consequences that may result from the Organization's lack of documents, including the issuance of a Summons, the issuance of an inadequate records notice, and the potential loss of its tax-exempt status.

Prior to leaving the Organization's facility, due to the lack of documents, the revenue agent and rescheduled the examination appointment for September 23, 20XX at 9:00am. An appointment confirmation letter, updated IDR, and Publication 1 was mailed to the Organization on August 27, 20XX.

Telephone contact to was attempted on September 11, 20XX to get an update on the Organization's progress gathering the documents identified on the IDR. was not available; a voice mail message was left to return the call.

Telephone contact to was attempted on September 22, 20XX to confirm the appointment and the availability of the Organization's documents identified on the IDR. was not available; a voice mail message was left to return the call.

The revenue agent visited the Organization's facility on September 23, 20XX to conduct the examination. was not present at the Organization's facility at the scheduled appointment time. The revenue agent waited approximately 5 – 10 minutes after the scheduled appointment time for to arrive; never showed up for the examination appointment. In addition, because did not show up for the appointment, a prepared Summons also could not be issued.

On September 24, 20XX, the correspondence mailed to the Organization on August 14, 20XX, was returned to the agent as "Unclaimed".

On September 25, 20XX, a letter was sent to the Organization, via certified mail, identifying the revenue agent's previous attempts to conduct the examination, solicited a response from the Organization to schedule a new appointment, and indicated potential consequences in the event the Organization failed to contact the revenue agent within fourteen (14) days.

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A voicemail was received from on September 29, 20XX, left on Sunday, September 28, 20XX, indicating the missed appointment, and that he prepared and mailed a letter on September 26, 20XX to the revenue agent regarding his difficulties in reaching the Organization's accountant.

The letter indicated in September 28, 20XX voicemail was also received on September 29, 20XX. The letter acknowledged the missed revenue agent's visit, and asked if the agent has heard from the Organization's accountant.

A telephone call to was attempted on September 29, 20XX to discuss the voicemail and the letter. was not available; a voice mail message was left to return the call. The revenue agent also accessed the United States Postal Service (USPS) tracking website to get an update on the correspondence mailed September 25, 20XX. According to the tracking information, the USPS attempted delivery on September 27, 20XX. Because an authorized recipient was not available, a notice was left by the USPS indicating the delivery attempt and the post office location that the addressed recipient can pick up the correspondence.

The correspondence mailed to the Organization on September 26, 20XX, was returned to the revenue agent on November 3, 20XX, as "Unclaimed".

LAW:

Internal Revenue Code (IRC) §501(a) states that an organization described in subsection (c) shall be exempt from taxation.

IRC §501(c)(3) exempts from taxation corporations organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, 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, and which does not participate in or intervene in any political campaign on behalf of (or in opposition to) any candidate for public office.

IRC §6001 states that every person or entity liable for any tax shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Internal Revenue Service (Service) may from time to time prescribe. The Service may also require any person or entity to make such returns, render such statements, or keep such records sufficient to show whether or not such person or entity is liable for tax.

Treasury Regulation §1.6001-1(c) states that every organization exempt from tax under IRC §501(a) must keep such permanent books, accounts, or records as are sufficient to establish the amount of gross income, deductions, credits, or other materials 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.

Treasury Regulation §1.6001-1(e) states that the books or records 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.

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IRC §6033(a)(1) states that organizations exempt from taxation under §501(a) shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the internal revenue laws as the Service may prescribe, and shall keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Service may from time to time prescribe.

Treasury Regulation §1.6033-2(i)(2) states that every organization which is exempt from tax shall submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into its exempt status.

IRC §7602(a) states that for the purpose of ascertaining the correctness of any return, determining the liability of any person for any internal revenue tax, or collecting any such liability, the Service is authorized —

(1) To examine any books, papers, records, or other data which may be relevant or material to such inquiry;

(2) To summon the person liable for tax or required to perform the act, or any officer or employee of such person, or any person having possession, custody, or care of books of account containing entries relating to the business of the person liable for tax or required to perform the act, to appear before the Service at a time and place named in the summons, to produce such books, papers, records, or other data, and to give such testimony, under oath, as may be relevant or material to such inquiry; and

(3) To take such testimony of the person concerned, under oath, as may be relevant or material to such inquiry.

Revenue Ruling 59-95 concerns an organization previously held exempt from Federal income tax was requested to produce a financial statement as of the end of the year and a statement of its operations during such year. However, its records were so incomplete that it was unable to furnish such statements. The Service held that the failure or inability to file the required information return or otherwise to comply with the provision of IRC Section 6033 and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of an exempt status.

TAXPAYER'S POSITION:

has not responded to telephone calls or certified mail. The Organization has not provided a position.

GOVERNMENT'S POSITION:

The exempt status of the should be revoked because it fails to meet the requirements of IRC §6033(a)(1) and Treasury Regulation §1.6033-2(i)(2). The Organization failed

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to provide the information required by the Internal Revenue Service for the purpose of inquiring into its tax exempt status.

Furthermore, as referenced by Revenue Ruling 59-95, an organization exempt from taxation under IRC §501(a) that fails to submit such additional information required by the Service for the purpose of inquiring into its exempt status may result in the termination of its exempt status.

The Service has repeatedly asked the Organization to submit necessary information to inquire into its tax exempt status. The organization has failed to provide the requested information.

Multiple telephone contacts were attempted by the Service to schedule and conduct an examination of the necessary information to substantiate its filed Form 990 return for the July 31, 20XX tax year. Multiple written requests were also made for the Organization to schedule the examination and submit necessary information. , the Organization's President, acknowledged receipt of correspondence dated July 21, 20XX, and agreed to an August 20XX appointment for the Service to visit its facility and begin conducting the examination. However, failed to provide any documents to conduct the examination. After agreeing to a rescheduled appointment for September 23, 20XX, and the Organization failed to show up for the second appointment.

has not returned numerous phone calls from August 12, 20XX, through September 29, 20XX, regarding the Service's inquiry into the Organization's tax exempt status, failed to provide the necessary information for a scheduled appointment, and failed to show up for another appointment. The Organization's actions signify that it may not have the necessary documentation to substantiate its Form 990 return and its adherence to the applicable Internal Revenue Code sections regarding its tax exempt status.

The Organization failed to meet the record keeping requirements per the cited regulations that allow the Service to inquire into its tax exempt status. The lack of any meaningful response to the Service's requests for information demonstrates that the Organization has not met its obligations and responsibilities to maintain the necessary records to satisfy the Service's request to substantiate its Form 990 return.

A closing conference was not held because the Organization has repeatedly failed to respond to requests for information and attempts at communication.

CONCLUSION:

no longer qualifies as tax exempt under Internal Revenue Code §501(a) as described in §501(c)(3).

Revocation of the tax exempt status of is proposed with an effective date of August 1, 20XX.

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