



IRS, Private Letter Ruling, Section 501 - Exemption from Tax on Corporations,
Certain Trusts, etc, PLR 202417022

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Department of the Treasury
Internal Revenue Service
Private Letter Ruling

PLR 202417022 - Section 501 - Exemption from Tax on Corporations, Certain Trusts, etc

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

Release Number: 202417022

Release Date: 4/26/2024

UIL Code: 501.03-00

Date:

January 30, 2024

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:

April 29, 2024

CERTIFIED MAIL - Return Receipt Requested

Dear [redacted data]:

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 [redacted data]. Your determination letter dated [redacted data], is revoked.

Our adverse determination as to your exempt status was made for the following reasons: You are not organized exclusively for one or more exempt purposes. Your articles of organization do not limit your purposes to one or more exempt purposes. Your articles of organization also expressly empower you to engage, as a substantial part of your activities, in activities which themselves are not in furtherance of one or more exempt purposes. Your assets are also not dedicated to an exempt purpose. Your articles of organization, as well as the operation of law, do not provide that your assets will be distributed upon dissolution for one or more exempt purposes, or to the Federal Government, or to a State or local government, for a public purpose, or will be distributed by a court to another organization to be used in such manner as in the judgment of the court will best accomplish such purposes.

You are operated for the benefit of sponsors and vendors in the cannabis industry, and the provision of these benefits is substantial and more than incidental. Accordingly, you are operated for the benefit of private interests. In addition, you facilitate the distribution, sale, and possession, among other things, of a controlled substance by promoting cannabis vendors at a festival. As a result, you further a substantial non-exempt purpose. Your festival and other related activities also further substantially, if not primarily, recreational, social, and entertainment purposes. You also did not produce adequate financial records, demonstrate that you keep such records, or file a required information return or electronic notice. You have failed to establish that you are observing the conditions required for continuation of exempt status. You have not demonstrated that you are operated exclusively for one or more exempt purposes and that no part of your earnings inures to the benefit of any private shareholder or individual.

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. 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

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

US District Court for the District of Columbia
333 Constitution Avenue, NW
Washington, DC 20001
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](#) .

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. 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 I, 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 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:* Internal Revenue Service June 21, 2023 **Tax Exempt and Government Entities** *Taxpayer ID number:* **Form:** **Tax periods ended:** **Person to contact:** Name: ID number: Telephone: Fax: Address: **Manager's contact information:** Name: **CERTIFIED MAIL — Return Receipt Requested** ID number: Telephone: **Response due date:** July 21, 2023

Date [redacted data]:

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 for a valid protest, refer to [Publication 892](#), How to Appeal IRS Determination on Tax-Exempt needed 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 or call 877-777-4778.

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 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,
Russell T. Renwicks
For
Lynn A. Brinkley
Director, Exempt Organizations Examinations

Enclosures:

Form 6018

Form 4621-A

Form 886-A

Publication 892

Publication 3498

<i>Form 886-A</i> <i>(May 2017)</i>	<i>Department of the Treasury - Internal Revenue Service</i> <i>Explanation of Items</i>	<i>Schedule number or exhibit</i>
<i>Name of Taxpayer</i>	<i>Tax Identification Number (last 4 digits)</i>	<i>Year/Period ended</i>

ISSUES:

Does [redacted data] qualify for exemption from Federal income tax under Section **501(c)(3)** of the **Internal Revenue Code** .

FACTS:

The Internal Revenue Service ("IRS") received **Form 1023-EZ** , Streamline Application for Recognition of Exemption Under Section **501(c)(3)** of the **Internal Revenue Code** ("**Form 1023-EZ** ") from [redacted data] (" [redacted data] signed by [redacted data] Director, on [redacted data] checked the box to attested that [redacted data] have completed the **Form 1023-EZ** Eligibility Worksheet in the current instructions, are eligible to apply for exemption using **Form 1023-EZ** and have read and understand the requirements to be exempt under section **501(c)(3)** .

In the current Instructions to **Form 1023-EZ** included acceptable language for the purpose clause in the organizing document;

*The organization is organized exclusively for charitable, religious, educational, and scientific purposes under section **501(c)(3)** of the **Internal Revenue Code** , or corresponding section of any future federal tax code.*

In addition, included in the instructions was acceptable language that [redacted data] organizing document does not expressly empower [redacted data] to engage, otherwise than as an insubstantial part of [redacted data] activities, in activities that in themselves are not in furtherance of one or more exempt purposes described in section **501(c)(3)** :

*No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to its members, trustees, officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes described in section **501(c)(3)** . No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provision of these articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under section **501(c)(3)** of the **Internal Revenue Code** , or the corresponding section of any future federal tax code, or (b) by a corporation, contributions to which are deductible under section **170(c)(2)** of the **Internal Revenue Code** , or the corresponding section of any future federal tax code.*

Also included in the instructions was acceptable language for the dissolution clause in the organizing document:

*Upon the dissolution of this organization, assets shall be distributed for one or more exempt purposes within the meaning of section **501(c)(3)** of the **Internal Revenue Code** , or 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.*

[redacted data] attested that [redacted data] were incorporated on [redacted data] in the state of [redacted data]attested that [redacted data] have the necessary organizing document, that [redacted data] organizing document limits [redacted data] purposes to one or more exempt purposes within the meaning of Section **501(c)(3)** of the Code, that [redacted data] organizing document does not expressly empower [redacted data] to engage in activities, other than an insubstantial part, that are not in furtherance of one or more exempt purposes, and that [redacted data] organizing document contains the dissolution provision required under Section **501(c)(3)** . [redacted data] also attested that [redacted data] are organized and operated exclusively to further charitable purposes. Specifically, [redacted data] attested [redacted data] will:

- Refrain from supporting or opposing candidates in political campaigns in any way;
- Ensure that your net earnings do not inure in whole or in part to the benefit of private shareholders or individuals;
- Not further non-exempt purposes (such as purposes that benefit private interests) more than insubstantially;
- Not be organized or operated for the primary purpose of conducting a trade or business that is not related to your exempt purpose(s);
- Not devote more than an insubstantial part of your activities attempting to influence legislation or, if you made a Section **501(h)** election, not normally make expenditures in excess of expenditure limitations outlined in Section **501(h)** ;
- Not provide commercial-type insurance as a substantial part of your activities.

In addition, [redacted data] specific activities in [redacted data] **Form 1023-EZ** Streamlined Application for Recognition of Exemption Under Section **501(c)(3)** of the **Internal Revenue Code** is described as an alliance/ advocacy organization, based on the NTEE Code. [redacted data] attested that [redacted data] are organized and operated exclusively to further the purposes to charitable and educational. [redacted data] signed **Form 1023EZ** did not have a description of [redacted data] activities.

[redacted data] checked the boxes on [redacted data] **Form 1023-EZ** Streamlined Application for Recognition of Exemption Under Section **501(c)(3)** of the **Internal Revenue Code** , to attest that [redacted data] have not conducted and will not conduct activities that violate these prohibitions and restrictions: [redacted data] responded no to each of the following:

- Do you or will you attempt to influence legislation?
- Do you or will you pay compensation to any of your officers, directors, or trustees?
- Do you or will you donate fund to or pay expenses for individual(s)?
- Do you or will you conduct activities or provide grant or other assistance to individual(s) or organization(s) outside the United States?
- Do you or will you engage in financial transactions (for example, loans, payments, rents, etc.) with any of your officers, directors, or trustee, or any entities they own or control?
- Do you or will you have unrelated business gross income of \$1,000 or more during a tax year?
- Do you or will you operate bingo or other gaming activities?
- Do you or will you provide disaster relief?

Form 1023-EZ Streamlined Application for Recognition of Exemption Under Section **501(c)(3)** of the **Internal Revenue Code** , Foundation Classification, [redacted data] attested that [redacted data] normally receive more than one-third of [redacted data] support from a combination of gifts, grants, contributions, membership fees, and gross receipts (from permitted sources) from activities related to [redacted data] exempt functions and normally receive not more than one-third of [redacted data] support from investment income and unrelated business taxable income. Section **509(a)(2)** .

[redacted data] ([redacted data] was granted exemption within the meaning of Section **501(c)(3)** by letter 5436 dated [redacted data] with an effective date of [redacted data] was [redacted data] classified as a public charity within the meaning of Section **509(a)(2)** .

The *Form 990-N* Electronic Notice (e-Postcard) for tax year ending [redacted data] filed by [redacted data] was selected for examination to ensure that the organization's activities and operations were in compliance with Section **501(c)(3)** .

An examination for tax year ending [redacted data] was opened. Initial contact letter 6031 was sent with *Form 4564* Information Document Request, **Publication 1** , **Publication 5146** , and Notice 609 on [redacted data] with a response due date of [redacted data] The correspondence requested a copy of any amendments to governing instruments including Articles, Constitution and By-laws, made to date, meeting minutes, financial data to reconcile the *Form 990-N* Electronic Notice (e-Postcard) to the organization's books and records.

[redacted data] responded to the initial *Form 4564* Information Document Request on [redacted data] The received a copy of Articles of Incorporation, Bylaws, meeting minutes and Form [redacted data] Corporate Name.

The Articles of Incorporation included the following purpose clause:

[redacted data] Charitable, Educational, and Civic [redacted data]

There was no dissolution clause.

Bylaws

Notated Article Purpose, Objective and Scope in [redacted data] adopted bylaws:

[redacted data] Purpose. The purpose of the [redacted data] is as follows:

[redacted data]" [redacted data]

Section [redacted data] Objectives. The [redacted data] shall:

*

" [redacted data]

[redacted data] following: Section [redacted data] shall be changed to:

[redacted data] is as follows:

" [redacted data]

In addition, [redacted data] of the Bylaws shall be changed to:

* [redacted data]

[redacted data]:

"[redacted data].

On [redacted data], the [redacted data] called [redacted data] inquired about missing financial records and verbally asked for a list of Board of Directors. [redacted data] stated that [redacted data] would fax the requested documents to the [redacted data] by [redacted data].

[redacted data] Former [redacted data] called and left a voice message on [redacted data]. [redacted data] called and spoke to [redacted data] on [redacted data]. [redacted data] explained that [redacted data] did not have financial records for the tax year ending [redacted data] due to COVID pandemic. [redacted data] discussed [redacted data] purpose and activities, which is to help [redacted data] celebrate the [redacted data] by the creation and organization of the [redacted data] stated that [redacted data] has financial information for tax year ending [redacted data]

[redacted data] sent Letter 5968 Notification to Expand Audit to an Additional Tax Year, *Form 4564* Information Document Request [redacted data] dated [redacted data] with a response due date of [redacted data] The letter included the agreed scheduled date and time of [redacted data], [redacted data] at [redacted data] for audit field visit. The attached Information Documents Request [redacted data] included a request for the following documentation:

- a copy of any amendments to governing instruments including Articles, Constitution and By-laws, made to date,
- general ledger for tax year ending [redacted data]
- provide copy of **Form 990** Return of Organization Exempt from Income Tax for tax year ending [redacted data]
- **Form 990** tax reconciliation, copies of all bank statements, list of Board of Directors and a brief written description of activities to include time spent and how it furthers exempt purpose.
- Also requested listings and documentation of events held for and/or on the behalf of [redacted data]
- provide detailed description of any business activities and/or support from, or to related organization, and provide brochures, advertisements, and public event information; and documentation pertaining to the activities and purpose of [redacted data]

[redacted data] responded to *Form 4564* Information Document request [redacted data] on [redacted data] by emailing a [redacted data] (outside) information application/account to access IDR response. [redacted data] called [redacted data] to explain that outside account cannot be opened due to security violations. [redacted data] stated that [redacted data] would email requested documents via [redacted data] Notated that as of [redacted data] did not send requested documents pertaining to *Form 4564* Information Request Document

Examination field visit

An audit field visit was conducted on [redacted data], at [redacted data] at the former [redacted data] home address. In attendance: [redacted data], [redacted data], [redacted data] from IRS in [redacted data] (helping with transition and the audit) and [redacted data] Bookkeeper.

An interview was conducted of the organization's activities. According to the officers, the organization promoted the [redacted data] by creating and operating the [redacted data] in [redacted data] thereby,

contracting with vendors/businesses in the [redacted data] and coordinating all productions to operate a [redacted data] event.

The primary activity was an [redacted data] street [redacted data] that included entertainment, food, and vendors related to the [redacted data] The vendors set up [redacted data] to introduce their business and educate about their products and the benefits of [redacted data] Provided was an advertisement of the event held in [redacted data] and included a flyer that stated, "[redacted data] & [redacted data]. [redacted data] The flyer included the following information:

- Held at [redacted data] in [redacted data] at [redacted data] & [redacted data]
- The [redacted data] with [redacted data] S [redacted data]
- [redacted data] & [redacted data] is [redacted data]
- RSVP at [redacted data]
- Information on research [redacted data]'s conducted. States that it reaches audience that are influential, [redacted data]
- [redacted data] to make the plans for their [redacted data] to enjoy [redacted data] events.
- Highlights: Attendees [redacted data] event page views [redacted data] on [redacted data] and earned [redacted data]

[redacted data] provided an advertisement for [redacted data] The [redacted data] details the following:
[redacted data] New this year: [redacted data]

The [redacted data] was not held in [redacted data] due to Covid. According to the [redacted data] there was a [redacted data] of [redacted data]

*See

Information Documentation Request [redacted data] was discussed and provided was the following documentation:

- A list of sponsors who donated to participate in the [redacted data] The list displayed company name, category, contact name, contact email, amounts, status, notes, more notes, contracts sent, signed contract and amount paid. The following is the list of company names, category and amount paid: [redacted data], [redacted data] \$ [redacted data] *See
- A [redacted data] list. The list details the products and services need to conduct a [redacted data] The list includes line items, category, estimated cost, vendor, actual cost, notes, and paid.
*See
- [redacted data] Income Statement for [redacted data] through [redacted data] and Balance Sheet for

2. Please provide documentation on expenses incurred for tax year ending [redacted data] i.e., receipts, invoices, contracts, canceled checks, and bank statements from [redacted data] through [redacted data] for the following items:

Rent \$ [redacted data]

Professional and legal fees \$ [redacted data]

Non-Employee Insurance \$ [redacted data]

Utilities \$ [redacted data]

3. We discussed **Form 990** tax return ending [redacted data] at the field audit visit, [redacted data] stated it does not have a copy of stated tax return. Per our telephone conversation, dated [redacted data] we discussed again about **Form 990** tax return ending [redacted data] state it will search again to locate its copied **Form 990** tax return ending [redacted data] Please provide a copy **Form 990** tax return ending [redacted data]

[redacted data] did not respond to *Form 4564* Information Document Request [redacted data] and [redacted data] dated [redacted data] with a response due date of [redacted data]

On [redacted data], called [redacted data] and left a voice message for a return call to inquire about access to IDR [redacted data] and [redacted data] and if organization have any questions. [redacted data] did not respond to *Form 4564* Information Document Request [redacted data] and [redacted data] dated [redacted data] with a [redacted data] response due date of [redacted data] called and spoke to [redacted data] on [redacted data], inquired about response to IDR [redacted data] and [redacted data] stated that [redacted data] would fax the response on [redacted data].

No response to IDR [redacted data] and [redacted data] received on [redacted data].

On [redacted data], [redacted data] called [redacted data] and left a voice message for a return call.

[redacted data] spoke to [redacted data] on [redacted data]. Explained letter 907-A TE/GE Request to Extend Statute, **Form 872** Consent to Extend the Time to Assess Tax and was sent by secured email with a response

due date of [redacted data].

[redacted data] spoke to [redacted data] on [redacted data], to inquire about **Form 872**. [redacted data] stated that couldn't locate passcode for secured email and needed more time to review and respond. [redacted data] gave passcode for secured email and an extension date of [redacted data].

[redacted data] submitted a written response to **Form 872** on [redacted data]. In the written response, respectfully requested that *Form 4564* Information Document Request for the period ending [redacted data] (IDR [redacted data]) be withdrawn and that *Form 4564* Information Document Request for the period ending [redacted data] (IDR [redacted data]) is given a 30-day statute of limitation extension past its original statute date of [redacted data]

[redacted data] called [redacted data] on [redacted data], [redacted data], and received a response to F872 on [redacted data]. There was no success in response to *Form 4564* Information Document Request [redacted data] and [redacted data]

*See

LAW:

Internal Revenue Code § 501(c)(3) provides that an organization organized and operated exclusively for charitable or educational purposes is exempt from Federal income tax, provided no part of its net earnings inures to the benefit of any private shareholder or individual.

Treasury Regulation Section 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).

Treasury Regulation Section 1.501(c)(3)-1(a)(1) states that, in order to be exempt as an organization described in Section **501(c)(3)** of the Code, 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.

Treasury Regulation Section 1.501(c)(3)-1(b)(4) holds that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, for example, if, upon dissolution, such assets would, by reason of a provision in the organization's articles or operation of law, be distributed for one or more exempt purposes.

Treasury Regulation Section 1.501(c)(3)-1(c)(1) provides that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in Section **501(c)(3)** of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Treasury Regulation Section 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest.

Internal Revenue Code § 6001 provides that every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title.

Treasury Regulation Section § 1.6001-1(c) provides that such permanent books and records as are required by paragraph (a) of this section with respect to the tax imposed by section **511** on unrelated business income of certain exempt organizations, every organization exempt from tax under section **501(a)** shall keep such permanent books of account or records, including inventories, as are sufficient to show specifically the items of gross income, receipts, and disbursements. Such organizations shall also keep such books and records as are required to substantiate the information required by section **6033** . See section **6033** and §§ **1.6033-1** through **1.6033-3** .

Treasury Regulation Section § 1.6001-1(e) provides 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.

Internal Revenue Code § 6033(a)(1) provides, except as provided in section **6033(a)(2)** , every organization exempt from tax under section **501(a)** shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by 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.

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 comply with the provisions of section **6033** of the Code and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions

required for the continuation of exempt status.

Rev. Rul. [75-384](#) , 1975-2 C.B. 204, holds that a nonprofit organization, whose purpose was to promote world peace, disarmament, and nonviolent direct action, did not qualify for exemption under Section [501\(c\)\(3\)](#) or [\(c\)\(4\)](#) . The organization's primary activity was to sponsor antiwar protest demonstrations in which demonstrators were urged to violate local ordinances and commit acts of civil disobedience. Citing the law of trusts, the ruling stated that all charitable organizations are subject to the requirement that their purposes cannot be illegal or contrary to public policy.

In *Better Business Bureau of Washington, D.C., Inc. v. United States*, [326 U.S. 179](#) (1945), the Supreme Court held that the presence of a single non-exempt purpose, if substantial in nature, will destroy a claim for exemption regardless of the number or importance of truly exempt purposes.

In *Harding Hospital, Inc. v. United States*, [505 F.2d 1068, 1071](#) (6th Cir. 1974), the court held that an organization has the burden of proving that it satisfies the requirements of the particular exemption statute. The court noted that whether an organization has satisfied the operational test is a question of fact.

TAXPAYER'S POSITION:

Does [redacted data] qualify for exemption from Federal income tax under Section [501\(c\)\(3\)](#) of the [Internal Revenue Code](#) .

No written position has been provided at this time.

GOVERNMENT'S POSITION:

Does [redacted data] qualify for exemption from Federal income tax under Section [501\(c\)\(3\)](#) of the [Internal Revenue Code](#) .

[redacted data] does not meet the requirements for recognition of tax exemption under IRC Section [501\(c\)\(3\)](#) because it failed the organizational and operational test as described in [Treas. Reg. Section 1.501\(c\)\(3\)-1\(a\)\(1\)](#) . In addition, [redacted data] did not meet the requirements of IRC section [6033](#) , by not providing records requested during the examination.

Organizational Test

The [Form 1023-EZ](#) instructions included acceptable language which [redacted data] did not include in [redacted data] Article of Incorporation. The language of [redacted data] organizing document does not sufficiently limit [redacted data] purposes to those specifically described in Section [501\(c\)\(3\)](#) or permanently

dedicate [redacted data] assets to purposes specifically described in Section **501(c)(3)** as required for tax exemption as an organization described under Section **501(c)(3)** .

[redacted data] organizing documents are not in compliance with the attestation that organizing documents must limit [redacted data] purpose to one or more exempt purposes within Section **501(c)(3)** ; does not expressly empower [redacted data] to engage, otherwise than as an insubstantial part of [redacted data] activities, in activities that in themselves are not in furtherance of one or more exempt purposes; and that [redacted data] organizing document contains the dissolution provision required under section **501(c)(3)** .

Articles of Incorporation from the state of [redacted data] indicated they were filed on [redacted data] and show purpose as charitable, educational, and civic. The word civic is not a purpose, which is not a specific and purpose included in **Treasury Regulation Section 1.501(c)(3)-1(a)** as a purpose under IRC **501(c)(3)** .

Additionally, the **Form 1023-EZ** instructions included acceptable language for a dissolution clause and [redacted data] Articles has no provisions in the document for the disposition of assets upon dissolution.

Operational test

[redacted data] are not operated exclusively for exempt purposes under Section **501(c)(3)** of the Code. An organization can be recognized as exempt under Section **501(c)(3)** of the Code only if it shows that it is both organized and operated exclusively for charitable, educational, or other exempt purposes. If an organization fails to meet either the organizational test or the operational test, it is not exempt. **Treas. Reg. Section 1.501(c)(3)-1(a)(1)** . [redacted data] do not satisfy the operational test of **Treas. Reg. Section 1.501(c)(3)-1(c)** . Whether an organization operates exclusively in furtherance of an exempt purpose is a question of fact. An organization seeking tax exempt status under Section **501(c)(3)** of the Code carries the burden of proving that it satisfies the requirements of the statute. See *Harding Hospital*, **505 F.2d at 1071** . Only an insubstantial portion of the activity of an exempt organization may further a nonexempt purpose. As the Supreme Court held in *Better Business Bureau of Washington, D.C., Inc. v. United States*, **326 U.S. at 283** the presence of a single nonexempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes.

The creation and operation of an [redacted data] promoting [redacted data] is not exclusively educational under section **501(c)(3)** of the **Internal Revenue Code** . [redacted data] have not demonstrated that the [redacted data] with [redacted data] performances, beer garden, food, and [redacted data] vendors is educational. The event appears to be for entertainment purposes and not to convey an educational benefit to the community.

While the organization described in Revenue Ruling **75-384** had the goal of educating the public on the benefits of topics such as world peace and disarmament, its primary means of meeting their goals precluded them from receiving exemption under section **501(c)(3)** . Their activities were deemed to induce or encourage the commission of criminal acts by means of civil disobedience by planning or sponsoring these events

intentionally. As the ruling states, highlighting the law of trusts, all charitable trusts (and by implication all charitable organizations) are subject to the requirement that their purposes may not be illegal or contrary to public policy. While [redacted data] may currently be legal in the state [redacted data] reside, it is currently not recognized as legal by federal law. Current federal law prohibits the use of [redacted data] and [redacted data] except in limited circumstances; those limited circumstances do not include its use for [redacted data] The fact that [redacted data] state legalized distribution of [redacted data] and [redacted data] to a limited extent is not determinative because under federal law, distribution of [redacted data] is illegal. Because [redacted data] advocate and engage in activities that contravene federal law, [redacted data] serve a substantial nonexempt purpose. Despite any educational or charitable purposes, [redacted data] may plan to achieve through [redacted data] activities, [redacted data] are promoting an illegal activity under federal law. Therefore, [redacted data] are not operating for an exclusive purpose within the meaning of Section **501(c)(3)** of the Code.

In addition, [redacted data] is not operated in accordance with **Treas. Reg. Section 1.501(c)(3)-1(c)(1)** because it is operated for a substantial nonexempt private purpose. The books and records show [redacted data] are operated for the benefit of [redacted data] vendors, which are professionals and businesses (sponsors) in the [redacted data] Sponsors contributed to the planning and operation of the [redacted data] called "[redacted data] These sponsors contribute to setup [redacted data] and [redacted data] at the [redacted data] to promote the interest of [redacted data] For example, [redacted data] contributed \$ [redacted data] to have a regular [redacted data] near the "[redacted data] Director of Sales, contributed \$ [redacted data] for and [redacted data] Director of Sales, contributed [redacted data] to have a [redacted data] and [redacted data] The sponsors must sign a contract. [redacted data] books and records also illustrate that [redacted data] are operated to serve the private interests of [redacted data] vendors, which are professionals and businesses in the [redacted data] in contravention to **Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii)** .

Failure to provide records

In accordance with the above-cited provisions of the **Internal Revenue Code** and Treasury Regulations under Sections **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 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.

[redacted data] did not provide sufficient books and records and documentation to support financial transactions-sponsor listing for tax year ending [redacted data] such as receipts, invoices, contracts, canceled checks, and bank statements from [redacted data] through [redacted data] did not provide documentation to support the income statement and balance sheet for tax year ending such as receipts, invoices, contracts, canceled checks, and bank statements from [redacted data] through [redacted data] The organization stated that it filed a return for tax year ending [redacted data] but could not produce a copy of the return. IRS research indicate that [redacted data] did not file a return (**Form 990** or F990-N Electronic Notice (e-Postcard)) for tax year ending [redacted data]

CONCLUSION:

Based on the information provided, [redacted data] do not qualify for exemption because [redacted data] are not organized and operated exclusively for purposes described in Section **501(c)(3)** of the Code. [redacted data] failed the organizational test because organizing document purpose is not limited to purposes in **Treasury Regulation Section 1.501(c)(3)-1(a)** . Also, since [redacted data] organizing document does not include a dissolution clause, [redacted data] assets are not dedicated to an exempt purpose as required by **Treasury Regulation section 1.501(c)(3)-(b)(4)** . [redacted data] failed the operational test because [redacted data] are engaging in the promotion of an activity that is considered illegal by federal law. In addition, [redacted data] serve the private interests of businesses engaged in the sale of [redacted data] and [redacted data] . Additionally, it is the IRS's position that the organization failed to meet the reporting requirements under Sections **6001** and **6033** to be recognized as exempt from federal income tax under Section **501(c)(3)** of the **Internal Revenue Code** .

Therefore, [redacted data] do not qualify for exemption under Section **501(c)(3)** of the Code.

Based on the foregoing reasons, [redacted data] does not qualify for exemption from Federal income tax under Section **501(c)(3)** of the **Internal Revenue Code** and its tax-exempt status should be revoked.

Accordingly, the organization's exempt status is revoked effective [redacted data]