



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
TE/GE: EO Examination  
1100 Commerce St. - 4920 DAL  
Dallas, TX 75242

Date: **AUG 17 2010**

Cherubs - The Association of Congenital  
Diaphragmatic Hernia Research  
3650 Rogers Road  
Wake Forest, NC 27587

EIN: 56-1916661  
Form Number: 990  
Tax Period Ended: December 31, 2006  
Person to Contact: Robert A. Zarny  
Identification Number: 11-00987  
Contact Telephone Number: (718) 488-2219  
In Reply Refer to: TE/GE Review Staff

Dear Sir or Madam:

This is a final determination regarding your foundation classification. This modifies our letter dated October 4, 1995, in which we determined that you were an organization described in section 509(a)(2) of the Internal Revenue Code (Code). Subsequently, you defaulted to a Private Foundation status when you did not respond to our Form 8734. We found, however, that you qualify under the "Rebutable Presumption" as a public charity under IRC section 508(b). We have therefore modified your foundation status to that of a public charity described in sections 509(a)(1) and 170(b)(1)(A)(vi) of the Code, effective for tax years beginning January 1, 2007.

Your tax exempt status under section 501(c)(3) of the Internal Revenue Code is not affected. Grantors and contributors may rely on this determination, unless the Internal Revenue Service publishes a notice to the contrary. Because this letter could help resolve any questions about your private foundation status, please keep it with your permanent records.

You are required to file Form 990, Return of Organization Exemption from Income Tax. Form 990 must be filed by the 15<sup>th</sup> day of the fifth month after the end of your annual accounting periods. A penalty of \$20 a day is charged when a return is filed late, unless there is reasonable cause for the delay; however, the maximum penalty charged cannot exceed \$10,000 or 5 percent of your gross receipts for the year, whichever is less. This penalty may also be charged if a return is not complete, so please be sure your return is complete before you file it.

If you decide to contest this determination in court, you must initiate a suit for a declaratory judgment in the United States Tax Court, the United States Claims Court, or the District Court of the United States for the District of Columbia before the 91<sup>st</sup> day after the date this final determination letter was mailed to you. Contact the clerk of the appropriate court for rules for initiating suits for declaratory judgment. You may write to the Tax Court at the following address:

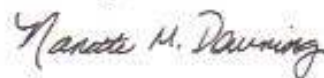
United States Tax Court,  
400 Second Street  
Washington, D.C. 20217

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 nearest you by calling (518) 427-5413 or writing to: Internal Revenue Service, Office of Taxpayer Advocate, Clinton Ave & N. Pearl Street, Fed Building, Albany, New York 10007

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.

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.

Sincerely,



Nanette M. Downing  
Director, EO Examinations