

Internal Revenue Service

Department of the Treasury

Person to Contact:

Employee ID Number:

Tel:

Fax:

Employer Identification Number:

Form Number:

1120

Tax Years:

19995 through the period ended
6/30/2002

Refer Reply to:

In Re:

EO Determination

Date:

CERTIFIED MAIL

This is a final adverse determination as to your exempt status under section 501(c)(3) of the Internal Revenue Code.

Our adverse determination was made for the following reasons:

Your organization does not meet the operational test of IRC Section 501(c)(3).

Your advertising and scholarship program provided substantial private benefit to your members in contravention of the requirements set forth in section 1.501(c)(3)-1(d)(1)(ii) of the Treasury Regulations.

Contributions to your organization are not deductible under Code section 170.

You are required to file Federal income tax returns on the form indicated above. Based on the financial information you furnished, it appears that returns should be filed for the above years. You should file these returns with your key Area Director TEGE Function, within 30 days from the date of this letter, unless a request for an extension of time is granted. Processing of income tax returns and assessment of any taxes due will not be delayed because you have filed a petition for declaratory judgment under Code section 7428. You should file returns for later tax years with the appropriate service center shown in the instructions for those returns.

If you decide to contest this determination under the declaratory judgment provisions of Code section 7428, a petition to the United States Tax Court, the United States Court of Claims, or the District Court of the United States for the District of Columbia must be filed within 90 days from the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for filing petitions for declaratory judgment.

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

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

Sincerely,

A large black rectangular redaction box covering the signature of the Appeals Team Manager.

Appeals Team Manager

cc 

Internal Revenue Service

Department of the Treasury

District
Director

Contact Telephone Number:

Reply Refer to:

Date

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code and have determined that you do not qualify for exemption under that section. Our reasons for this conclusion and the facts on which it is based are explained below.

Your organization incorporated in the State of [redacted] on [redacted] to provide a forum to cultivate, promote, foster, sponsor, and develop the understanding, taste and love of Indian culture and heritage, to promote social, cultural and educational values and heritage of [redacted], to preserve music, arts, literature, and other artistic heritage of [redacted] residing in the United State of America; to preserve and propagate [redacted] language amongst the youth and future generations, to encourage and support [redacted] arts; to organize and conduct debates, lectures, demonstrations performances and exhibitions on Indian literature, music, dance and art; to collect and distribute literary work and to provide services in the nature of information, publications, conferences on [redacted] arts; to assist any group and/or individuals, who are interested in arranging or organizing local activities consistent with the aims and objectives of this corporation; to receive, administer and disburse gifts and grants of money and property of every kind, exclusively to tax exempt charitable, scientific, literary and educational purposes as set forth under section 501(c) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law).

You are a membership organization comprised of two major categories such as Full membership and Associate membership or sponsored membership and again reclassified in to Family membership and Adult individual.

Membership is open to [redacted] and their children and to other families provided one member of such a family is a [redacted] identified as such by his/her origin and cultural heritage of [redacted]

Page 2 of Application 1023 states the activities of the organization are to promote/foster the culture and heritage of [REDACTED] with particular emphasis [REDACTED] culture. Also to engage in charitable activities, by providing various assistance to the non profit organizations within the USA.

Income is derived from membership dues, interest, advertisements, Malayalam school and special events and expended for [REDACTED] advertisements, flowers, dues scholarships and special events. Your primary source of income is derived from special events and advertisements and expended as such.

In response to our requests for additional information, you stated the following: "The purpose and nature of the organization is charitable and educational. We conduct the programs as and when the duration and we able to do will be based on the nature of the programs. Every year we give out two scholarships to high school graduates from the general membership who excel in their academic standards. We publish this information in our organization's publication. As part of our educational program, we conduct [REDACTED] classes for the children. The organization conducts annual picnics and there will be sports and games and they incur expenses related to buying trophies and supplies for the same. Special events relate to programs like Christmas and inaugural programs, etc." (Letter dated June 30, 1999).

In letter dated October 25, 1999, you stated that the purpose of the organization is charitable and educational. The scholarship program is for member's children. The selection committee is selected from the general membership. The scholarship is usually \$500.00 depending upon the availability of funds. A member in memory of her husband gives this amount. If we don't get the funds, we are not in a position to give this out.

The publication known, as [REDACTED] is a booklet comprised of advertisements for member's businesses. The [REDACTED] school is actually a tutoring program conducted at rented locations.

Section 501(c)(3) of the Internal Revenue Code provides for exemption from Federal income tax for organizations which are organized and operated exclusively for charitable, religious, and educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that in order to qualify for exemption under section 501(c)(3), an organization must be both organized and operated exclusively for one or more exempt purposes. Failure to meet either the organizational or operational test will disqualify an organization from exemption under section 501(c)(3).

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations states that an organization is not organized or operated for any purpose under section 501(c)(3), unless it serves a public rather than a private interest. Thus to meet the requirements of this subparagraph, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization or persons controlled, directly or indirectly, by such private interests. Moreover, even though an organization may have exempt purposes, it will not be considered as operating exclusively for such purposes, if more than an insubstantial part of its activities serve private interests.

Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations states that the term "charitable" is used in section 501(c)(3) in its generally accepted legal sense. The term includes: relief of the poor and distressed or of the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments, or works; lessening the burdens of government; and promotion of social welfare by organizations designed to accomplish any of the above purposes, or (i) to lessen neighborhood tensions; (ii) to eliminate prejudice or discrimination; (iii) to defend human and civil rights secured by law; or (iv) to combat community deterioration and juvenile delinquency.

In construing the meaning of the phrase "exclusively for educational purposes" in Better Business Bureau v. United States, 326 U.S. 279 (1945), the Supreme Court of the United States stated, "This plainly means that the presence of a single non-educational purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly educational purposes." This rationale applies equally to category of charitable purposes under section 501(c)(3) of the Code.

Revenue Ruling 67-367, Cumulative Bulletin 1967-2, page 188 held that a scholarship program that made payments to pre-selected, specifically named individuals did not qualify for exemption.

The evidence submitted in your application clearly indicates that you are not operated "exclusively for charitable or educational purposes within the meaning of section 501(c)(3) of the Code. Instead, your activities have been primarily social and recreational which is substantiated by your expenditures.

In addition, your [redacted] and [redacted] program provides substantial private benefit to your members. Accordingly, you are organized and operated to serve private interests, in contravention of the requirement set forth in section 1.501(c)(3)-1(d)(1)(ii) of the regulations.

Therefore, we have concluded that you do not qualify for exemption from Federal income tax as an organization described in section 501(c)(3) of the Code. In accordance with this determination, you are required to file Federal income tax returns on Form 1120.

[REDACTED]

Contributions to your organization are not deductible by donors under section 170(c)(2) of the Code.

In accordance with the provisions of section 6104(c) of the Code, a copy of this letter will be sent to the appropriate State officials.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this, you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If someone who is not one of your principal officers will represent you, that person will need to file a power of attorney or tax information authorization with us.

If you don't appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination in this matter. Further, if you do not appeal this determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust administrative remedies. Section 7428(b)(2) of the Code provides, in part, that "A declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Appeals submitted which do not contain all the documentation required by Publication 892 will be returned for completion.

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

Sincerely,

[REDACTED]

[REDACTED]

Enclosure: Publication 892

[REDACTED]