

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Contact Person:

Telephone Number:

In Reference to:

Date:

Surname

EIN:

Key District:

Dear Applicant:

We have completed our consideration of your application for recognition of exemption from federal income tax under section 501(c)(4) of the Internal Revenue Code.

Your Articles of Incorporation state your purposes are exclusively for charitable, religious, educational and scientific purposes, including for such purposes, the making and distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Code. In your application you state that your purpose is to assist students in the building trades in an effort to encourage them to commit to employment with member contractors (sponsors). The Sponsor is a member contractor utilizing building trades or is an association in which its voting members are building trades contractors.

The students are enrolled in the _____ Program at the _____ and obtain educational loans. You stated that you provide a form of Student Loan Guarantees and Placement Assistance for the students in the program at the college. The students must complete the course and provide the Sponsor a copy of the Certificate of Completion. There is a written agreement with the student and the Sponsor. The agreement does not indicate income or payroll tax consequences of the agreement.

The Sponsor assists in the repayment of educational loans of students in the building trades in order to assure placement of such students within the area. For each payment indicated under the Sponsor's repayment commitment, the student must be employed by the sponsor or a member of the Contractors Advisory Association.

If the student is not employed because of death, disability or voluntary termination by the student or termination by the

[REDACTED]

Sponsor for cause, the Sponsor's commitment to repay the loan ends. If the employment of the student is terminated without cause attributable to the student, the Sponsor's obligation to repay continues. The student's employment must be continuous and on a full time basis. The student may not default under the program.

You will assist with student recruitment at the high school level by making presentations regarding the field of construction carpentry. You will also advise teachers and counselors on specifics to improve the school program. You will assist the college in recruitment and by counseling prospective students. You will provide training assistance to the college and high schools by helping establish curriculum and course work, mentoring students, providing tools and equipment.

You stated that the benefit to the Sponsor is that the program will provide the Sponsor with recruitment, training, and retention of skilled tradespeople. You stated that if a Sponsor was to hire and train an individual to the level of those anticipated to graduate from the 2 year college program, the Sponsor would spend in excess to \$ [REDACTED] and take five to seven years to accomplish the task.

Sponsors pay an initial assessment of \$ [REDACTED]. There is a \$ [REDACTED] initiation fees and annual dues of \$ [REDACTED]. The fixed fee will be placed in a Fund Account and the interest used to pay off loans to students in the program. If a Sponsor leaves the \$ [REDACTED] fixed fee may be refunded.

Voting Sponsors must be a contractor utilizing building trades. Voting Sponsors must pay the initial assessment, initiation fees, and dues. Nonvoting Sponsors must pay dues or fees.

Section 501(c)(4) of the Code grants exemption to civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated persons or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes. No part of the net earnings may inure to the benefit of any private shareholder or individual.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in

promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterment and social improvements. A "social welfare" organization will qualify for exemption as a charitable organization if it falls within the definition of "charitable" set forth in paragraph (d)(2) of §1.501(c)(3)-1 and is not an "action" organization as set forth in paragraph (c)(3) of §1.501(c)(3)-1.

Section 1.501(c)(4)-1(b) of the regulations state that the membership of a local association of employees must be limited to the employees of a designated person or persons in a particular municipality, and that the net earnings of the association be devoted exclusively to charitable, educational, or recreational purposes.

Section 1.501(c)(12)-1(b) of the regulations defines "local." An organization of a purely local character is one whose business activities are confined to a particular community, place, or district, irrespective, however, of political subdivisions. If the activities of an organization are limited only by the borders of a State it cannot be considered to be purely local in character.

Rev. Rul. 79-128, 1979-1 C.B. 197, held that an organization, the membership of which is limited to the employees of an employer in a particular municipality, which arranges with various businesses to extend discounts to members on their purchases of goods and services, is operated primarily as a cooperative buying service for its member and as such is not a "local association of employees" devote exclusively to charitable, educational or recreational purposes as contemplated under IRC 501(c)(4).

Rev. Rul. 78-132, 1978-1 C.B. 157, held that a community cooperative organization formed to facilitate the exchange of personal services among members is operating primarily for the private benefit of its members and is not exempt from tax as a social welfare organization under section 501(c)(4) of the Code.

Rev. Rul. 73-349, 1973-2 C.B. 179, held that an organization formed to purchase groceries for its membership at the lowest possible prices on a cooperative basis was not exempt under section 501(c)(4) of the Code. Each member paid for the cost of food ordered plus a monthly service charge which defrayed the organization's expenses. The organization was a cooperative enterprise for the economic benefit or convenience of its

members. The Service stated that the organization was operated primarily for the benefit of its member and not to promote the common good and general welfare of the community. The ruling relied on Commissioner v. Lake Forest, Inc., 305 F.2d 814 (4th Cir. 1962), which held that a corporation that provided housing on a cooperative basis lacked the necessary requirements of an organization described in section 501(c)(4) because the corporation operated as a private self help enterprise with only incidental benefit to the community.

Miss Georgia Scholarship Fund, Inc. v. Commissioner, 72 T.C. 267 (1979) held that an organization whose only activity was awarding scholarships to contestants in a beauty pageant did not qualify for exemption under IRC 501(c)(3). All contestants, as a condition of receiving a scholarship, were required to sign a contract that obligated them to abide by pageant rules if selected to participate in the Miss America Pageant. The court concluded that the scholarship did not qualify for exemption under IRC 117 and the organization did not qualify for exemption under IRC 501(c)(3) because they were awarded in consideration of contractual obligations.

The net earnings of an IRC 501(c)(4) local association of employees must be devoted exclusively to charitable, educational, or recreational purposes. The meanings of the terms charitable and educational are the same as those found in paragraphs (d)(2) and (d)(3) of section 1.501(c)(3)-1 of the regulations. The term "education" relates to instructing or training an individual for the purpose of improving or developing capabilities, or instructing the public on subjects useful to the individual and beneficial to the community. The word "charitable" is used in its common law sense and includes not only separate enumeration of activities in IRC 501(c)(3), but it also includes activities that fall within the classification of charitable as developed by judicial decision.

You stated that you are an association of employees. Your voting Sponsors are contractors utilizing building trades, not the employees. See Rev. Rul. 79-128. Therefore, you are not considered a local association of employees described in section 501(c)(4) of the Code.

Section 501(c)(4) of the Code also provides for the exemption of civic leagues or organizations not organized for profit but operated exclusive for social welfare. You stated you would accomplish some educational activities, such as providing tools and counseling at the local school that could be considered social welfare. You do not provide scholarships or loans based

[REDACTED]

upon need or merit. See Rev. Rul. 66-103, 1966-1 C.B. 134; Rev. Rul. 69-257, 1969-1 C.B. 151. The loans are not given by you nor was there any indication that the loans were at low or minimal rates. See Rev. Rul. 63-220, 1963-2 C.B. 208. In fact the repayment is in a form of a contractual agreement between the student and the Sponsor and is similarly to the one in Miss Georgia Scholarship Fund, supra. The student loan guarantee is not educational within the meaning of IRC 501(c)(3) and, therefore, would not be considered a social welfare activity within the meaning of IRC 501(c)(4).

Your activities are designed to benefit the Sponsors, in that they provide trained employees to the Sponsors at a cost less than it would cost the Sponsor to train the employee on the job. Your primary activity and the agreement between the student and Sponsor also indicate that the primary beneficiary of your activities are your Sponsors. See Rev. Rul. 78-132, and Rev. Rul. 73-349, supra. Any benefits to the community are secondary and are not sufficient to meet the requirements of the regulations that you are operated primarily for the common good and general welfare of the people of the community.

Based on the facts and circumstances represented herein, it is concluded that you operate primarily to benefit of your Sponsors rather than the community as a whole. You do not operate exclusively to promote social welfare. Accordingly you do not qualify for exemption as an organization described in section 501(c)(4) and you must file federal income tax returns.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have the right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director. Thereafter, any questions about your federal income tax status should be addressed to that office.

You will expedite our receipt of your reply by using the following address on the envelope:

[REDACTED]

[REDACTED]

Sincerely yours,

[REDACTED]

Chief, Exempt Organizations

[REDACTED]

	Initiator	Reviewer	Reviewer	Reviewer	Reviewer
Code	[REDACTED]				
Surname	[REDACTED]				
Date	[REDACTED]				