

Internal Revenue Service  
Regional Commissioner

Department of the Treasury

Date: 10/10/80

Employer Identification Number:  
[REDACTED]

Form Number:  
[REDACTED]

Tax Years:  
[REDACTED]

Key District:  
[REDACTED]

Person to Contact:  
[REDACTED]

Contact Telephone Number:  
[REDACTED]

Gentlemen:

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 reason(s):

You do not qualify for exemption from Federal income tax under the provisions of section 501(c)(3) of the Code because you provide commercial services for a fee. You are not operating exclusively for charitable or educational purposes as described under section 501(c)(3) of the Code.

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 District Director, EP/EO Division, 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.

(over)

Cleveland Appeals Office  
P.O. Box 99189  
Cleveland, Ohio 44199

Letter 1371(RO) (1-80)

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 yours,



John S. Comella  
Associate Chief  
Appeals Office

Internal Revenue Service

Department of the Treasury

District  
Director

P. O. Box 2508  
Cincinnati, OH 45201

Person to Contact:

Telephone Number:

Refer Reply to:

Date: NOV 4 1987

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(3) of the Internal Revenue Code of 1986 and its applicable Income Tax Regulations. Based on the available information, we have determined that you do not qualify for the reasons set forth on Enclosure I.

Consideration was given to whether you qualify for exemption under other subsections of section 501(c) of the Code and we have concluded that you do not.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1120. Contributions to you are not deductible under section 170 of the Code.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe that it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892, "Exempt Organizations Appeal Procedures for Unagreed Issues". The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office, or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

[REDACTED]

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue 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.

If we do not hear from you within the time specified, this will become our final determination. In that event, appropriate State officials will be notified of this action in accordance with the provisions of section 6104(c) of the Code.

Sincerely yours,

[REDACTED]  
[REDACTED]  
District Director

Enclosures: 3

Enclosure I  
Reasons for proposed denial of exempt status

Information submitted with your application indicates that you were incorporated [REDACTED]. Your Articles of Incorporation state that your primary purpose is to promote and provide Christian curriculum consulting and management for private Christian elementary and secondary school systems and to undertake an educational ministry so as to provide secular education concepts and to promote same via appropriate Christian curriculum schedules and approaches.

Your application states that your founder, [REDACTED], is educated and experienced in curriculum design and is attempting to provide a service to christian schools at a cost that will allow them to keep up with current changes and improvements in curriculum design. Your president, [REDACTED], has received training as an evaluator/inspection team member from the [REDACTED] [REDACTED] (hereinafter "[REDACTED]"). He is a former administrator of an [REDACTED] affiliated school and maintains contact with [REDACTED] on an informal basis for communication and cooperation. [REDACTED] is an adjunct professor at [REDACTED] and is authorized to design and teach (lead) graduate-level inservice courses/workshops specific to the needs of the client schools. [REDACTED] [REDACTED] charges your organization \$[REDACTED] per credit-hour per participant.

You state that you offer your services, not as competition to the various national Christian School organizations, but rather to assist schools in an area which could cost as much as 3 to 4 times the amount of your annual membership fee.

The services you provide include:

- a. State Chartering - Your staff will work in a consultation/leadership role to assist individual schools as they proceed through the chartering/inspection process. You also provide consulting in on-site inspection of the 108 areas required for charter.
- b. [REDACTED] Chartering - You informally assist schools in preparing for this step. Your staff will act in the role of consultants to assist the local school board and administration in [REDACTED] (or other desired organizational chartering).
- c. Inservice Education - You offer inservice education geared to the specific needs of the staff at a minimal cost to the school. You pay all instructional costs of the inservice. The staff member pays only for the credits (\$[REDACTED] per hour). You feel that the average Christian School teacher cannot afford to pay the high cost of graduate credit. Your organization is designed to meet this need at a much lower cost. Your staff is made up of educational professionals who

see a need to bring the up-to-date results of educational research and teaching methods to the educators of Christian Schools. your present staff is and future staff will be Master Teachers who have an expertise in educational pedagogy. They are/will be eligible for adjunct professor status, and thus are/will be able to lead workshops for graduate credit. As part of your contractual agreement, the local board has paid for the inservices, and therefore the faculty members of that school may attend at no cost to them aside from instructional materials. Should the faculty member desire to earn graduate level college credit for the workshop, they may pay the actual cost for the credit (about 1/3 of on-campus fees) to your organization, and you will make arrangements with the college for credit to be given. Your president is a professor at [REDACTED] and is authorized to design graduate level inservice education courses/workshops specific to the needs of the individual school.

- d. Competency Based Education - You assist with the implementation of the State mandated Competency Based Education Program. Your staff will consult with and assist the client school administrators and their faculty committees to design, implement and evaluate their own individual program.
- e. Curriculum Writing - A representative from your organization will consult with the administrators of client schools, and assist the faculty committee in writing/revising the courses of study for the courses taught at that school as needed.
- f. Curriculum Evaluation - Your staff evaluates and correlates curricula to standardized test scores when requested by a client school.

You currently have a contract with the Board of Education of [REDACTED] to provide services. The contract states that this client is in special need for curriculum planning to satisfy State requirements and does not have such persons on its teaching or administrative staffs. You agreed to provide curriculum leadership and management services in a manner as required by the administrator of the member school. Your fee for these services is \$[REDACTED] per student as reported by the client to the State of [REDACTED] on the Principal's Opening Day Report. Your services to this school include:

- a. leadership and management relative to State charter maintenance
- b. leadership and management relative to [REDACTED] chartering

- [REDACTED]
- c. a minimum of three one-semester hour inservice education programs
  - d. leadership, management and direction relative to Competency Based Education mandates
  - e. leadership, management and direction relative to Course of Study revision
  - f. other duties by mutual agreement

Your organizations Board of Trustees will set the annual contract fee each year, so as to balance your budget. You stated that, "The budget will, at best, be balanced. If there is a shortfall in funds, the Board of Trustees will be responsible for making up the difference through (a) increases in fees, (b) staff salary cuts or (c) out-of-pocket donations. Services, therefore, are provided at or slightly below cost.

In your application you stated that it is the intent of your organization to be a non-profit organization in that any monies received from fees or individual contributions in excess of the costs incurred to administer the curriculum management will be contributed back to the christian schools on a pro-rata basis. However, your budgets project zero income over expenses.

Your By-Laws provide that your only salaried officer is your President whose salary is \$[REDACTED] per year. [REDACTED], a trustee, is also compensated at \$[REDACTED] per year. These two officers are former christian school administrators.

You expect to be financially supported by fees charged to private Christian elementary and secondary school systems on a per student basis and by individual contributions.

Your fund-raising program includes general mailings to local area Christian schools to inform them of the curriculum management services you will provide to them, i.e., professional curriculum development.

Revenue Ruling 72-369, 1972-2 C.B. 245, describes an organization that was formed to provide managerial and consulting services for nonprofit organizations exempt from Federal income tax under section 501(c)(3) of the Code to improve the administration of their charitable programs. The organization entered into agreements with unrelated nonprofit organizations to furnish managerial and consulting services on a cost

basis. The services consisted of writing job descriptions and training manuals, recruiting personnel, constructing organizational charts, and advising organizations on specific methods of operation. Receipts of the organization were from services rendered. Disbursements were for operating expenses.

In Revenue Ruling 72-369 the Internal Revenue Service determined:

An organization is not exempt merely because its operations are not conducted for the purpose of producing a profit. To satisfy the "operational test" the organizations' resources must be devoted to purposes that qualify as exclusively charitable within the meaning of section 501(c)(3) of the Code and the applicable regulations.

Providing managerial and consulting services on a regular basis for a fee is trade or business ordinarily carried on for profit. The fact that the services in this case are provided at cost and solely for exempt organizations is not sufficient to characterize this activity as charitable within the meaning of section 501(c)(3) of the Code. Furnishing the services at cost lacks the donative element necessary to establish this activity as charitable.

Accordingly, it is held that the organization's activities are not charitable and therefore the organization does not qualify for exemption from Federal income tax under section 501(c)(3) of the Code.

Based on the information submitted, it is our opinion that your organization is similar to the organization described in Revenue Ruling 72-369. As stated in Revenue Ruling 72-369, an organization is not exempt merely because its operations are not conducted for the purpose of producing a profit. It should also be noted that compensating for shortfalls in funds through (a) increases in fees, (b) staff salary cuts or (c) out-of-pocket donations does not reduce the costs of the services provided to your client schools. This simply reduces your costs of providing these services.

Therefore, we have determined that your activities are not charitable and that you are not organized and operated for exclusively charitable purposes within the meaning of section 501(c)(3) of the Code. You do not qualify for exemption from Federal income tax under section 501(c)(3) of the Code. We are also of the opinion that you do not qualify under any other section of the Code.