[redacted]

FFN - [redacted]

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KIN: [redacted]

MAR 1 0 1997

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code.

Your Constitution states, in part, that you were establi in order to promote justice, to continue cooperation with Federal, State and local governments, to encourage the general welfare, to safeguard your interests, to promote social, educational and economic opportunities for your children and for yourselves, understanding this to be the democratic way pertaining to democracy and self-government.

Your Constitution provides that the executive authority of [redacted] (i.e. Nation) shall be vested in a Chief and Assistant Chief. It, further, provides that the legislative authority of the Nation shall be known as the General Council and shall consist of three (3) band representatives elected from each of [redacted] bands.

The powers of the General Council include, in part, the following: to promote public health, education and charity; negotiate with Federal, State and local governments and others on behalf of the Nation; to prevent the sale, disposition, or encumbrance of land belonging to or reserved for the Nation; to manage and lease Tribal lands and communal resources; to enter into any contract in behalf of the Nation in conjunction with activity that will further the well-being of the members of the Nation; and to exercise any powers not specifically and that some future date may be appropriately delegated to [illegible]

In your application Form 1023, Part III, you state [redacted] was given Tax Exempt Status by [redacted] and [redacted] agreement between U.S. Government and [redacted].

[redacted]

Your Constitution does not provide for distribution of your assets for an exempt purpose upon your dissolution.

Section 501(c)(3) of the Internal Revenue Code provides for the exemption from Federal income tax of organizations organized and operated "exclusively" for charitable, educational, or other specified exempt 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 Code 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).

A fundamental requirement of the organizational test is set forth in section 1.501(c)(3)-1(b)(1)(i) of the regulations. It requires that the governing instrument of the organization desiring tax exemption limits the purposes and activities of such organization to those which come within the scope of Code section 501(c)(3).

Section 1.501(c)(3)-1(b)(4) of the regulations provides that an organization is not organized for one or more exempt purposes unless its assets are dedicated to an exempt purpose.

Section 1.501(c)(3)-1(c)(1) of the regulations 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 such purposes.

The presence of a single noncharitable, noneducational, or nonscientific purpose or activity, if substantial in nature, will preclude exemption under section 501(c)(3) regardless of the number or importance of truly charitable, educational, or scientific purposes or activities. See Better Business Bureau v. U.S., 326 U.S. 279 (1945), Ct. D. 1650, 1945 C.B. 375.

Concerning the organizational test, we note that your constitution creates an executive and legislative authority with attendant powers which include the power to negotiate with Federal, State and local governments on behalf of the Nation, the power to prevent the sale, disposition, lease or encumbrance of land belonging to the Nation, the power to manage and lease Tribal lands, and the power to exercise any powers not specifically set forth which may be delegated. Such enabling language does not limit your purposes and activities to those which clearly fall within the intendment of section 501(c)(3) of the Code. Thus, you do not satisfy the organizational requirement set forth in section 1.501(c)(3)-1(b)(1)(i) of the regulations.

[redacted]

In addition, your Constitution does not provide for distribution of your assets for an exempt purpose. Therefore, you do not satisfy the organizational requirement set forth in section 1.501(c)-1(b)(4) of the regulations.

A substantial part of your activities will be the passing and enforcing of rules, regulations and ordinances of [redacted] and acting as the governing body of the people of [redacted]. Such activities further a substantial non-charitable, noneducational, nonscientific purpose.

The above examination of the available evidence and relevant law leads us to conclude that you are neither organized or operated "exclusively" for exempt purposes under Code section 501(c)(3). Section 1.501(c)(3)-1(a)(1) of the regulations provides that an organization is not exempt under section 501(c)(3) if it fails to meet either the organizational or operational test.

Based on the foregoing, we hold that you are not exempt from federal income tax under section 501(c)(3) of the Code. Therefore, contributions to you are not deductible under section 170 of the Code.

You have the right to protest this ruling if you believe that it is incorrect. To protest you should submit a statement of your views with a full explanation of your reasoning. This statement must be submitted within 21 days from today, in duplicate, and must be signed by one of your principal officers. You also have a right to a conference in this office after your statement is submitted.

If you desire a conference, you must request it when you file your protest statement. If you are to be represented by someone other than your principal officers, he must file a proper power of attorney or otherwise qualify under our Conference and Practice Requirements.

If you do not protest this proposed ruling 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 judgment or decree under this section shall not be issued in any proceeding before the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available within the Internal Revenue Service."

Hereafter, any questions about your federal income tax status or the filing of tax returns should be addressed to us

[redacted]

District Director. Also, the appropriate state officials will be notified of this action in accordance with section 6104(c) of the Code.

Sincerely yours,

[redacted]

Chief, Rulings Section
Exempt Organizations
Technical Branch

cc: DD, Dallas
Attn: EO Group

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