

Internal Revenue Service

Department of the Treasury

District
Director

P.O. Box 2508
Cincinnati, OH 45201

Person to Contact:

Telephone Number:

Refer Reply to:

EP/FO

Date: AUG 3 6 1990

Employer Identification Number:

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 1041 if you are a trust or Form 1120 if you are a corporation or an unincorporated association. 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 judgment 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]

District Director

Enclosures: 3

ENCLOSURE I

[REDACTED]

The information submitted discloses that you were incorporated on [REDACTED], under the laws of the State of [REDACTED]. Article II of your articles of incorporation states that your purpose is as follows:

To establish and maintain a Christian bookstore, a Christian mission, a church, a radio station, and for evangelistic, broadcasting, printing, publishing and mail order purposes in [REDACTED], and subscribes to the doctrinal statement of the [REDACTED] faith and message, for the instruction in and the promotion of Christianity and for the intellectual, moral, and spiritual development and improvement of mankind and to promote growth in Christian character, and service, through physical, social, mental, and spiritual training, and to become a force for the extension of the Kingdom of God, and to that end adopt and establish bylaws and make all rules and regulations deemed necessary for the management of its affairs in accordance with law and not inconsistent with the Articles of Incorporation; and to take hold, manage and dispose of any property, real and personal, of said corporation.

Your bylaws state that you are formed for the purpose of furthering the Kingdom of Almighty God, our Heavenly Father; to provide outreach for His Kingdom; to assume our share of responsibility and the privilege of propagating the Gospel of Jesus Christ by all available means. The ministr; outreach shall be independent of any other recognized religious organization.

Membership is open to people of all faiths with voluntary motives to propagate the Gospel and who have been approved by the Board of Trustees. The governing board consists of [REDACTED], [REDACTED], and [REDACTED].

Your response to our letter dated [REDACTED] states that the primary purpose of forming the organization was to conduct a non-profit Christian bookstore. All other activities mentioned in the articles of incorporation were with the idea that if the group should so desire to enter into any other activities, those designated

[REDACTED]

activities could also operate as a non-profit organization. To date, the only activity has been the operation of the [REDACTED] bookstore.

[REDACTED] is located in [REDACTED]. The facility is leased at the rate of \$ [REDACTED] per month plus miscellaneous charges as listed in the lease agreement. It is surrounded or adjacent to many other stores and shops. There is one other bookstore in the mall, but it is not a religious bookstore.

The bookstore hours are Monday through Saturday, 10:00 AM to 9:00 PM. The bookstore accepts VISA and Mastercard for all purchases. The bookstore has [REDACTED] employees who are paid minimum wage. [REDACTED] and [REDACTED] do not receive salaries but do get reimbursed for their vehicle expenses that are incurred on behalf of the store activities. During [REDACTED] and [REDACTED] combined, the vehicle payments were just over \$ [REDACTED].

The merchandise is purchased from various distributors and is then sold at the retail level. The books and Christian literature have different percentages of markup with the average overall markup being 40 percent. Financial statements for prior years show that 100 percent of the organization's income is derived from sales. The financial data does not indicate that any merchandise is given away or discounted. Net profits each year are used to enlarge the inventory of books.

Your organization is controlled by one family. For a period of time, you operated [REDACTED] bookstores. These [REDACTED] stores were combined as of [REDACTED].

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

Section 502 of the Code states that an organization shall not qualify for exemption under section 501(a) of the Code if its primary purpose is to conduct a trade or business for profit.

Section 1.501(c)(3)-1(a)(1) of the Regulations states that in order to qualify under section 501(c)(3) of the Code, an organization must

[REDACTED]

be both organized and operated exclusively for one or more exempt purposes. If an organization fails to meet either the organizational or operational test, it is not exempt.

Section 1.501(c)(3)-1(c)(1) of the Regulations states that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Scripture Press Foundation v. United States, 285 F.2d 800 (1961) cert. den. 363 U.S. 985 (1962), states that a corporation engaged in the publication and sale of religious periodicals, books, and supplies to churches and to individuals was held to be operated for the primary purpose of carrying on a trade or business, and was not entitled to exemption.

Fides Publishers Association v. United States, 263 F. Supp. 924 (1967), states that a publisher of religious books that had an operating profit lost its exemption. The court concluded that the publishing activity furthered an exempt purpose, but held that there was also a substantial business purpose.

Although your activities may, in part, further religion, you have a substantial business purpose. You are operated in a commercial manner and you are in competition with other local businesses. Accordingly, we feel that you do not qualify for exemption under section 501(c)(3) of the Code.