

EP/EO:TS

APR 12 1982

Gentlemen:

We have considered your application for exemption from Federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1954.

The information submitted in support of your application discloses that you were formed on [REDACTED]. As taken from your creating document, dated [REDACTED], the purpose of your organization is to make and distribute tracts and books for the gospel of Jesus the Christ.

As noted in your application, the organization intends to make and distribute tracts and to write and sell books. There is no indication of the ownership and title to such materials produced by the organization and there is no indication of the holder of copyright and royalty benefits to such materials. Further, the organization, consisting of the members of one family, intends to occasionally provide a meal at the family table for a needy person and hold services from one to seven days a week for members of the family and possibly an outside interested person or persons. In addition, the funding for these activities will come out of the organization's coffers. The treasury of this organization will be funded by sales of books, rummage sale proceeds, and, as noted, paychecks of the founder of the organization.

Section 501(c)(3) of the Code exempts from tax: "Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation".

Section 1.501(c)(3)-1 of the Income Tax Regulations provides, in part, that in order to be exempt as an organization described in Section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. It further provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest.

With respect to the first part of the aforementioned regulations, an organization must be organized for one or more of the purposes specified in section 501(c)(3) of the Code. Informal aggregations of individuals without governing rules and regularly chosen officers would not be a corporation, community chest, fund, or foundation to which an exemption may be issued. A formless aggregation of individuals cannot be exempt. (Trippe v. Commissioner, Tax Court Memorandum Opinion, entered July 25, 1950.)

Secondly, with respect to the organizational requirements of the regulations, an organization must limit its purpose to an exclusively, section 501(c)(3) purpose and it must have a permanent dedication of its assets, to the purposes set out in that section, upon the dissolution of the organization.

Finally, with respect to the operational test mentioned in the code and regulations, an organization must be operated so as public rather than private interests are served. As cited in Rev. Rul. 81-94, IRB 1981-12, 15 and as provided by section 1.501(c)(3)-1(d)(II) of the regulations, an organization is not organized or operated exclusively for one or more of the purposes specified in section 501(c)(3) unless it serves a public rather than a private interest. Thus, to meet the requirements of section 501(c)(3), 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.

From the information submitted it is obvious that your activities and your lack of organizational structure will prevent attainment of exempt status. There is no evidence of your enterprise being a corporation, community chest, fund, or foundation and the law makes no provision for the exemption from Federal income tax of a charitable undertaking of individuals as a personal venture where there is no form of organization which conforms to the requirements of section 501(c)(3) of the Code. Secondly, your organization lacks the proper purpose limitation and dedication of assets required in the creating documents of organizations applying for tax exemption under section 501(c)(3) of the Code. Lastly, your use of organizational funds for the private benefit of your founder and his family does not promote a public interest as required by the regulations. It is apparent that your organizational structure and lack of a permanent dedication of assets will provide a means by which personal expenses can be incurred in the guise of organizational expenses.

Therefore, it is our determination that your organization, for the reasons specified, fails to qualify for tax exemption as an organization described in section 501(c)(3) of the Internal Revenue Code.

You are required to file Federal income tax returns on Form 1120.

[REDACTED]

If you do not agree with these conclusions, you may request Appeals Office consideration. To do this, you must submit to the District Director within 30 days from the date of this letter, a statement of facts, law, and arguments, in duplicate, which will clearly set forth your position. You also must state whether you wish an Appeals Office conference. Any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the Conference and Practice Requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met.

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 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 to it within the Internal Revenue Service."

On final determination, copies of this letter will be forwarded to appropriate State officials in accordance with Section 6104(c) of the Internal Revenue Code.

If we do not hear from you within the time specified, this communication will become our determination in the matter.

Very truly yours,

[REDACTED]  
District Director

Enclosure:  
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