

JUN 16 1982

Gentlemen:

We have considered your application for exemption from Federal income tax and the additional information we requested, so we could make a determination under Section 501(c)(3) of the Internal Revenue Code.

The information submitted discloses that you were formed on [REDACTED] under Chapter [REDACTED] of the [REDACTED] Co-operative Association Act.

Article III-3.01 of your Articles of Incorporation state that your purpose is as follows: This cooperative may engage in any activity within the purposes for which cooperatives may be organized as provided by chapter [REDACTED] Statutes.

The information further discloses that the cooperative shall be operated in such manner that all of its net margins derived from business done with or for members shall, at the moment of receipt, be owned by its members and all of its net margins derived from business done with or for a nonmember shall be owned by the cooperative and shall constitute income to the cooperative for the fiscal period during which they are derived. At the close of each fiscal year the cooperative shall allocate to each member on a patronage basis, each member's share of such net margins and may, in addition, if it elects to do so, allocate on a patronage basis to the members, any part or all of the net margins derived from nonmember business.

Upon liquidation or dissolution of the cooperative, any sum remaining, after payment of all debts, shall be distributed to the owners of the cooperative proportionately up to face value as the books and ledger show recorded. Any sum remaining shall go to patrons on the basis of their patronage for the past ten fiscal years.

Membership is open to any non-profit community service corporation, association or cooperative which meets the following requirement: They must furnish initial capital (\$[REDACTED]) and patronize the cooperative.

You indicate in your exemption application that you currently run a drop-off center for the collection of recyclable materials 52 weeks a year. You also provide curb-side pick-up of recyclables from March through November.

[REDACTED]

These recyclables are sorted and stored by the organization and then marketed to private vendors. Proceeds of the sale of the recyclables are distributed by percentages; █% of sales are returned to the non-profit organizations which collect the recyclables, █% of the sales are paid to the nonprofit organizations which staff the recycling center, █% of the proceeds are kept by the cooperative to off-set expenses such as gas, publicity, etc.

Section 501(c)(3) of the code provides for the exemption from Federal Income tax for organizations organized and operated exclusively for charitable or educational purposes.

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that an organization is not organized or operated exclusively for charitable purposes unless it serves a public rather than a private interest.

Section 502 of the Internal Revenue Code deals with organizations which are operated for the primary purposes of carrying on a trade or business for profit and which turn over all their profits to one or more organizations exempt under section 501 of the Code. An organization is considered to be engaged in a trade or business where the activity is of a kind ordinarily carried on for profit, and is regularly carried on in a manner similar to a commercial operation.

You are neither organized nor operated for charitable purposes since your purposes and powers as stated in your Articles of Incorporation are not limited to those permitted under section 501(c)(3) of the Code and section 1.501(c)(3)-1 of the Income Tax Regulations. They do not prohibit inurement of income to any private shareholder or individual, they also, do not prohibit participation or intervention in political campaigns on behalf of a candidate for public office, nor do they limit activities to influence legislation. In addition, your assets are not permanently dedicated to an exempt purpose.

It is the nature of a Cooperative to be organized by the members, and for the members. This is not the nature of intention of a section 501(c)(3) organization. Therefore, you do not qualify for exemption under section 501(c)(3) of the Code. You are required to file Form 1120, U.S. Corporation Income tax return.

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.

[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 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:
Publication 892