

20044003E

Internal Revenue Service
Director, Exempt Organizations

Department of the Treasury
P.O. Box 2508 - EP/EO
Cincinnati, OH 45201

Date: JAN 22 2004

Employer Identification Number:

UIL 501.00-00

Person to Contact - I.D. Number:

Contact Telephone Numbers:

Phone

FAX

Dear Sir:

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. However, we have concluded that you do not qualify under another subsection.

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.

You have tentatively agreed to the proposed denial by signing Form 6018 dated November 4, 2003; however, you now have a 30-day period to reconsider your position.

You have the right to protest this proposed determination if you believe 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

DR-012-2004

9. Monthly articles. that includes

Page 9 of Form 1023 indicates that the corporation assets currently consist of cash in the amount of \$

Page 8 of Form 1023 indicates that the income to your corporation in addition to membership dues is derived from worked by your members at the and fundraisers. It further reflects expenses in the amount of \$ and \$ for the years and respectively for contributions to the and
The payouts go to assist members and their families in addition to providing for president's expenses:

LAW:

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 1.501(c)(3)-1(a)(1) of the Regulations states in order to qualify under section 501(c)(3) of the Code, an organization must 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(d)(2) provides that the term "charitable" include relief of the poor and distressed or of the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments, or works; lessening of the burdens of Government; promotion of social welfare by organization designed to accomplished any of the above purposes; to lessen neighborhood tensions; to eliminate prejudice and discrimination; to defend human and civil rights secured by law; or to combat community deterioration and juvenile delinquency.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations states that an organization is not operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, to meet the requirements of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designed individuals, the creators or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Section 1.501(a)-1(c) of the Regulations states that the words "private shareholder or individual" mean an individual having a personal and private interest in the activities of the organization.

Better Business Bureau of Washington D.C., Inc. v. United States, 326 U.S. 279 (1945), held that the presence of a single nonexempt purpose, if substantial in nature, will preclude tax exemption under section 501(c)(3) of the Code.

Rev. Ruling 67-5, 1967-1 CB 123 held that a foundation controlled by creator's family was operated to enable the creator and his family to engage in financial activities which are beneficial to them, and but detrimental to the foundation. This resulted in the foundation's ownership of non-income-producing assets which prevent its carrying on a charitable program commensurate in scope with its financial resources. The foundation was found to be operated for a substantial non-exempt purpose and serving the private interest of the creator and his family, and therefore was not entitled to exemption from Federal Income tax under section 501(c)(3) of the Internal Revenue of 1954.

APPLICATION OF LAW:

Section 501(c)(3) of the Code sets forth two main tests for qualification for exempt status. An organization must be both organized and operated exclusively for purposes described in section 501(c)(3). Your organization has met the organizational test. But your organization has not satisfied the operational test.

To satisfy the operational test, you must be operated exclusively for one or more exempt purposes. You will not be "operated exclusively for one or more exempt purposes" as set forth in section 1.501(c)(3)-1(e)(1) of the Regulation unless your organization's activities are conducted in furtherance of tax exempt purposes rather than to carry out the private interest of your members.

Common to all definitions of charity is the characteristic of broad public benefit. This public benefit is brought about either by financially supporting the activities of one of the particular kind of enterprises discussed or by conferring direct benefit on the community at large.

You have collected funds from membership dues and revenue generated from fundraising activities, and used to provide direct economic benefits to members. Your organization has maintained a _____, which has provided financial assistance to members, and paid assistance checks to the surviving members' spouses and families in the past. You have also supported the _____ and _____ by donations. Although the majority of members benefited by your organization consist of retired city, county, state or federal _____ and there is an incidental benefit provided by your organization to the general public, the fact remains that the primary benefit from your organization is limited to your members.

To determine whether the operational test is satisfied, section 1.501(c)(3)-1(c)(1) of the Regulations directs the Service to determine if your organization engages primarily in

activities that accomplish one or more exempt purposes. Section 1.501(c)(3)-1(c)(2) provides that an organization is not operated exclusively for one of more exempt purposes if its net earning inure in whole or in part to the benefit of private shareholders or individuals. Section 1.501(a)-1(c) states that the words "private shareholders or individual" mean an individual having a personal and private interest in the activities of the organization. Based on the information stated above, it is clear that the net earnings of your organization are inuring in whole to the benefit of your members. As a result, the operational test is not met.

Better Business Bureau of Washington D.C. v. United States. 326 U.S. 279 (1945) held that a single nonexempt purpose, if substantial, would preclude tax exemption under section 501(c)(3) of the Code. Your organization is using the assets of the organization to further the private interest of your members. This constitutes a substantial nonexempt purpose that in accordance with the courts ruling in the aforementioned case will preclude tax exemption under section 501(c)(3) of the Code.

Your organization is similar to the organization described in Rev. Ruling 67-5, 1967-1 C.B. 123 because you are using the funds of your organization to promote the private interests of your members, their spouses and their families by providing financial assistance. These activities have prevented your organization from carrying on a charitable program commensurate with your financial resources. As a result, you do not qualify for tax exemption under section 501(c)(3) of the Code.

APPLICANT'S POSITION:

You tentatively agreed with our determination that your organization does not qualify under Section 501(c)(3) of the IRC by executing Form 6018 dated November 4, 2003.

ENCLOSURE

ISSUE:

Does the applicant qualify for tax exemption under section 501(c)(3) of the IRC?

FACTS:

The information submitted disclosed that you were formed under the Nonprofit Public Corporation Law of the . The purpose of your organization is to

Your organization has several classes of memberships as described in the By-Laws. The By-Laws provide the qualifications and privileges of the following classes:
Regular (voting privileges):

You stated on page 2 of Form 1023 that the corporation was created for retired City, County, State and Federal . Your activities are listed as follows:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.

-2-

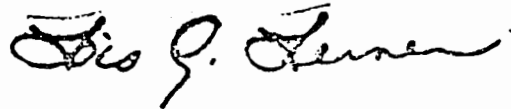
Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

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,



Director, Exempt Organizations

Enclosures: 2