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Internal Revenue Service
Director, Exempt Organizations
Rulings and Agreements

Department of the Treasury
P.O. Box 2508
Cincinnati, OH 45201

Date: MAR 10 2004

VIL: 581. 00-00

Employer Identification Number:

Person to Contact - I.D. Number:

Contact Telephone Numbers:

Phone

FAX

Dear 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. 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.

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 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.

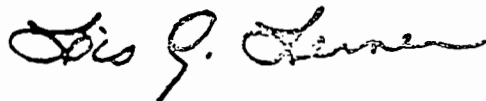
DR-026-2004

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
Rulings and Agreements

Enclosures: 3

Enclosure 1

The information submitted shows that you were incorporated in the _____ on _____ to conduct prayer and regular teaching services of the word of God; to provide service for the needy and the hungry as you thereby receive the individual gifts, grants and other freely given financial support. You state _____

Your Bylaws state: _____

The Directors of the organization are: _____

The officers of organization are: _____

Your Form 1023 application signed on March 12, 2003 states that you operate out of your home and have four members. Subsequent information disclosed that _____ is no longer a member/director/advisor of the organization. You attract new members through personal contact, which has increased attendance by _____

Although your attendance has increased, the only support received by the organization has been _____ . You have not incurred any extra expenses since formation.

Section 501(c)(3) of the Internal Revenue Code provides for exemption from Federal income tax for organizations, which are organized and operated exclusively for charitable, religious, and 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 Income Tax Regulations provides that in order to qualify for exemption under 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).

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. An organization will not be so regarded if more than an _____

insubstantial part of its activities is not in furtherance of an exempt purpose. Thus, in construing the meaning of the phrase "exclusively for educational purposes" in Better Business Bureau v. United States, 326 U.S. 279 (1945), the Supreme Court of the United States stated, "This plainly means that the presence of a single non-educational purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly educational purposes."

Section 1.501(c)(3)-1(b)(4) of the Regulations provides that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose if, upon dissolution, such assets would, by reason of a provision in the organization's articles or by operation of law, be distributed for one or more exempt purposes, or to the Federal government, or to a State or local government, for a public purpose.

In American Guidance Foundation, Inc. v. U.S., 490 F. Supp. 304 (D.D.C. 1980), the court held that, at a minimum, a church must include a body of believers that assemble regularly in order to worship. It must also be reasonably available to the public in its conduct of worship, in its educational instructions and in its promulgation of doctrine. An IRC 501(c)(3) religious organization comprised of a few family members who attend worship services at a relative's apartment was held not to be a church under IRC 170(b)(1)(A)(i) because it did not meet the following criteria. The criteria applied are as follows:

- (a) a distinct legal existence
- (b) a recognized creed and form of worship
- (c) a definite and distinct ecclesiastical government
- (d) a formal code of doctrine and discipline
- (e) a distinct religious history
- (f) a membership not associated with any other church or denomination
- (g) ordained ministers ministering to its congregations
- (i) ordained ministers selected after completing prescribed studies
- (j) established places of worship
- (k) regular congregations
- (l) regular religious services
- (m) Sunday schools for religious instruction of the young
- (n) schools for the preparation of its ministers

In Bubbling Well Church of Universal Love v Commissioner, 74 T.C. 531 (1980) (aff'd, 670 F. 2d 104 (9th Cir. 1981)), the Tax Court reviewed an organization that stated it was a church operating exclusively for religious purposes. Three members of one family, who also served as the sole members of the Board of Trustees and/or directors, established the church. The organization had no affiliation with any denomination or ecclesiastical body and was not subject to any outside influence in the control of the organization's affairs.

The court stated that under the circumstances described, the family was in a position to perpetuate control of the organization's operations indefinitely, prepare its budget and had

complete control of the organization's finances and made the decisions on how the funds were spent. Since the organization had no connection with any denomination or outside body, it was not subject to any outside influence in the conduct of the church's affairs.

In denying exemption to this organization, the court stated that the organization had not shown that no part of the net earnings did not inure to the benefit family members and that the organization was operated for the private benefit of the family rather than public purposes

In Spiritual Outreach Society v. Commissioner, 927 F. 2d 335 (8th Cir. 1991), the court concluded that, while the organization was admittedly engaged in religious activity, the issue of central importance was that it did not have an established congregation served by an organized ministry, it was not a church.

The Service utilizes a 14-point criteria to analyze church applications on a case-by-case basis. No specific number of the 14 points has to be met in order to confer church status, but some weigh heavier than others in making a determination. The Service cannot take into consideration the religious beliefs of an individual organization, but only review how they operate to further their beliefs. In order to qualify as a church, an organization must bring people together as the principal means of accomplishing its religious purposes. Thus a church serves an "associational" role in accomplishing its religious purposes.

While your responses indicates that you meet a majority of the criteria. The points you do not meet bar exemption.

As in American Guidance Foundation, Inc. the use of your home limits the availability to the public and accommodating membership growth.

While you state that you request members to tithe, the organization has only received support from You are similar to Bubbling Well Church Of Universal Love, cited above, the is in a position to perpetuate control of the organization's operations indefinitely, prepare its budget and have complete control of the organization's finances and how funds will be spent. Even though you state that you do not have expenses, you have not shown that no part of the net earnings does not or will not inure to the benefit of family members and that the private interest of the are not being served.

Thus you are not operated for a public benefit as required by Income Tax Regulations 1.501(c)(3)-1(d)(1)(ii). Further your creating document does not contain the necessary dedication of assets. You therefore do not meet the organizational nor the operational tests

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defined in section 1.501(c)(3)-1(b)(c) or (d) of the Income Tax Regulations. Hence, you do not meet the requirements for exemption under section 501(c)(3).

Form 6018
(Rev. 1-2004)

Department of the Treasury-Internal Revenue Service
Consent to Proposed Action - Section 7428
(All references are to the Internal Revenue Code)

(Prepare in Duplicate.)

Case Number	Name and Address of Organization
Date of Latest Determination Letter	
Employer Identification Number	
Date of Proposed Action Letter MAR 10 2004	

I consent to the proposed action relative to the above organization as shown by the box checked below. I understand that Section 7428 of the Internal Revenue Code applies to the proposed action. This consent serves to signify my present intent not to exercise the right to protest the proposed action or the right to seek a Declaratory Judgment. It does not constitute a waiver of those rights.

Nature of Proposed Action

<input checked="" type="checkbox"/>	Denial of exemption
<input type="checkbox"/>	Revocation of exemption, effective <i>(date)</i>
<input type="checkbox"/>	Modification of exempt status from section 501(c)() to 501(c)(), effective <i>(date)</i>
<input type="checkbox"/>	Classification as a private non-operating foundation (section 509(a)), effective <i>(date)</i>
<input type="checkbox"/>	Classification as an operating foundation (section 4942(j)(3), effective <i>(date)</i>
<input type="checkbox"/>	Classification as an organization described in section 509(a)(), effective <i>(date)</i>
<input type="checkbox"/>	Classification as an organization described in section 509(a)(1) and 170(b)(1)(A)(), effective <i>(date)</i>

If you agree to the proposed action, please sign and return this consent. You should keep a copy for your records.

Name of Organization

Signature	Title	Date
Signature	Title	Date

Instructions for Use of this Form
This consent is to be used only for proposed actions subject to declaratory judgment under section 7428 (i.e. actions related to qualification under section 501(c)(3) or foundation status under section 509(a)).

Signature Instructions
This consent should be signed by hand with the name of the organization followed by the signature(s) and title(s) of the person(s) authorized to sign for it. An attorney or agent may sign provided the action is specifically authorized by a power of attorney (POA). If the POA was not previously filed, please include it with this form.