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INTERNAL REVENUE SERVICE
DIRECTOR, EXEMPT ORGANIZATIONS
RULINGS AND AGREEMENTS

DEPARTMENT OF THE TREASURY
P.O. BOX 2508 - EODQA, Rm. 7008
Cincinnati, OH 45201

Date: MAR 16 2004

U12: 501.00-00

Employer Identification Number:

Person to Contact - I.D. Number:

Contact Telephone Numbers:

Phone:

Fax:

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. 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 1120. 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 Un-agreed 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.

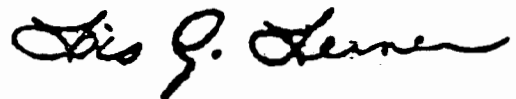
If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides, in part, that:

DR-029-2004

A declaratory judgement 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

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Enclosure I

Publication 892

Form 6018

ENCLOSURE I

You were incorporated under the nonprofit laws of the state of _____ on _____. Your articles of incorporation state that the corporation is organized exclusively for charitable, religious, scientific and educational purposes.

In response to Part II, item 1, of Form 1023, which requests a description of your activities, you referred to your bylaws. Your bylaws describe your present, past and planned activities as follows:

- 1)
- 2)
- 3)
- 4)
- 5)

In response to our request for more information, you stated that your activities consist of providing quality healthy hair care services and education to underprivileged individuals, with an emphasis on serving children, the elderly, and the physically and mentally handicapped. You state "

You state that you are trying to help provide motivation and to increase self-esteem. You believe that healthy hair and a great style will make individuals feel positive about themselves and strive for excellence.

You state that by acquiring non-profit status your organization can receive grant funding that would allow you to be able to provide affordable or free hair care to persons who can not afford professional hair care treatments.

You indicate that the requirements that a person or family must meet to receive your services are based on criteria such as whether they are receiving governmental assistance, sudden loss of job, proof of looking for a job or in school to get GED, certain financial situations (death of love ones, injury etc.);

In answer to our questions about your facility, you stated that at present you have not yet acquired a facility; your founder is currently renting a booth. When a salon is acquired, this facility will be used both for a for-profit business, apparently to be operated by your founder, and for your nonprofit operations. The general public will be made aware of your activities by word of mouth, flyers, pamphlets and radio advertisements. You have not yet developed publicity materials.

In response to our question as to how you will separate the for-profit business from your non-profit activities, you stated that they would be held in a separate area.

Your support will be derived from contributions, grants, and fees for services. Although you stated in response to Part II, item 12, of Form 1023 that recipients of your services would not be required to pay, you subsequently submitted information indicating that you will charge fees on a sliding scale. Your goal is to receive sufficient funding from other sources so that your clients will pay as little as possible, if anything at all, for their hair services. You would like to give the family a hair care allowance of \$ to \$ per month or per situation, based on family size. You provided a fee list indicating that you will provide a variety of hair styling and care services at discounted rates to qualifying individuals. These will be the same type of services offered to customers in your founder's private business, and will be offered in a separate area of the same facilities. You will devote 4 hours a day to the operation of the nonprofit services.

You state this activity will accomplish self-confidence and higher morale and educate the individual about hair care services. It will also teach them how to care for and treat scalp disorders, which lead to hair loss.

You also state that you will provide education to your clients concerning proper hair care and related health and sanitation issues, in addition to providing educational classes for professional cosmetologists concerning such issues. When a separate salon is acquired, classes will be held at the salon on the days the salon is not open for business. Clients and cosmetologists from different salons will be invited. Clients will also be given a private evaluation of their hair and scalp and educated on their issues during the first consultation. Licensed cosmetologists, dermatologists and licensed technicians in the hair industry, will teach these activities.

You state that % of your funds are devoted to these activities.

You further stated that any excess of income over expenses is used to cover the costs of those who cannot afford to pay, and to expand the organization's services and programs.

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal income tax 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(d)(1)(ii) of the Income Tax Regulations provides that an organization is not organized or operated exclusively for one or more charitable purposes unless it serves a public rather than a private interest. Thus, an organization applying for tax exemption under section 501(c)(3) must establish that it is not organized or operated for the benefit of private interest.

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 are not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(3)(i)(a) of the regulations defines the term "educational" as including the instruction or training of the individual for the purposes of improving or developing his capabilities.

Revenue Ruling 73-127, 1973-1 CB 221, provides that a nonprofit organization that operated a cut-price retail grocery outlet and allocated a small portion of its earning to provide on-the-job training to hard-core unemployed did not qualify for exemption for income tax. The store was organized as a nonprofit corporation and operated in a poverty area. Even though the organization provided some job training, its

primary activity was found to be the operation of a business in a manner similar to a commercial enterprise. The fact that the store offered discounted prices and did not produce a substantial profit did not qualify the organization for tax-exempt status.

Providing cosmetology services to individuals for a fee does not meet the educational or charitable aspect of Section 501(c)(3). While some of your proposed activities may be educational, your primary purpose is the provision of hair care services. Moreover, your services will be provided in conjunction with, and in close proximity to, a for-profit hair salon operation. You have not demonstrated that these operations will be fully separated and that no benefits will accrue to the for-profit business as a result of your activities.

An organization which is organized and operated for the primary purpose of carrying on an unrelated trade or business is not exempt under section 501(c)(3) even though it has certain charitable purposes.

The organization's primary purpose is to _____ The fact that you will offer your services to the less fortunate at a lower rate is not recognized as a charitable endeavor under the basic common law concept of charity and within the meaning of section 501(c)(3) of the Code and section 1.501(c)(3)-1(d)(2) of the regulations.

Your organization therefore fails to meet the operational test of section 501(c)(3).

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

We have concluded that you do not qualify for exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code.