

INTERNAL REVENUE SERVICE  
DISTRICT DIRECTOR  
P.O. BOX 2508  
CINCINNATI, OH 45201

Department of the Treasury

Date: APR 10 1997

Person to Contact:

Contact Telephone Number:

Reply to:

CERTIFIED MAIL:

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986 and have determined that you do not qualify for exemption under this section. Our reasons for this conclusion and the facts on which it is based are explained below:

The evidence submitted indicates that you were incorporated [redacted] under the laws of [redacted]. Article Two of this document states in part that "The purposes for which the Corporations are formed are exclusively for religious, charitable, educational and similar non-profitable purposes as contemplated by Section 501C of the Internal Revenue Code of 1954."

Article Two, Paragraph 2 also provides that in the event of dissolution, the remaining assets of the Corporation shall be transferred to or conveyed to one or more corporations, societies or organizations engaged in activities similar to those of the Corporation and qualifying under Section 501C of the Internal Revenue Code of 1954.

You state in your application that [redacted]'s primary goal is to educate the religious community on financial management issues as well as become a resource center known for its wealth of information, knowledge and services. A brochure entitled [redacted] submitted as Exhibit 13 in your application states that [redacted] will provide the following benefits to its membership:

1. Educational Books and Supplies;
2. Workshops and Seminars;
3. Life Insurance;
4. Health Insurance;
5. Retirement Plans;
6. Long Distance Telephone Discounts;
7. Other benefits to be added each month.

	Initials	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Code	[redacted]	[redacted]	[redacted]				
Surname	[redacted]	[redacted]	[redacted]				
Date	[redacted]	[redacted]	[redacted]				

[REDACTED]  
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A brochure and order form submitted with your application shows the following books and publications are available for sale to [REDACTED] members at a discounted price as well as to the general public at full retail price;

Title	Price
[REDACTED]	\$ [REDACTED]
[REDACTED]	\$ [REDACTED]
[REDACTED]	\$ [REDACTED]
[REDACTED]	\$ [REDACTED]
[REDACTED]	\$ [REDACTED]

With regard to your workshops and seminars, you indicate that you are currently using the professional expertise of three individuals, [REDACTED], your President who is also a practicing CPA, [REDACTED] an officer of [REDACTED] who is associated with [REDACTED], a firm that sells access to the Internet, and [REDACTED] a board member who is associated with [REDACTED] to conduct these workshops and seminars and provide access to the Internet and Insurance and Retirement/Pension packages you offer as benefits to your membership.

Information submitted with your application indicates that [REDACTED] has also formed an association with [REDACTED] to offer continuing education credits for workshops and seminars conducted dealing with these topics. You indicate that during [REDACTED] you conducted six of these workshops from March through September at various church conventions and conferences within the local area.

In response to our letter dated [REDACTED] requesting additional information about your activities, you state that in addition to your publishing and book sales, you also provide the following benefits to your membership:

1. Internet Access;
2. Group Health Insurance;
3. Group Life Insurance;
4. Group Dental Insurance;
5. Group Accidental Death Insurance Benefits;
6. Retirement Plans such as 403B and IRA's.

Evidence submitted with your application indicates that in order to implement these additional services and benefits, [REDACTED] has entered into two Benefit Provider Contracts with the commercial firms [REDACTED] and [REDACTED].

The Benefits Provider Contract with [REDACTED] will provide [REDACTED] members with Internet access in order to increase Church advertising and church membership, afford churches the ability to sale and market sermons, tapes and minister to individuals beyond the reach of the physical church.



The Benefit Provider Contract with [REDACTED] will provide [REDACTED] members with group health insurance, group life insurance, group dental insurance, group disability insurance, group accidental death insurance benefits, retirement plans (such as 403B and IRA's) and other related broker provided services.

Under both of these agreements, [REDACTED] has agreed to give exclusive rights to [REDACTED] and [REDACTED] to sell these services to its membership, market to its members the availability of these benefits and provide, upon request from [REDACTED] and [REDACTED], a list of its membership to assist these commercial firms in marketing under its own marketing plan the benefits provided by [REDACTED]. You indicate in your application that both [REDACTED] from [REDACTED] and [REDACTED] from [REDACTED] are members of your Board of Directors.

In return for these services, [REDACTED] and [REDACTED] will do the following:

1. Sale exclusively to [REDACTED] members at a discounted rate the Internet and insurance and retirement products as compared to the regular sales price to non-members for the same products.
2. Not sale the Internet and insurance and retirement products without first collecting and forwarding on a monthly basis the membership fees.
3. Not sale the Internet and insurance and retirement products to any referred individuals or churches without the membership fee and/or offering the discounted price. Referred individuals are any individuals or churches contacted during [REDACTED] sponsored exhibitions, workshops, seminars, direct-mail marketing campaigns or similar marketing plans to attract potential members using the [REDACTED] and [REDACTED] benefits as a lure for membership."

Other provisions in these contracts provide that [REDACTED] and [REDACTED] will submit on a monthly basis a report disclosing total sales transacted with [REDACTED] members. This report should disclose the number of new members, show the membership fees collected, the advertising medium purchased by the member and the appropriate monthly fee charged at the discounted [REDACTED] price and the regular price. [REDACTED] and [REDACTED] will then remit to [REDACTED] monthly [REDACTED]% of all charges assessed members for the services provided from the sale of Internet access and insurance and retirement products.

The commercial companies will be responsible for all associated costs for the displays and brochures. [REDACTED] will provide the business cards, share in the joint marketing efforts of [REDACTED] where [REDACTED] and [REDACTED] will be showcased as a primary lure for new membership. These two providers will also market the educational products provided by [REDACTED] and not re-direct referrals from [REDACTED] to other products.

Revenue received in [REDACTED] indicates a minimal amount of activity. Projected income for [REDACTED] indicates that you expect to receive \$[REDACTED] in contributions, \$[REDACTED] from membership dues and \$[REDACTED] from the sale of merchandise or \$[REDACTED] in projected income the current year..



Expenses are projected for salaries, (\$ ), Occupancy, (\$ ), and \$ for Printing, Travel, Advertising and Telephone Expenses.

Section 501(c)(3) of the Internal Revenue Code provides for the exemption from federal income tax for organizations organized and operated exclusively for charitable, religious, educational and other stated 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 this section.

Section 501(c)(3)-1(b)(1) of the Income Tax Regulations specifies that an organization is organized for one or more exempt purposes if its Articles of Incorporation limit the purposes of such organization to exempt purposes.

Section 1.501(c)(3)-1(b)(iv) of the Income Tax Regulations specifies that an organization is not organized exclusively for one or more exempt purposes, if by the terms of its articles, its purposes are broader than the purposes specified in section 501(c)(3).

Section 1.501(c)(3)-1(b)(4) of the Income Tax 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.

Section 1.501(c)(1) of the Regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if its Articles of Incorporation limit the purposes of such organization to exempt purposes.

Section 1.501(c)(3)-1(d)(1) of the Income Tax Regulations states that an organization is not organized or operated for any purpose under section 501(c)(3) unless it serves a public rather than a private interest. Thus, to meet the requirements of this subparagraph, an organization must establish that it is not organized and operated exclusively 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.

Organizations that are organized and operated on a non-profit basis do not automatically qualify for exemption under section 501(c)(3). The fact that an organization does not make a profit is not the controlling factor. See United States v. La Societe Francaise de Bien, Mut. 152, F2d 243 (9th Cir. 1945), cert. denied 327 793 (1946); Hassett v. Associated Hospital Service Corporation. 125 F. 2d 611 (1st Cir. 1942, cert. denied 316 U.S. 672 (1942); Baltimore Health and Welfare Fund v. Commissioner. 69 T.C. 554 (1978); and B.S.W. Group Inc. v. Commissioner. 70 USTC, 352 (1978).



In Better Business Bureau v. United States, 326 U.S. 279-283, the court held that the existence of a single non-exempt purpose, if substantial in nature, will destroy exemption under section 501(c)(3) regardless of the number or importance of truly exempt purposes. To qualify for exemption under section 501(c)(3), the applicant organization must show that:

1. It is organized and operated exclusively for religious, charitable, educational and scientific purposes;
2. That no part of the net earnings inures to the benefit of a private individual or shareholder, and
3. That no substantial part of its activities consists of the dissemination of propaganda or otherwise attempting to influence legislation or engaging in political activity. See Kenner v. Commissioner, 318 F. 2nd 632 (7th Cir. 1963).

In Ecclesiastical Order of the Ism of Am. Inc. v. Commissioner, 80 T.C. 833, the Tax Court held that an organization that provided tax counseling information and financial planning advice is not entitled to exemption under section 501(c)(3) of the Code. The court stated that "the dissemination of this type of information does not serve exclusively religious or charitable purposes." The court further stated that the information furnished was no different from the type distributed by a commercial tax service. The court also stated that furnishing tax and financial advice to individuals served the interests of private individuals rather than the broad public interests required to be exempt under section 501(c)(3).

In Christian Stewardship Assistance, Inc. v. Commissioner, 70 USTC, 1037, the court reviewed the tax exempt status of an organization whose only activity was conducting financial planning and tax information seminars. The court held that these activities served a substantial non-exempt purpose that was indistinguishable from services provided by a commercial business operated for profit. The court also held that these activities served the private interests of the participants rather than exclusively public purposes.

In Ralph H. Eaton v. Commissioner, 55-1, USTC, 533, the court stated that a corporation engaged in a business normally carried on for profit but who donated its profits to charity was not exempt since the corporation's activities did not meet the organized and operated exclusively requirement needed to be exempt under section 501(c)(3).

In International Postgraduate Medical Foundation v. Commissioner, 56 TCM, 1140, the court considered the status of a non-profit organization that worked with a for-profit commercial entity. The creator of the non-profit entity was also an owner and officer of the commercial business and was in a position to exert influence over both organizations. The two entities had a mutual contractual arrangement whereby the commercial business would handle all of the non-profit organization's travel arrangements. In return for the services rendered, the commercial business agreed to reimburse the non-profit organization a certain percentage of the gross revenues it received from its mutual arrangement with the non-profit organization. After evaluating the factors involved in this case, the court stated the following:

"When a for-profit organization benefits substantially from the manner in which the activities of a related organization is carried on, the latter organization is not operated exclusively for exempt purposes within the meaning of section 501(c)(3) even if it furthers other exempt purposes. See also, Church by Mail Inc. v. Commissioner, 85-2, USTC 9549(7652 F. 2d. 1287-1392, (9th Cir. 1985), affg. a USTC Memorandum Opinion [Dec. 41,325(m)].

The Articles of Incorporation filed by your organization with [REDACTED] state at Article Two in both the purpose clause and the dissolution provision that [REDACTED] is operated for religious, educational and other non-profitable purposes as described in section 501C of the Internal Revenue Code and in the event of dissolution, assets shall be transferred to organizations qualifying as exempt under Section 501C of the Code.

These Articles of Incorporation do not meet the "organized exclusively for one or more exempt purposes requirement since your purposes are broader than those permitted by section 501(c)(3) and 1.501(c)(3)-1(b)(iv) of the Income Tax Regulations.

The dissolution provision in your Articles of Incorporation also does not meet the specific requirements of section 1.501(c)(3)-1(b)(4) of the Regulations which requires that assets must be distributed to organizations recognized as exempt under section 501(c)(3).

With regard to the operational test of section 501(c)(3), the applicant organization has the burden of proof to establish that:

1. It is operated exclusively for one or more purposes described in section 501(c)(3);
2. That no part of the net earnings of the organization inures to the benefit of private shareholders or individuals, such as officers, directors, trustees, or other private individuals;
3. That the organization serves exclusively public rather than private interests; and;
4. The organization is not operated for a substantial non-exempt purpose.

You have indicated in your application that your main activities will include conducting seminars and workshops for individuals and churches concerning financial and tax matters, sales of memberships and providing group health, life, dental, accidental death insurance benefits, retirement and pension plans, discount telephone services and Internet access to your members.

Information submitted in your application indicates that you have entered into two contracts with [REDACTED] and [REDACTED] to market these services exclusively to your members. The two prominent individuals involved with these firms are also members of your board of directors. Like the organization discussed in International Postgraduate Medical Foundation v. Commissioner, these Benefit Provider Contracts between [REDACTED] and [REDACTED] and [REDACTED] permit these commercial firms to benefit substantially from its marketing programs with [REDACTED].



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As the court stated in its opinion, "When a for-profit organization benefits substantially from the manner in which the activities of a related organization are carried on, the latter organization is not operated exclusively for an exempt purpose within the meaning of section 501(c)(3) even if it furthers other exempt purposes."

In addition, [redacted]'s contracts with [redacted] and [redacted] which permit two of their board members to market their products exclusively to [redacted]'s members as well as market books and publications sold by [redacted] conveys direct financial benefit to the two commercial firms as well as your two board members since [redacted]% of the income from sales to [redacted] members is retained by the two commercial entities. This arrangement permits the net earnings of [redacted] to benefit individuals who are closely associated with [redacted] as board members and thus destroys exemption under section 501(c)(3).

A third bar to exemption under section 501(c)(3) is that [redacted] is not "operated exclusively for 501(c)(3) purposes since it is providing financial and tax advice to its membership. As the court noted in Christian Stewardship Assistance Inc. v. Commissioner, providing financial and tax advice is normally considered a trade or business rather than an exempt activity under section 501(c)(3). In addition, dissemination of financial and tax advice serves the private interests of the recipients rather than the exclusively public purposes that are required to be exempt under section 501(c)(3).

You have also indicated that another activity of [redacted] is to provide group insurance and retirement plan packages to your membership, discounts on telephone services and access to the Internet. By providing these benefits exclusively to your members, these activities also serve the private interests of your members rather than the community as a whole which also destroys exemption under section 501(c)(3). Baltimore Regional Joint Board Health and Welfare Fund, 69 T.C. 554 (1978).

Based on the information submitted, we have concluded that you have not met your burden of proof to show that you are organized and operated exclusively for purposes described in section 501(c)(3). Therefore, we have concluded that you are not entitled to exemption under this section.

In accordance with this determination, you are required to file federal income tax returns on Form 1120.

Contributions to your organization are not deductible as charitable contributions by donors under section 170(c)(2) of the Code.

In accordance with the provisions of section 6104(c) of the Code, a copy of this letter will be sent to the appropriate State officials.

██████████  
██████████  
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If you do not agree with our determination, you may request consideration of this matter by the Regional Director of Appeals. To do this, you should file a written appeal, as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the Regional Office, or, if you request, at any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax information authorization with us.

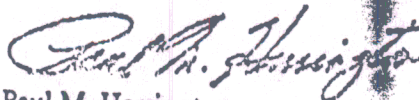
If you don't appeal this determination within 30 days from the date of this letter, as explained in the enclosed Publication 892, this letter will become our final determination in this matter. Further, if you do not appeal this determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust administrative remedies.

Section 7428(b)(2) of the Internal Revenue Code provides, in part, that "A declaratory judgment or decree under this section will 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 all administrative remedies available to it within the Internal Revenue Service."

Appeals submitted which do not contain all the documentation required by Publication 892 will be returned for completion.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,



Paul M. Harrington  
District Director

Enclosure: Publication 892

cc: State Attorney General ██████████