

Internal Revenue Service
District Director

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

Person to Contact:

Telephone Number

Refer Reply to:
EP/EO

Employer Identification Number:

Date: MAY 07 1997

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 and we have concluded that you do not.

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 that 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.

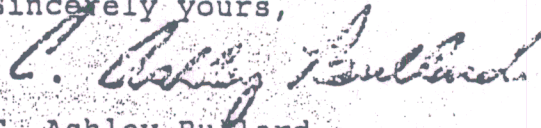
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If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b) (2) of the Internal Revenue code provides in part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

A declaratory 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 yours,



C. Ashley Buflard
District Director

Enclosures: 3

[REDACTED]

Your organization does not qualify for exemption under section 501(c)(3) of the Code, because it operates for the benefit of [REDACTED], a technical school wholly owned and controlled by a private individual, [REDACTED].

Your organization was incorporated [REDACTED]. Its Articles of Incorporation state that it is organized exclusively for "educational and charitable purposes, including, for such purposes the making of distributions to organizations" exempt under section 501(c)(3) of the code, with the following specific purposes: (1) To promote the improvement of specialized training in high technical fields of endeavor; (2) To provide a procedure whereby outstanding graduates may be recognized by, and become members of, a national honor society; (3) To assist [REDACTED] in the establishment of a [REDACTED], which may include graduates; (4) To provide a speakers' bureau of [REDACTED] alumni for high schools, teachers and guidance counsellors, civic and industrial organizations in order to provide information about [REDACTED]. Its membership is to be made up of graduates of any of the programs of the [REDACTED] corporation all the outstanding stock of which is owned by [REDACTED]. [REDACTED] is one of the three initial directors of the organization.

Your organization proposes to grant scholarships to [REDACTED] students on the basis of need and merit. It will operate a speakers' bureau with speakers recruited from among your members to (1) address potential students in schools and other organizations so as to make them aware of the programs offered by [REDACTED]; and (2) address gatherings of the student body with a view to motivating and encouraging them, advise them on special requirements for employees in their own fields of endeavor, or demonstrating special equipment utilized by their employers. It will recruit alumni who are actively pursuing technical careers in industry to serve on the school's technical advisory committees, which are responsible for insuring that the school's programs keep abreast of the latest technical developments and trends in industry and depend heavily on the input of members with first hand, day-to-day experience of such developments. It will arrange field trips to industrial sites through alumni contacts in those businesses. [REDACTED] will publish a newsletter for the members and plan the meetings for the membership. It will plan, presumably in conjunction with the meetings, events of a social and recreational character for members and their families, to be held on the [REDACTED] and financed by the participants. It will assist [REDACTED] in establishing a [REDACTED] and institute a procedure whereby outstanding graduates might be recognized by, and become members of, a national honor society. Your application also makes reference to providing to the membership opportunities for "personal growth through professional networking" and exploration of

[REDACTED]

employment opportunities, and "the promotion of the improvement of specialized training in high technical fields of endeavor".

In our letter dated February 26, 1997, we sought clarification of the following points, but your organization furnished no response to our inquiries. (1) Whether the social and recreational activities of the members are incidental to the accomplishment of the exempt purposes of the association. (2) Whether professional networking and exploration of employment opportunities were to be activities formally conducted by the organization, or the spontaneous accompaniment to member interaction at association meetings and events. Whether your organization conducts any activities for the specific purpose of affording members improved opportunities for professional advancement. However, in response to an earlier request for a description of activities related to career development for members, you stated that "Career development for members simply involves developing ability to conduct formal meetings, produce better writers (sic) and speaker communications skills, as well as expand their interests and knowledge in their field of work by learning more about it from other more experienced members during association meetings." (3) By what means your organization "promotes the improvement of specialized training in high technical fields of endeavor". (4) Your projected expenditures. How the excess of revenues over expenses is to be used. How programs such as the newsletter and the scholarships are to be funded. How the [REDACTED] is to be financed. What is involved in establishing a procedure whereby outstanding graduates might be recognized by, and become members of, a national honor society. (5) The purpose and effects of disseminating information about the school's programs, if not the promoting of enrollment. (6) Whether the services performed by the association are such as would otherwise be purchased or performed by the for profit itself.

Your organization is supported by member dues and contributions. [REDACTED], furnish physical facilities and clerical assistance to your organization at no charge. The association's officers and board members are uncompensated and the organization has no employees.

Section 501(c)(3) exempts from 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.

Reg. 1.501(a)(1)-1(c) defines "private shareholder or individual" as a person having a personal or private interest in the activities of the organization.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations states that an organization is not organized or operated exclusively for one or more

[REDACTED]

exempt purposes unless it serves a public rather than a private interest. It must establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders, or persons controlled directly or indirectly by such private interests.

An alumni association is exempt from tax under section 501(c)(3) if it is organized and operated to advance the interests of an educational institution and none of its income inures to the benefit of any private individual. It may be an exclusively educational organization even though engaged in social and recreational activities, if those activities are found to be incidental to an exempt purpose. (Revenue Ruling 56-486, 1956-2 CB 309; Revenue Ruling 60-143, 1960-1 CB 192; Estate of Phillip R Thayer, et al. v. Commissioner, 24 TC 384 (1955), acquiescence, 1956-2 CB 8.)

In the present case neither the reputability of [REDACTED] as an educational institution nor the disinterestedness of [REDACTED] in supporting the establishment of the alumni association are at issue. The issue is whether the organization serves a private rather than a public interest. [REDACTED], is a corporation operated for profit and issuing capital stock, a "person controlled directly...by...private interests", viz., the stockholders of the corporation. Your association is organized and operated to promote the interests of this entity. Your organization is therefore operated for the benefit of a private interest.

It is not necessary that the sole stockholder ([REDACTED]) derive or even desire an economic benefit from your activities. It is sufficient that the school derives an economic benefit, direct or indirect, from them. Nor is it necessary that the economic benefit to the school take the form of an influx of cash support. If your organization renders valuable services to the school, or carries out for the school functions which it would otherwise have to perform for itself, the school receives an economic benefit in kind.

Private benefit in kind was one basis for the denial of exemption to an organization which was created to make research grants for the development of new machinery for use in a particular commercial operation and retained the rights to the developments. By granting certain commercial manufacturers the exclusive right to produce the new products, the organization was held to be serving the private interests of the manufacturers. (Revenue Ruling 65-1, 1965-1 CB 226.) Similarly, an organization engaged in the clinical testing of drugs for commercial pharmaceutical firms was held not to be exempt because it benefitted those firms by performing for them a function ordinarily incidental to their marketing operations. (Revenue Ruling 68-373, 1968-2 CB 206. Cf. also Revenue Ruling 78-426, 1978-2 CB 175.) Similarly, A trust created by a corporation to pay pensions to retired employees was denied exemption in part because by assuming the burdens of the pension

[REDACTED]

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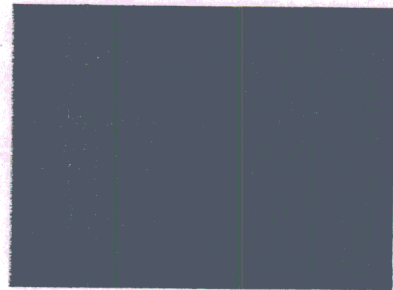
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Department of the Treasury - Internal Revenue Service
Consent to Proposed Adverse Action
(All references are to the Internal Revenue Code)

Prepare in
Duplicate

Case Number

[Redacted]

Date of Latest Determination Letter

Employer Identification Number

[Redacted]

Date of Proposed Adverse Action Letter

MAY 07 1997

Name and Address of Organization

[Redacted]

I consent to the proposed adverse action relative to the above organization as shown by the box(es) checked below. I understand that if Section 7428, Declaratory Judgments Relating to Status and Classification of Organizations under Section 501(c)(3), etc. applies, I have the right to protest the proposed adverse action.

NATURE OF ADVERSE ACTION

- Denial of exemption
- Revocation of exemption, effective
- Modification of exempt status from section 501(c)() to 501(c)(), effective
- Classification as a private foundation (section 509(a)), effective
- Classification as a non-operating foundation (section 4942(j)(3)), effective
- Classification as an organization described in section 509(a)(), effective
- Classification as an organization described in section 170(b)(1)(A)(), effective

If you agree to the adverse action shown above, please sign and return this consent. You should keep a copy for your records.
If you sign this consent before you have exhausted your administrative appeal rights, you may lose your rights to a declaratory judgment under section 7428.

(Signature instructions are on the back of this form.)

Name of Organization

Signature and Title

Date

Signature and Title

Date