

Internal Revenue Service

Department of the Treasury

District Director

Delaware-Maryland District

31 Hopkins Plaza, Baltimore, MD 21201

PERSON TO CONTACT:

CONTACT TELEPHONE NUMBER:

IN REPLY REFER TO:

DATE: SEP 23 1997

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 and have determined that you do not qualify for exemption under that section. Our reasons for this conclusion and the facts on which it is based are explained below.

The organization incorporated on [redacted] for the preservation of line and property from accidents, violence, destructive elements or otherwise, in [redacted] as well as adjacent counties in the event of emergencies, and in fulfilling said purposes, the corporation shall maintain and operate life saving vehicles, boats, buildings and incidental equipment used in preventing accidents and the saving of human life and in administering to injuries and sickness of human malady, and to do and perform all things reasonably necessary and proper for the operation of said life saving crew. This corporation is strictly benevolent and no part of the receipts, gifts or net earnings shall inure to the benefit of any individual.

Articles of Amendment were filed [redacted] to change the purpose/powers clause and to include a dissolution provision. The dissolution provision specifically states that: "after paying of the Corporation, all remaining assets, be it personality, realty, cash or cash equivalent, shall be transferred and donated to [redacted]. However, if the named recipient is not then in existence then all such proceeds shall be distributed to an organization as specified in Section 501(c)(3) of the Internal Revenue Code, or amendments thereto.

Income is derived from the [redacted] and fund-raising and expended for improvements, insurance, advertisement, repairs/maintenance and operations.

	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Code	[redacted]	[redacted]	[redacted]				
Surname	[redacted]	[redacted]	[redacted]				
Date	[redacted]	[redacted]	[redacted]				

0026 0000

[REDACTED]

The property being used by the organization was donated through a [REDACTED]. The [REDACTED] made on [REDACTED] states: "Whereas, the lawful heirs of [REDACTED] desire to convey a portion of the real estate located along [REDACTED], Incorporated, for use as a building for the [REDACTED]."

"Whereas, this conveyance is made to [REDACTED] for its use so long as it is used as a [REDACTED] for the [REDACTED] but should the property, in the future, not be used for a [REDACTED], then the property shall revert back to the Grantors."

The organization made \$3 [REDACTED] in improvements to the property in [REDACTED] and \$ [REDACTED] in [REDACTED].

The operations of the organization are to be available whenever, needed twenty-four hours a day, seven day a week to the general public in the event of any emergency. Emergencies, include, but are not limited to responses to: accidents; fires; general sickness; foul play upon another human being; search and rescue; and transportation to medical facilities.

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(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.

Revenue Ruling 66-259, Cumulative Bulletin 1966-2, p. 214, held that a trust which provides for the reversion of principal to the creator on termination does not qualify for exemption.

Based upon the information submitted we have determined that the organization is not within the purview of 501(c)(3) of the Code.

The organizational test relates to the rules for governing an organization and the purposes stated in its articles of organization. The operational test relates to the organization's activities. A deficiency in the articles that fails the organizational test cannot be cured by the organization's actual operations. Conversely an organization whose activities are not within the statute cannot be exempt by virtue of a well written charter. Regulations 1.501(c)(3)-1(b)(1)(iv).

Although the organization has met the operational test and the organizational document contains the appropriate dissolution provision, the [REDACTED] of the property has causative influence through the revision to the heirs of the donor, thereby, violating and nullifying the organization's dissolution provision.

Thus, in effect, the organization has failed the organizational test because upon dissolution the primary asset of the organization, "the property", will not be distributed for one or more exempt purposes or the Federal government, or to a State or local government for a public purpose but to an individual(s).

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

Contributions to your organization are not deductible 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.

If you do not agree with our determination, you may request consideration of this matter by the Office of 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.

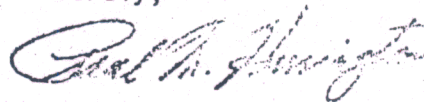
[REDACTED]

If you don't appeal this determination within 30 days from the date of this letter, as explained in 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 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."

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 phone number are shown in the heading of this letter.

Sincerely,



Paul M. Harrington
District Director

Enclosure: Publication 892

cc: [REDACTED]
[REDACTED]