

Internal Revenue Service

Department of the Treasury

District
Director

Delaware-Maryland District

31 Hopkins Plaza, Baltimore, MD 21201

[REDACTED]

Person to Contact: [REDACTED]

Contact Telephone Number: [REDACTED]

Refer Reply to: [REDACTED]

Date: MAR 04 1999

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.

Your organization was organized in [REDACTED]

Your purposes as stated in your Constitution are to work for adequate pension benefits [REDACTED]. To inform retirees of any legislation, policy or action that will effect them so that they can be a catalyst for change and membership will determine appropriate need to achieve your goals.

Your income is derived from dues and raffles.

Your expenses have been for administrative purposes, license plates, picnic expenses for members, tables and office supplies

Membership in [REDACTED] is open to any retired [REDACTED]

Internal Revenue Code 501(c)(3) provides exemption from Federal income tax for organizations organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, 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 501(c)(3).

[REDACTED]

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 exempt purposes. 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 of local government, for a public purpose.

Section 501(c)(3)-1(a)(2)(b) states an organization is organized exclusively for one or more exempt purposes only if its articles of organization (a) limit the purposes of the organization to one or more exempt purposes; and (b) do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(c)(1) of the Income Tax 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 exempt purposes."

Section 1.501(c)(3)-1(d)(1)(ii) states that an organization is not organized or operated for any purpose under 501(c)(3) unless it serves a public purpose rather than a private interest. Thus to meet the requirements of this subparagraph, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creators or his family, shareholders of the organization or persons controlled, directly or indirectly, by such private interests. Moreover, even though an organization may have an exempt purpose, it will not be considered as operating exclusively for such purpose if more than an insubstantial part of its activities serve a private interest.

[REDACTED]

Based on the evidence submitted, we have determined that you have not met your burden of proof to show that you are organized and operated exclusively for an exempt purpose and that you serve the private interests of your creators and founders. You have not established that the organization qualifies for exemption.

Our review of your application indicates that your articles of incorporation do not meet the organizational test required to be recognized as tax exempt under section 501(c)(3) since this document does not limit your purposes exclusively to one or more purposes described in this section. In addition, you also have not made any provision for the distribution of your assets to qualified section 501(c)(3) organizations in the event of your dissolution.

From our review of your activities, it does not appear that you are organized or operated exclusively for charitable or educational purposes. The manner in which you are conducting your activities serves to benefit the private interests of your retiree members and their spouses and beneficiaries.

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).

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 a 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 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, "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."

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,



Paul M. Harrington
District Director
Southeast Region

Enclosures: Publication 892