

INTERNAL REVENUE SERVICE
DISTRICT DIRECTOR
EP/EO DIVISION
2 CUPANIA CIRCLE
MONTEREY PARK, CA 91754-740.

DEPARTMENT OF THE TREASURY

Person to Contact:

Telephone Number:

Refer Reply To:

Date:

JUL 13 1999

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear Applicant:

We have considered your application for exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954.

The information submitted discloses that you were incorporated under the nonprofit corporation laws of [REDACTED]. Article Fourth of your Articles of Incorporation states that the assets will be dedicated to the nonprofit purposes of the corporation, which are to manage the service resources and create a supportive community environment for [REDACTED] throughout his life.

Articles of Amendment to the Articles of Incorporation filed on January 27, 1999, state your purpose as follows:

"This corporation is organized exclusively for charitable purposes under section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

[REDACTED] is organized for the purpose of being a nonprofit service agency, which manages the financial and service resources for developmentally disabled adults in a supportive and nurturing home and community."

Information indicates that you are required to provide service for [REDACTED], son of your two board members, [REDACTED] and [REDACTED]. [REDACTED] is also your [REDACTED] and [REDACTED] is also your [REDACTED].

[REDACTED]

Your organization is leasing property from [REDACTED] and [REDACTED] to provide housing for [REDACTED]. Since [REDACTED] has been the only individual residing at this property. There has been no other individual living at this property since you were incorporated on [REDACTED].

Based on your financial information, all your funds were used to provide services and benefits for [REDACTED], a disabled adult.

Section 501(c)(3) of the Internal Revenue Code exempts from Federal income tax: corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition, 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 of the Income Tax Regulations provides that in order to be exempt as an organization described in section 501(c)(3), an organization must be organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(d)(1) of the Regulations states, in part, that an organization is not organized or operated exclusively for one or more exempt purposes "unless it serves a public rather than a private interest. Thus... 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 creator or his family, shareholders of the organization or persons controlled, directly or indirectly, by such private interest."

In Wendy L. Parker Rehabilitation Foundation, Inc. 52 TCM 51, Dec. 43, 244(M), TC Memo 1986-348, an organization operated for the purpose of providing care and treatment for coma victims in stages of recovery was denied exempt status because a child of the founder and chief operating officer of the organization was a substantial beneficiary of the services provided by the organization. The IRS properly denied the

organization exempt status based on the organization's projected expenditures (it anticipated disbursing 30 percent of its funds for the founder's child's benefit) and was not required to wait until the organization made actual expenditures.

In Labrenz Foundation, Inc., 33 TCM 1374, Dec. 32,856(M), TC Memo, 1974-296, while an organization had been formed for exempt purposes, but in such a way that it benefited (directly or indirectly) its practicing chiropractor-founder. Accordingly, the organization's exempt status was properly revoked.

A charitable organization or trust must be set up for the benefit of an indefinite class of individuals, not for specific persons. A trust or corporation organized and operated for the benefit of specific individuals is not charitable.

Since you were formed primarily to provide services and benefits for [REDACTED], you do not meet the requirements under section 501(c)(3) of the Code.

Contributions to you are not deductible under section 170 of the Code and you are required to file Form 1120 annually with your District Director.

As provided by section 6104(c) of the Internal Revenue Code of 1954 and the applicable regulations, the appropriate State officials are being notified of our determination.

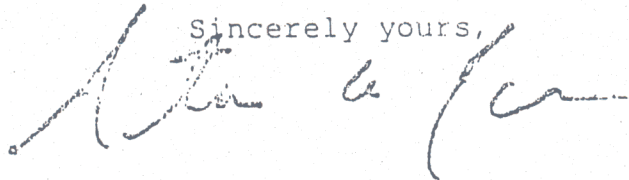
If you are in agreement with this proposed determination, we request that you sign and return the enclosed agreement Form 6018. Please note the instructions for signing on the reverse side of this form.

If you are not in agreement with this proposed determination, we recommend that you request consideration by the Office of Regional Director of Appeals. Your request for a hearing should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892.

The hearing will be held at the Office of Regional Director of Appeals or, if you request, at a mutually convenient District Office. A self-addressed envelope is enclosed.

If we do not hear from you within 30 days from the date of this letter, and 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 and will then become our final determination. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "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."

Sincerely yours,



District Director

Enclosures:

Publication 892
Form 6018

8
1983)

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

Prepare In Duplicate

Date of Latest Determination Letter

Date of Proposed Adverse Action Letter

Employer Identification Number

Name and Address of Organization

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