

Department of the Treasury

2 Cupania Circle
Monterey Park, CA 91755-7431
[REDACTED]

Internal Revenue Service
Pacific Coast Area (TE/GE)

Date: NOV 20 2000

Employer Identification Number:
[REDACTED]

Case Number:
[REDACTED]

Person to Contact:
[REDACTED]

Telephone Number:
[REDACTED]

Fax Number:
[REDACTED]

[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.

The information submitted discloses that you were incorporated in [REDACTED]. The specific purpose of your organization per your Article reads as follows: "... is to create a place of worship with special attention to teaching metaphysical principles".

You requested non-private operating foundation status as an organization described in sections 509(a)(1) and 170(b)(1)(A)(i) of the Internal Revenue Code, as a church.

The activities of your organization according to your application, Form 1023, are 1) church services - to serve as an outreach to begin an interest in classes; and 2) classes - forum to gain greater insight into meditative and healing practices, to raise human consciousness.

FACTS:

The primary activity of your organization is to conduct a meditation and spiritual healing class. This is a [REDACTED] week class, [REDACTED] one night a week, in which \$[REDACTED] is the expected donation. The activity is conducted by the [REDACTED] officers/directors, who are related.

The church services of the organization are conducted on the [REDACTED]. The church services averaged [REDACTED] persons, which included individuals from the meditation and spiritual healing class.

[REDACTED]

Your income is from the fees you charge for your classes and monthly church service. Expenditures are for rent, mailers, and tiling fees.

The Schedule A of Form 1023 submitted shows that you have no formal code of doctrine, no members, perform no other religious services, no religious instruction for the young, and provide a non-denominational worship service every [REDACTED] with an averaged attendance of [REDACTED].

You stated that in [REDACTED] you had performed a baptism ceremony. Also, since the beginning of the organization in [REDACTED], you have counseled, informally, [REDACTED] individuals in helping them with their spiritual growth.

ISSUE:

Does the organization qualify for exemption as an organization described in section 501(c)(3) of the Internal Revenue Code?

Does the organization qualify as a church as described in section 170(b)(1)(a)(ii) of the Code?

LAW:

Section 501(c)(3) of the Internal Revenue Code describes certain organizations exempt from income tax under section 501(a) and reads in part as follows:

"(3) 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 (but only if no part of its activities involve the provision of athletic facilities or equipment), no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on legislation, (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of any candidate for public office."

[REDACTED]

Section 1.501(c)(3)-1(a)(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 both organized and operated exclusively for one or more of the purposes specified in such sections. If any organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(b)(1)(i) of the Regulations provides that an organization is organized exclusively for one or more exempt purposes only if its articles of organization (a) limit the purposes of such organization to one or more exempt purposes; and (b) do not expressly empower the organization to engage otherwise than 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 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 one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(ii) of the Regulations states 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, to meet the requirements, an organization must establish that it is not organized or operated for the benefit of private interest, such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Section 170(b)(1)(A)(i) of the Code describes an organization as a church or a convention or association of churches. The term that best describes a church as "An organization for religious purposes, for the public worship of God"... (*Bennett v. City of La Grange*, 112 S.E. 482, 485 (Sup.Ct. Ga 1922)) or "A body or community of Christians, united under one form of government by the same profession of the same faith, and the observance of the same ritual and ceremonies"... (*Mcneilly v. First Presbyterian Church in Brookline*, 137 N.E. 691 (Sup. Jud. Ct. Mass. 1923)).

Section 513 of the Internal Revenue Code defines a trade or business as "...any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501..."

[REDACTED]

A "trade or business" is defined in Section 1.513-1(b) of the Income Tax Regulations as having the same meaning it has for purposes of section 162, and "generally includes any activity carried on for the production of income from the sale of goods or performance of services."

In Presbyterian & Reformed Publishing Co. v. C.I.R., 79 T.C. 1070 (1982), the Tax Court found that the manner in which the organization conducted its activities revealed a nonexempt commercial purpose that was substantial in nature. In making this determination, the court noted that whether an organization satisfies the operational test is essentially a question of fact. The court noted that where a nonexempt purpose is not an expressed goal of the organization, courts have nonetheless focused on the manner in which the organization conducts its activities, implicitly reasoning that an end can be inferred from the means chosen to attain it. If, for example, an organization's management decision replicates those of commercial enterprises, it is fair to infer that at least one purpose of the organization is commercial.

The Supreme Court stated in Better Business Bureau v. United States, 326 U.S. 279, 66 S. CT. 112, 90 L. ED. 67 "...the presence of a single [non charitable] purpose, if substantial in nature, will destroy the exemption regardless of the number of importance or truly (charitable) purposes."

See Church of Boston V. Commissioner, (1978) 71 T.C. 102; Colorado State Chiropractic Society, (1989) 93 T.C. 487; Best Lock Corporation, (1959) 31 T.C. 1217; St. Louis Science Fiction Limited v. Commissioner, T.C. Memo 1985-162 and Minnesota Kingsmen Chess Association Inc. v. Commissioner, T.C. Memo 1983-495; all of these court cases held that the presence of a single non-exempt purpose and a substantial non-501(c)(3) activity results in loss of exemption despite the presence of other exempt purposes.

Revenue Ruling 79-130, 1979-1 CB 332, states that a yoga class qualifies for exemption under section 501(c)(3) of the Code as a religious and educational organization.

ANALYSIS:

All of the preceding Code sections, Regulation sections, Revenue Rulings and court cases describe the criteria under which an organization may be exempt under section 501(c)(3) of the Internal Revenue Code. They also describe the basis for which organizations were denied exemption because they were not organized and operated exclusively for section 501(c)(3) purposes. It appears that the organization is operating as a trade or business rather than a church as described under section 170(b)(1)(A)(i) of the Code.

[REDACTED]

Under section 501(c)(3) of the Code, you are not operated exclusively for one of the specified purposes of section 501(c)(3); that is, your primary purpose of providing meditation to individuals for a fee is not exempt under section 501(c)(3) of the Code. Your organization's activities consist primarily of operating a trade or business for a fee. Approximately [REDACTED] of your income is from your fee charges.

The organization did not meet the requirements as described under section 170(b)(1)(A)(i). Your Schedule A of application Form 1023 indicated that you have no formal code of doctrine, no members, no religious hierarchy, no religious instruction for the young, and you conducted a monthly worship service with averaged attendance of [REDACTED]

You do not teach a code of conduct or ethics but rather the discipline teaching of one's own personal life force energy through meditation and spiritual healing. Some of those individuals that attend your monthly worship services are students of your meditation and spiritual healing classes. You may have performed [REDACTED] Baptism ceremony, but basically, you have not performed any other religious services.

In order to qualify for non-private foundation status under sections 509(a)(1) and 170(b)(1)(A)(i), the organization must first be exempt under section 501(c)(3). You did not satisfy the Service that you meet any of the exempt purposes as described under section 501(c)(3) of the Code.

CONCLUSION:

To be considered for tax exempt status under section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in that section. Also, its activities must be restricted to those permitted a section 501(c)(3) organization.

It is the position of the Internal Revenue Service, based on the information submitted, that you are not entitled to exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code, inasmuch, as you are not organized and operated exclusively for any of the specified purposes within that section. Further, you do not meet the requirements of a church as described in section 170(b)(1)(A)(i) of the Code. You are both organized and operated exclusively as a trade or business.

[REDACTED]

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 the form.

If you disagree with this proposed determination, we recommend that you request a hearing with our 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. You will then be contacted to arrange a date for a hearing. The hearing may 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 "declaratory judgement of 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.

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

Sincerely your,

Steven T. Miller

Steven T. Miller
Director, Exempt Organization

Enclosures:

Form 6018

Publication 892

envelope

Form 6018
(Rev. August 1983)

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

Date of Latest Determination Letter

Employer Identification Number

Date of Proposed Adverse Action Letter

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