

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

[REDACTED]

Person to Contact: [REDACTED]

Telephone Number: [REDACTED]

Refer Reply to: [REDACTED]

Date:

OCT 25 1996

Employer Identification Number: [REDACTED]

Key District: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption under section 501(c)(3) of the Internal Revenue Code.

The information submitted indicates that you were incorporated on November 9, 1995 for the purpose of supporting the [REDACTED] an organization exempt under section 501(c)(3) of the Code, assists and educates community organizers and their communities in a variety of ways, including publishing a national newsletter, sponsoring a national and regional gatherings and discussion groups, serving as a clearing house for jobs, providing training, and providing other information of broad interest to the constituent communities.

You are governed by a Board of Directors, the members of which are appointed by the [REDACTED]. Your directors may include employees or members or contractors of [REDACTED]. Currently, all [REDACTED] members are individuals. Approximately 75% of your members are employed by organizations which are exempt under section 501(c)(3) of the Code. A majority of the remaining members are employed by organizations which are exempt under sections 501(c)(4) and 501(c)(5) with less than 3% employed by non-exempt organizations. Few of these organizations currently maintain pension plans for their employees.

[REDACTED] has established the [REDACTED] provides retirement income to employees of each participating employers in the community organizing movement. [REDACTED] is intended to be a Money Purchase Pension Plan and to meet the requirements of

sections 401(a) and the Employee Retirement Income Security Act of 1974.

You will engage primarily as the administrator of the Plan. You will perform many of the functions ordinarily performed by the administrator of a pension or welfare plan, including the maintenance of records, and communication with participants and participating employers.

In your administration of the pension plan, you will charge a flat fee of \$60 per covered employed. You will also charge a start-up fee of \$300 per employer.

Section 501(c)(3) of the Code provides exemption to organizations organized and operated exclusively for 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 one or more 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)(1) of the regulations provides that an organization may be exempt as an organization described in section 501(c)(3) if it is organized and operated exclusively for one or more of the following purposes:

- (a) Religious,
- (b) Charitable,
- (c) Scientific,
- (d) Testing for public safety,
- (e) Literary,
- (f) Educational, or
- (g) Prevention of cruelty to children or animals.

Rev. Rul. 56-138, 1956-1 C.B. 202, held that a trust organized and operated by an employer for the primary purpose of paying pensions to its retired employees was not organized exclusively for charitable purposes and not entitled to exemption under section 501(c)(3) of the Code.

Rev. Rul. 68-422, 1968-2 C.B. 207, describes an organization created pursuant to the will of a stockholder of a company to pay pensions to all retired employees of that company. The pension benefits were paid to all retired employees age 65 or over, regardless of their economic resources. It was not shown that

the payment was made on the basis of need nor did it show that the retired employees of the company as a class lack the necessities or comforts of life. Accordingly, the organization did not qualify for exemption from Federal income tax as a charitable organization under section 501(c)(3) of the Code.

Our analysis indicates that your sole activity is administering the provision of retirement benefits to eligible employees. There is no indication that you provide the benefits on the basis of need or that a beneficiary is selected on the basis of the beneficiary being a member of a charitable class. Under such circumstances, we find that your sole activity is not devoted to or in furtherance of any of enumerated exempt purposes in section 1.501(c)(3)-1(d)(1) of the regulations.

By engaging primarily in activities not in furtherance of an exempt purpose, you are not operated exclusively for one or more exempt purposes under section 501(c)(3) pursuant to section 1.501(c)(3)-1(c)(1) of the regulations.

You are analogous to the organizations described in Rev. Ruls. 56-138 and 68-422 which, in providing welfare benefits to retired employees without any considerations related to achieving exempt purposes, were held not to qualify for exemption under section 501(c)(3) of the Code.

Therefore, we conclude that you are not exempt under section 501(c)(3) of the Code.

Contributions to you are not deductible under section 170 of the Code.

You are required to file federal income tax returns on Form 1120.

You have the right to protest our ruling if you believe that it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted within 30 days of the date of this letter and must be signed by one of your officers. You also have a right to a conference in this office after your statement is submitted. If you want a conference, you must request it when you file your protest statement. If you are to be represented by someone who is not one of your officers, he/she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If you do not protest this ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure

[REDACTED]
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to exhaust available administrative remedies. Section 7428(b)(2) of the 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.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director in Baltimore, Maryland. Thereafter, if you have any questions about your federal income tax status, including questions concerning reporting requirements, please contact your key District Director.

The appropriate State Officials will be notified of this action in accordance with section 6104(c) of the Code.

Sincerely,
[REDACTED]
[REDACTED]
[REDACTED]

copy: [REDACTED]
Attn: Chief, EP/EO Division