

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

**COPY FOR YOUR
INFORMATION**

Contact Person:

Telephone Number:

In Reference to:

Date:

NO FROM RECEIVED
Release copies to District

Date

Surname

Dear Applicant:

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

You were incorporated [REDACTED] under the laws of the state of [REDACTED]. Your specific purpose, as stated in your articles of incorporation, is to provide "education in the area of estate planning and related matters to hourly-wage workers located in [REDACTED], [REDACTED], and to pay for all or part of the estate planning legal fees for such hourly-wage workers."

Your articles provide for "one or more members who shall have the right to elect directors." Your only member is [REDACTED], who is also one of the directors. [REDACTED] will also administer your activities, a service for which she will be compensated.

Your primary activity will be providing estate planning services at reduced rates to hourly wage earners through contracts with private attorneys. You also plan to conduct seminars on estate planning for hourly wage workers, and to provide written materials on this topic. The seminars will be conducted by estate planning attorneys under contract with you.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for charitable or educational purposes.

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that an organization is not organized or operated exclusively for an exempt purpose unless it serves a public rather than a private interest.

Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations defines the term 'charitable' as including relief of the poor and distressed.

[REDACTED]

Section 1.501(c)(3)-1(d)(3) of the regulations defines the term 'educational' to mean the instruction or training of the individual for the purpose of improving or developing his capabilities or the instruction of the public on subjects useful to the individual and beneficial to the community.

In *Better Business Bureau v. United States*, 326 U.S. 279 (1945), the Supreme Court, stated that in order to fall within the claimed exemption, an organization must be devoted to exempt purposes exclusively. The presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes.

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 and concludes that it does not qualify for exemption under section 501(c)(3) of the Code. The ruling notes that to come within the scope of the term 'relief of the poor,' the organization must at least show that the class it benefits is lacking in the necessities or comforts of life.

Rev. Rul. 69-161, 1969-1 C.B. 149, describes a nonprofit legal aid society providing free legal services to indigent persons, otherwise financially incapable of obtaining such services, and concludes that it qualifies for exemption under section 501(c)(3) of the Code.

Rev. Rul. 76-442, 1976-2 C.B. 148, describes a nonprofit organization whose primary activity is the offering of free legal services for personal tax and estate planning to individuals who wish to make current and deferred gifts to charity as part of their overall tax and estate planning. In concluding that the organization does not qualify for exemption under section 501(c)(3) of the Code, the ruling notes that aiding individuals in their tax and estate planning is not a charitable activity in the generally accepted legal sense. The organization is providing commercially available services to individuals who can afford them.

Rev. Rul. 78-428, 978-2 C.B. 177, describes a nonprofit organization formed and operated to provide legal services to indigent persons at a fee based upon the indigent clients' abilities to pay. Although the organization charges for its legal services, its fees are based upon the indigents' limited abilities to pay rather than the type of service rendered. Thus, the organization provides economic relief to its poor and distressed clients although it charges the fees described. The fees charged do not negate or significantly detract from the substantial economic relief provided to the poor and distressed by the organization.

Rev. Rul. 80-287, 1980-2 C.B. 185, describes a nonprofit corporation created by several bar associations in a metropolitan area to provide a lawyer referral service. From a list of attorneys maintained by the organization, an attorney specializing in the appropriate area of law is selected from within the geographic area preferred by the client. The organization arranges an appointment for the individual with the attorney. This initial appointment is for a minimum of one-half hour and the individual is asked to pay a nominal fee substantially less than the normal fee charged for a half-hour appointment. In concluding that this organization does not qualify for exemption under section 501(c)(3) of the Code, the ruling notes that it is a clearly established principle of the law of charity that a purpose is not charitable unless it is directed to the public benefit. Not every purpose which is beneficial to the community, however, is deemed charitable. As a general rule, providing services of an ordinary commercial nature in a community, even though the undertaking is conducted on a nonprofit basis, is not regarded as conferring a charitable benefit on the community unless the service directly accomplishes one of the established categories of charitable purposes. The organization's activities are directed toward assisting individuals in obtaining preventive or remedial legal services covering the gamut of everyday legal problems and, as such, are not specifically designed to eliminate prejudice or discrimination or to defend human and civil rights secured by law. Therefore, the lawyer referral service does not confer a charitable benefit on the community. Although the lawyer referral service provides some public benefit, a substantial purpose of the program is promotion of the legal profession. This is a noncharitable purpose, and, in accordance with section 1.501(c)(3)-1(a) of the regulations and *Better Business Bureau v. U.S.*, it precludes exemption under section 501(c)(3) of the Code. Thus, the organization is not exempt from federal income tax under section 501(c)(3).

To be described in section 501(c)(3) of the Code, an organization must be both organized and operated for charitable, educational, or other exempt purposes. Your primary activity is the provision of estate planning services at a reduced fee to hourly wage earners. Providing legal services to indigent persons furthers a charitable purpose because it relieves the poor and distressed; see Rev. Rul. 69-161 and Rev. Rul. 78-428. However, to come within the scope of the term 'relief of the poor,' you must show that the class you benefit, that of hourly wage earners, is lacking in the necessities or comforts of life; see Rev. Rul. 68-422.

Hourly wage earners are not, in general, indigent or poor in the sense that they are lacking in the necessities or comforts of life. Furthermore, aiding individuals in estate planning is not a charitable activity in the generally accepted legal sense. Rather, it is a commercially available service; see Rev. Rul. 76-442. It appears that you are providing ordinary commercial services to a group which cannot be described as a charitable class. Admittedly, hourly wage earners may, in some cases, find it

[REDACTED]

difficult to obtain legal services. In providing these people with legal services at reduced rates, you may be conferring some benefit on the community. This benefit, however, is not of a kind or an extent which the law regards as charitable.

You have also stated that you will conduct estate planning seminars for hourly wage earners. However, you have not described these seminars in sufficient detail for us to determine that they further an educational purpose as defined in section 1.501(c)(3)-1(d)(3) of the regulations. Even if we were able to determine that these seminars are educational, you would not qualify for exemption because your primary activity, providing legal services to hourly wage earners, does not further an exempt purpose.

Furthermore, like the organization described in Rev. Rul. 80-287, a substantial purpose of your program is promotion of the legal profession by referring clients to attorneys who contract with you. This is a noncharitable purpose, and, in accordance with section 1.501(c)(3)-1(a) of the regulations and *Better Business Bureau v. U. S.*, it precludes exemption under section 501(c)(3) of the Code.

Accordingly, based on all the facts and circumstances, we conclude that you do not qualify for recognition of exemption under section 501(c)(3) of the Code. Contributions to you are not deductible under section 170 and you are required to file federal income tax returns.

You have the right to protest this 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 proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available 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

[REDACTED]

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. Thereafter, any questions about your federal income tax status should be addressed to that office. The appropriate State officials will be notified of this action in accordance with section 6104(c) of the Code.

You will expedite our receipt of your reply by using the following address on the envelope:

[REDACTED]

Sincerely,

[REDACTED]
[REDACTED]
Chief, Exempt Organizations
[REDACTED]

Code	[REDACTED]		
Surname	[REDACTED]		
Date	[REDACTED]		