

NO PROTEST RECEIVED
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Date [REDACTED]

Signature [REDACTED]

[REDACTED]

[REDACTED]

Employer Identification Number: [REDACTED]
Key District: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(25). Based on the information submitted, we have concluded that you do not qualify for exemption under that section. The basis for our conclusion is set forth below.

You represent that you were formed on [REDACTED], in the State of [REDACTED]. You have not submitted your articles of incorporation (your charter of incorporation was forfeited to the State of [REDACTED] but was reinstated on [REDACTED]). You represent in your application for recognition of exemption that your purpose "is to own and operate a building for the benefit of [REDACTED]."

Article 2, section 2.01 and section 2.02 of your bylaws states that you have one class of members and they are the members of [REDACTED]. You claim that you are a wholly-owned entity of the aforementioned organization, and that it is a tax-exempt religious organization. You also submitted information to indicate that you may be exempt under section 501(c)(8) of the Code via a group ruling issued to [REDACTED].

Your statements of income and expenses for the tax years [REDACTED] through [REDACTED] indicate that your gross income was derived primarily from sale of beverages and food. Specifically, in [REDACTED], [REDACTED], [REDACTED] and [REDACTED], income from sale of the aforementioned comprised [REDACTED] percent, [REDACTED] percent, [REDACTED] percent and [REDACTED] percent, respectively. For the same period, the gross income derived from the rental of your building was [REDACTED] percent, [REDACTED] percent, [REDACTED] percent and [REDACTED] percent, respectively.

Section 501(c)(25)(A) of the Internal Revenue Code (Code) provides for exemption from federal income tax of any corporation or trust which--

- (i) has no more than 35 shareholders or beneficiaries
- (ii) has only 1 class of stock or beneficial interest, and
- (iii) is organized for the exclusive purposes of

- (I) acquiring real property and holding title to, and collecting income from, such property, and
- (II) remitting the entire amount of income from such property (less expenses) to one or more organizations described in section 501(c)(25)(C) which are shareholders of such corporation or beneficiaries of such trust.

Section 501(c)(25)(C) of the Code provides that an organization is described in this subparagraph if such organization is--

- (i) a qualified pension, profit sharing, or stock bonus plan that meets the requirements of section 401(a),
- (ii) a governmental plan (within the meaning of section 414(d)),
- (iii) the United States, any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing, or
- (iv) any organization described in section 501(c)(3).

Section 501(c)(25)(D) of the Code provides that a corporation or a trust shall in no event be treated as described in section 501(c)(25)(A) unless such corporation or trust permits its shareholders or beneficiaries--

- (i) to dismiss the corporation's or trust's investment adviser, following reasonable notice, upon a vote of the shareholders or beneficiaries holding a majority of interest in the corporation or trust, and
- (ii) to terminate their interest in the corporation or trust by either, or both, of the following alternatives, as determined by the corporation or trust:

(I) by selling or exchanging their stock in the corporation or interest in the trust (subject to any Federal or State securities law) to any organization described in subparagraph (C) so long as the sale or exchange does not increase the number of shareholders or beneficiaries in such corporation or trust above 35, or

(II) by having their stock or interest redeemed by the corporation or trust after the shareholder or

beneficiary has provided 90 days notice to such corporation or trust.

Section 501(c)(25)(G) of the Code provides the following:

(i) An organization shall not be treated as failing to be described in section 501(c)(25) merely by reason of the receipt of any otherwise disqualifying income which is incidentally derived from the holding of real property.

(ii) The aforementioned clause shall not apply if the amount of gross income described in such clause exceeds 10 percent of the organization's gross income for the taxable year unless the organization establishes to the satisfaction of the Commissioner that the receipt of gross income described in clause (i) in excess of such limitation was inadvertent and reasonable steps are being taken to correct the circumstances giving rise to such income.

Notice 86-18, 1987-4 I.R.B. 29 states that, to be recognized as exempt under section 501(c)(25) of the Code, the applicant's articles of incorporation must be contain provisions that clearly demonstrate that it meets the requirements noted in the preceding paragraphs.

You are not exempt under section 501(c)(25) due to the following reasons. First, membership in your organization is not limited to 35 shareholders or beneficiaries as required by section 501(c)(25)(A)(i) of the Code. Second, your shareholders or beneficiaries are not organizations described in Section 501(c)(25)(C) of the Code. Rather, they are individuals who are members of the [REDACTED]. Third, you are not organized exclusively to acquire, hold title to and collect income from real property. You operate a beverage and food service that generated more than [REDACTED] percent of your gross income for the tax years [REDACTED] through [REDACTED].

Fourth, even assuming that your shareholders or members are organizations described in section 501(c)(25)(C) of the Code, you do not remit the entire amount of income (less expenses) from the rental of such property to your shareholders or members. For example, for the tax years [REDACTED], [REDACTED], and [REDACTED], you had net income of \$[REDACTED], \$[REDACTED], and \$[REDACTED], respectively, from rental of your building. The net income, however, was used to pay the net losses generated by your beverage and food service operation and other activities that were unrelated to the purpose described under section 501(c)(25).

[REDACTED]

Fifth, section 501(c)(25)(i) & (ii) of the Code provide that any gross income not derived from the holding of real property shall not exceed 10 percent. Otherwise, an organization shall not be described in section 501(c)(25). For the tax years 1994, 1995 and 1996, more than 50 percent of your gross income was derived from your beverages and food operation, an activity unrelated to the purpose described under section 501(c)(25). Consequently, you failed to meet the requirement of section 501(c)(25)(i) & (ii). Finally, your bylaws do not contain provisions that satisfy the requirements of section 501(c)(25)(D) of the Code.

Accordingly, you do not qualify for exemption as an organization described in section 501(c)(25) of the Code and you must file federal income tax returns.

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

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key district office. Thereafter, any questions about your federal income tax status should be addressed to that office.

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

[REDACTED]

[REDACTED]

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

Sincerely,

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

cc: [REDACTED]
[REDACTED]

cc: [REDACTED]
[REDACTED]
[REDACTED]

M. Seb
5/26/98
CP:Z:ZU:TI:3

CP:Z:ZU:TI:3
Huyepan Kachin
5/27/98