

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

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Date: 11-16-99  
By: [REDACTED]

Date: SEP 28 1999

Contact Person: [REDACTED]

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Telephone Number: [REDACTED]

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

Employer Identification Number: [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)(3). 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.

Your stated primary goal is to promote traditional [REDACTED] principals in the [REDACTED] and [REDACTED]. The stated secondary goal is to provide information and networking opportunities for State Representatives.

You are a non-stock, [REDACTED] not-for-profit corporation formed on [REDACTED]. The provisions for establishing membership and participation in the corporation are: 1. Membership in the [REDACTED]. 2. Agreement with traditional [REDACTED] principals as promoted by the [REDACTED]. 3. Acceptance by a majority vote of the Board of Directors.

Donations will come mostly from members. A few donations will come from individuals supportive of the organization. While no solicitations are planned, you informally encourage donations at meetings.

Your organization was formed to help supplement the needs of legislators. It is to provide opportunities to network, share information, and work on collective projects. It is stated that this organization will not be involved in elections or promoting candidates, but focus on their jobs as legislators. You state that your existence will allow legislators opportunity to explore solutions to legislative problems. In your Articles of Incorporation, [REDACTED] you state that the purpose of this corporation is "to promote traditional [REDACTED] principles in the [REDACTED] and the state of [REDACTED]."

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

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) of the regulations defines the organizational test generally. 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 purpose; and
- (b) Do not expressly empower the organization to engage, otherwise than as 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 is engaged 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) of the regulations state in general an organization may be exempt as an organization described in section 501(c)(3) if it is organized for one or more of the following purposes: (a) Religious, (b) Charitable, (c) Scientific, (d) Testing for public safety, (e) Literary, (f) Educational, (g) Prevention of cruelty to children or animals.

Section 1.501(c)(3)-1(d)(1)(iii) of the regulations states that an organization is not organized or operated for one or more exempt purposes unless it serves a public rather than a private interest. Accordingly, 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, shareholders, or persons controlled, directly or indirectly, by such private interests.

Section 1.501(c)(3)-1(c)(3)(iii) of the regulations states an organization is an "action" organization if a substantial part of its activities is attempting to influence legislation by propaganda or otherwise.

Rev. Rul. 76-456, 1976-2 C.B. 151, holds that an organization formed to elevate the standards of ethics and morality in the conduct of political campaigns that disseminates information concerning general campaign practices, furnishes teaching aids to political science and civics teachers, and publicizes its proposed code of fair campaign practices without soliciting the signing or endorsement of the code by candidates qualifies as an educational organization under section 501(c)(3) of the Code.

Rev. Rul. 78-248, 1978-1 C.B. 154, holds that certain "voter education" activities conducted in a nonpartisan manner by an organization recognized as exempt under section 501(c)(3) of the Code will not constitute prohibited political activity disqualifying the organization from exemption.

*Harding Hospital, Inc. v. United States*, 505 F.2d 1068 (1974), holds that an organization seeking a ruling as to recognition of its tax-exempt status has the burden of proving that it satisfies the requirements of the particular exemption statute. Whether an organization has satisfied the operational test is a question of fact. See, also, *Christian Stewardship Assistance, Inc. v. Commissioner*, 69 T.C. 1037, 1042 (1978).

*Better Business Bureau v. United States*, 316 U.S. 279 (1945), holds that the existence of a single non-exempt purpose, if substantial in nature, will destroy the exemption under section

501(c)(3). 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 purposes.

*The Association of the Bar of the City of New York v. Commissioner*, 858 F. 2d 876 (2d Cir. 1988), cert. denied, 490 U.S. 1030 (1989) held that the Association's significant activity of the rating of candidates for both appointive and elective judgeships at the municipal, state and federal lever constituted intervention or participation in political campaigns on behalf of candidates for public office.

*American Campaign Academy v. Commissioner*, 92 T.C. 1053 (1989), held that a school organized to train individuals as political campaign professionals; was not exempt under IRC 501(c)(3) because the school operated for the substantial nonexempt purpose of benefiting the private interests of the Republican Party entities and candidates. Although the school had a legitimate educational program, the Tax Court held that the school conducted its educational activities with the partisan objective of benefiting the private interests of the Republican Party as evidenced by:

- 1) the composition of the school's board of directors
- 2) the failure of the school to counterbalance the Republican Party focus of its curriculum with comparable studies of Democratic or other political parties.
- 3) the incorporation of the school by the General Counsel of the NRCC, an unincorporated association comprised of Republican members of the House of Representatives and,
- 4) a lack of showing by the school that its graduates served in Congressional and Senatorial campaigns of candidates from both major political parties in substantial numbers.

Your organization has failed to satisfy the federal tax law organizational requirements for charitable entities because you have not included in your articles of incorporation provisions, which indicate that your organization is organized exclusively for one or more tax-exempt charitable purposes.

Your activities are designed to represent "traditional [redacted] principles". Your activities benefit [redacted] by creating a [redacted] agenda to help [redacted] to win elections and, thereby, to continue their political careers.

Your activities are also designed to enhance the electoral and political fortunes of the [redacted]. [redacted] is strengthened when individuals participate in your partisan activities. These activities generate public support and enthusiasm for your policies and positions. In turn, the public support and enthusiasm may enhance the election or reelection prospects of [redacted] politicians (i.e. their political careers) and, thereby, the fortunes of the [redacted]. Your activities are partisan in nature due to the fact that [redacted] are the only participants. See, *American Campaign Academy, supra*.

Therefore activities substantially benefit the private interests of [redacted] entities and members, thereby advancing a nonexempt private purpose. The presence of a single substantial nonexempt purpose destroys the exemption regardless of the number or importance of the exempt purposes. *Better Business Bureau v. United States, supra*.

Your organization can be distinguished for the organization in Rev. Rul. 76-456, *supra*, where the activities of the organization were nonpartisan in nature. Your organization, on the other hand, has a board of directors who are all elected [redacted] lawmakers and members of your organization.

Since your organization is made up of legislators and is designed to aid these legislators in

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