

Internal Revenue Service

Department of the Treasury

Date:

In re:
Exempt Status

Tax Periods Ended:
December 31, 1995 and
Subsequent Calendar Years

Person to Contact:

CERTIFIED MAIL

Contact Telephone Number:

Form Number:
1041

Dear Sir:

This is a final adverse determination as to your exempt status under section 501(c)(3) of the Internal Revenue Code.

Section 501(c)(3) of the Internal Revenue Code provides for the exemption of certain types of organizations and places three limitations on qualifying organizations, one of which is as follows:

"... no part of the net earnings of which inures to the benefit of any private shareholder or individual".

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations states:

"An organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (i) of this subparagraph unless it serves a public rather than a private interest. Thus, to meet the requirements of this subdivision, 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 or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests."

The Fund was established under ITEM III(F) of the Last Will and Testament of [REDACTED] which states, in part, as follows:

"... The purpose of the fund is to provide an Education Awards Program to encourage and assist the lineal descendants of [REDACTED], to further their educational and professional training, financed by income from the fund. Awardees shall be determined by a committee of three unrelated to the [REDACTED] Family, appointed by the administrators of the fund, consisting of one professor of higher education, one high school counselor and one from the field of technology."

The [REDACTED] is established to benefit designated individuals, the lineal descendants of [REDACTED]. Therefore, it serves "private" rather than "public" interests

and does not qualify for recognition of exemption under section 501(c)(3) of the Internal Revenue Code.

Contributions to your organization are not deductible under Code Section 170.

You are required to file Federal income tax returns on the form and for the years indicated above with the appropriate service center shown in the instructions for those returns.

If you decide to contest this determination under the declaratory judgment provisions of Code section 7428, a petition to the United States Tax Court, the U.S. Court of Federal Claims, or the district court of the United States for the District of Columbia must be filed within 90 days from the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for filing petitions for declaratory judgment.

We will notify the appropriate State officials of this action, as required by Code section 6104(c).

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

Sincerely yours,

Margaret Milner Richardson
Commissioner
by [REDACTED]

Associate Chief, Appeals Office

cc: [REDACTED]

Internal Revenue Service
District Director

Department of the Treasury
EP/EO Division
Review Staff, Stop 516-D
P.O. Box 1055
Atlanta, GA 30370

Person to Contact:

██████████
Telephone Number

██████████
Employer ID Number:

██████████
File Folder Number:

██████████
Date: JAN 24 1996

██████████
2012-01-18
Certified Mail-Return Receipt Requested

Dear Sir:

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

You are a testamentary trust formed upon the death of ██████████ on ██████████ pursuant to the provisions of her will. The will established the ██████████. It states, "the purpose is to provide an Educational awards Program. to encourage and assist the lineal descendants of ██████████, husband of the testator. Your only activity is selecting recipients to receive financial assistant for educational achievements. Your trustees are the sons of ██████████. Lineal heirs of ██████████ may apply for the scholarships. The selection committee will be appointed by the trustees in accordance with the directions of the Will of ██████████.

Section 1.501(c)(3)-1(c)(2) of the Income Tax Regulations provides that "an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals."

Section 1.501(c)(3)-1(b)(1)(vi) of the Regulations provides that "in no case shall an organization be considered to be organized exclusively for one or more exempt purposes, if, by the terms of its articles, the purposes for which such organization is created are broader than the purposes specified in section 501(c)(3). Since your trust document provide for purposes broader than the purposes specified in section 501(c)(3) your organizing document does not meet the organizational test of section the above regulations.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that, "An organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (i) of this subparagraph unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, 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 or his family, shareholders of the organization, or persons controlled directly or indirectly, by such private interests."

Section 1.501(a)-1(c) of the income tax regulations provides, in part, as follows "... the words private shareholder or individual in section 501 refer to persons having personal and private interest in the activities of the organization.

Revenue Ruling 67-367, 1967-1 C. B. 188, holds that a nonprofit organization whose activities include the operation of a "scholarship" plan for making payments to pre-selected, specifically named individuals does not qualify for exemption from Federal income tax under code section 501(c)(3) of the Internal Revenue Code of 1954.

Revenue Ruling 57-449, 1957-2 C.B., 622, holds that a trust set up to pay a certain sum to all individuals enrolled in a certain school on a particular date was held to be a private trust, not a charitable trust. The beneficiaries were a group of identifiable individuals.

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for charitable purposes. However, to be exempt under this section of the Code, an organization must serve a public rather than a private interest. It must not be operated for the benefit of private interests such as designated individuals. Whereby your organization pays "scholarships" to specifically named individuals designated by subscribers, the organization is serving private interests rather than public charitable and educational interests contemplated under section 501(c)(3) of the Code. Therefore, your organization does not qualify for exemption from Federal income tax.

Since your organization is organized to award scholarships to descendants of the founder, you are not organized and operated for exempt purposes described under section 501(c)(3). According to the scholarship awards program discussed in your application, you are serving the private interests of the founder.

Accordingly, you do not qualify for exemption from Federal income tax under section 501(c)(3) of the Code or under any related paragraph of the Internal Revenue Code. Contributions to you are not deductible under section 170 of the Code. You must file Federal income tax returns.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this, you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutual convenient district office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax information authorization with us.

If you do not appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination in this matter. Further, if you do not appeal this determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust administrative remedies. Section 7428(b)(2) of the code provides, in part, that, " A declaratory judgment or

[REDACTED]

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 Code."

If we do not hear from you within 30 days, this ruling will become our final determination on this matter. Also, appropriate State officials will be notified of this action in accordance with section 6104(c) of the Code.

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

Sincerely,

[REDACTED]

District Director

Enclosure:
Publication 892