

Internal Revenue Service

Department of the Treasury

NO POSTAGE RECEIVED  
FIRST CLASS PERMIT NO. 1000 WASHINGTON, DC  
file

Washington, DC 20224

SEP 12/2/96  
Surname [REDACTED]

[REDACTED]

Person to Contact: [REDACTED]

Telephone Number: [REDACTED]

Refer/Reply to: CP:E:EO:T:5

Date: SEP 17 1996

Employer Identification Number: [REDACTED]  
Key District: Southeast (Baltimore, MD)

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.

According to your Form 1023 Application and correspondence, you were organized on [REDACTED] as a [REDACTED] nonprofit corporation. Your articles of incorporation include the following purposes:

- A. Convene conferences of state legislators and state policymakers and private sector executives to examine the role of state governments in developing and shaping policies on issues ranging from healthcare to welfare
- B. Provide educational forums for the exchange of ideas between state government officials and private sector executives on policy issues ranging from healthcare to welfare

Your goal and purpose is to organize and conduct forums that bring together state policy and legislative leaders with private-sector executives to discuss and examine major state issues of mutual interest. Your educational meetings examine major state policy issues with an emphasis on how various policy options might impact the private sector. The conferences also give special consideration to the potential private-sector role in implementing state policy and program solutions. The program design and conference events emphasize interaction among legislative leaders and private-sector participants. Along with about 60 representatives of your sponsoring organizations, you plan to have about 40 legislative leaders from twenty states participating in each conference. You pay the legislators' expenses to attend.

[REDACTED]

The first invitational conference, on "[REDACTED]" was held on [REDACTED]. Fourteen corporations sponsored the conference, and 30 legislative leaders representing 19 states participated. In your letters to prospective corporate sponsors (e.g., page 2 of the [REDACTED] letter to BlueCross BlueShield Association), you have stated that

From all the comments of state legislative leaders and company participants alike, it was an extremely worthwhile conference for developing both state policy information and relationships among legislative leaders and company managers.

The second conference, on "[REDACTED]" was held in [REDACTED]. The third, "[REDACTED]" held in [REDACTED], addressed health care issues, including a critical look at [REDACTED]'s experimental Medicaid program. The fourth, "[REDACTED]" was held in [REDACTED].

In addition to invitational conferences, you are also available to sponsor and conduct conferences for individual companies and associations. You held such a conference with a grant from [REDACTED] in [REDACTED]. You are organizing a state legislative leaders conference for [REDACTED] that will be held in [REDACTED]. You plan to conduct 3-4 such conferences during the next year.

You have no members and a board of three directors who elect themselves. The directors consist of [REDACTED], [REDACTED] (who is also your Executive Director and is married to [REDACTED]), and [REDACTED] (who is also your attorney). You lease office space from [REDACTED]'s law firm. You plan to add four more directors, representing state legislative and policy leaders and private-sector sponsors.

You also have two advisory boards to advise the organization on educational content. One consists of state legislators and political science experts, and the other consists of corporate sponsors. Your corporate sponsors and the members of your Private Sector Advisory Committee consist mainly of pharmaceutical companies, although you are recruiting other sponsors. From the information submitted by you, it appears that the topics to be discussed are selected by your corporate sponsors and directors.

[REDACTED]

You will rely solely on contributions from private companies and industry associations for support. Conference sponsor fees are \$ [REDACTED] per company. Conference sponsors are asked to suggest legislators whom you should invite to the conference. A \$ [REDACTED] annual "contribution" allows a company to participate in all "invitational" conferences as an "Institute Sponsor." A \$ [REDACTED] annual "contribution" allows a company a seat on the advisory board ("Private Sector Advisory Committee") as well as participation in conferences. A company's Private Sector Advisory Committee status includes the following benefits:

- Nominate state legislative and policy leaders to be invited to Institute conferences
- Attend special events scheduled at conferences for members of the Private Sector Advisory Committee and state legislative leaders
- Priority standing for arranging for the Institute to sponsor conferences for individual companies and associations

In question #1 of our [REDACTED] letter to you, we requested a copy of each publication disseminated to state policymakers and private sector leaders. You failed to include such publications with your [REDACTED] response.

Section 501(c)(3) of the Internal Revenue Code exempts from federal income tax organizations organized and operated exclusively for charitable, educational, or certain other purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that an organization "operates exclusively" for 501(c)(3) purposes only if it engages primarily in activities that accomplish such purposes. It does not operate exclusively for 501(c)(3) purposes if more than an insubstantial part of its activities does not further such purposes.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized or operated exclusively for exempt purposes under Section 501(c)(3) of the Code unless it serves a public rather than a private interest. Thus, an organization must 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 by such private interests.

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279 (1945), the Supreme Court upheld a determination by the Service that an organization was not exempt under the section 501(c)(3) predecessor statute. The organization's charter indicated the following purpose:

the mutual welfare, protection and improvement of business methods among merchants . . . so that the public can obtain a proper, clean, honest and fair treatment in its dealings or transactions with such merchants . . . and at the same time protecting the interest of the latter classes of businesses to enable such as are engaged in the same to successfully and profitably conduct their business.

The court stated that the presence of a single non-exempt purpose, if substantial in nature, will destroy exemption regardless of the number or importance of truly exempt purposes, and reasoned that an important if not the primary pursuit of the organization was to promote not only an ethical but also a profitable business community.

Although your activities may serve to educate legislators and others, they also serve the private interests of your corporate sponsors. A substantial part of your activities appears to be providing exclusive access to legislators (or other policymaking government officials) to companies willing to pay. You tout the benefit of company representatives forming relationships with legislators at the conferences in your solicitation of sponsors, and the conferences are designed to facilitate such interaction. The general public is not invited to the conferences. Corporate sponsors may suggest legislators whom they would like to have invited to the conference and may also arrange individual conferences with legislators for a premium. Companies represented on the Private Sector Advisory Committee have even greater opportunities to seek the invitation of particular legislators to conferences, attend special events with legislators, and arrange for individual conferences with legislators. Therefore, we find that you are not organized and operated exclusively for charitable or educational purposes, but also for the substantial non-exempt purpose of facilitating the ability of your sponsors to lobby legislators, and that your activities serve the private interests of your corporate sponsors.

Accordingly, you do not qualify for exemption as an organization described in section 501(c)(3) of the Code and you must file federal income tax returns.

[REDACTED]

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

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 you do not protest this 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 United States Court of Federal Claims, 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 office. 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 Code section 6104(c).

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

Internal Revenue Service  
Attn: CP:E:EO:T:5 WT, Room 6539  
1111 Constitution Ave, N.W.  
Washington, D.C. 20224

[REDACTED]

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

Sincerely,

(signed) [REDACTED]

[REDACTED]  
Chief, Exempt Organizations  
Technical Branch 5

cc: [REDACTED]

10/12/96  
C/E, EOFS  
[REDACTED]  
10/17/96