

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

RECEIVED
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224
DATE 11-10-72



Person to Contact: [REDACTED]

Telephone Number: [REDACTED]

Refer Reply to: [REDACTED]

Date:

Employer Identification Number: [REDACTED]

Key District: Los Angeles

Dear Applicant :

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

The information submitted discloses that you were incorporated on [REDACTED]. Your purposes as stated in your articles of incorporation are to "provide financial services to or on behalf of public benefit agencies - in particular, public benefit corporations, governmental units or the agents of such units. Services may include the establishment of a pooled fund for the bonds or other loan instruments of these agencies, underwriting, insuring and/or marketing said bonds and instruments so as to provide these agencies with money for their activities. Services may also include direct funding or loan of funds to these agencies, establishing or managing of charitable trusts for the benefit of these agencies, and serving as a fiduciary with respect to their transactions. Services may include banking services to or for the benefit of other public benefit agencies, or insurance against liability or property loss. Services may include any reasonable extension of the above stated financial services."

In your application for exemption, you indicated that several kinds of activities are anticipated. For the immediate future you intend to focus on helping public benefit corporations in securing loans. In particular, you point out that certain sections of the Internal Revenue Code allow organizations which are exempt under section 501(c)(3) to issue tax-exempt bonds for the purpose of constructing exempt-purpose facilities and for the purchase of exempt-purpose personal property. You state that the borrowing needs of many of these public benefit corporations are too small to be worth the legal complexity and cost of floating a tax-exempt bond issue. Therefore, it will be necessary to locate a bank, trust company, or other corporate lender who needs tax-exempt income. If possible, the money would be secured by the assets and good credit of the borrower, but it might be necessary to secure the debt by a letter of credit purchased from a bank.

All of these coincident requirements, as well as obtaining sanction from state or local authority, will require the time and knowledge of your officers. In exchange for these services, you will charge a fee that will be 1% for small loans.

Another activity will be to form a bond-pool. For this purpose, borrowing needs of the various other public benefit agencies will be aggregated, and bonds to cover the borrowing processing cost will be issued by you. Initially, you will be operating without major assets, and it will be necessary to get other firms to underwrite the issue, provide default insurance, and perhaps to provide additional guarantees in order to upgrade the bond rating. Once you have an "endowment" base, however, you should be able to save many of these costs by underwriting and securing the bonds yourself. You will also render consulting or advisory services to such entities to assist them in satisfying their financial needs.

Additional financial services may be added in future years if it becomes clear that you can reduce the costs or improve the options available to other public benefit entities.

Your anticipated sources of support will be from broker fees and your anticipated expenses will be mainly for the cost of obtaining legal advice, counseling on business practice, and office expenses. Any profits will be retained to build a better base for future activities.

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(a) of the Income Tax Regulations provides that in order to be exempt as an organization described in section 501(c)(3), the organization must be one that is both organized and operated exclusively for one or more of the purposes specified in that section. An organization that fails to meet either the organizational or the operational test is not exempt.

Section 1.501(c)(3)-(c)(1) of the regulations states that 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 exempt purposes. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. The presence of a single nonexempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes. Better Business Bureau v. U.S., 326 U.S. 279 (1945).

Rev. Rul. 72-369, 1972-2 C.B. 245, holds that an

organization formed to provide managerial and consulting services at cost to unrelated exempt organizations does not qualify for exemption under section 501(c)(3) of the Code. This revenue ruling points out that an organization is not exempt merely because its operations are not conducted for the purpose of producing a profit. To satisfy the "operational test" the organization's resources must be devoted to purposes that qualify as exclusively charitable within the meaning of section 501(c)(3) and the applicable regulations.

Rev. Rul 69-528, 1969-2 C.B. 127, holds that an organization regularly carrying on an investment service business that would be unrelated trade or business if carried on by any of the exempt organizations on whose behalf it operates is not exempt under section 501(c)(3) of the Code. This revenue ruling points out that providing investment services on a regular basis for a fee is a trade or business ordinarily carried on for profit. If the services were regularly provided by one tax-exempt organization for other tax-exempt organizations, such activity would constitute unrelated trade or business.

Rev. Rul. 71-529, 1971-2 C.B. 234, holds that a nonprofit organization that provides assistance in the management of participating colleges' and universities' endowment or investment funds for a charge substantially below cost qualifies for exemption under section 501(c)(3) of the Code. Revenue Ruling 69-528 was distinguished because in that revenue ruling the facts indicated the organization was primarily engaged in carrying on an investment management business for charitable organizations on a fee basis free from control of the participants.

B.S.W. Group, Inc. v. Commissioner, 70 T.C. 352 (1978), describes an organization which provided management consulting services for a fee to nonprofit organizations, some of which were exempt and some of which were not. The nonprofit organizations engaged in various rural-related activities designed to improve health, housing, and vocational skills. The Tax Court upheld the Service's determination that the organization did not qualify for exemption under section 501(c)(3) of the Code. The Court held that the organization's activities constituted the conduct of a consulting business of the sort which is ordinarily carried on by commercial ventures organized for profit.

Rev. Rul. 85-1, 1985-1 C.B. 177, holds that an organization that provides funds to a county's law enforcement agencies to police illegal narcotic traffic lessens the burdens of government and, therefore, qualifies for exemption under section 501(c)(3) of the Code. This revenue ruling states that the criteria for determining whether an organization's activities are lessening the burdens of government are: first, whether the governmental unit considers the organization's activities to be its burden;

and second, whether these activities actually lessen the burden of the governmental unit. An activity is a burden of the government if there is an objective manifestation by the governmental unit that it considers the activities of the organization to be its burden. The interrelationship between the governmental unit and the organization may provide evidence that the governmental unit considers the activity to be its burden. Whether the organization is actually lessening the burdens of government is determined by considering all of the relevant facts and circumstances.

Rev. Rul. 85-2, 1985-2 C.B. 178, holds that an organization that provides legal assistance to guardians ad litem representing neglected or abused children before a juvenile court that requires their appointment lessens the burdens of government and, therefore, qualifies for exemption under section 501(c)(3) of the Code.

The information submitted indicates that your primary activities will be to provide financial services to public benefit corporations and other organizations that are exempt from Federal income tax. Providing such services on a regular basis for a fee is a trade or business ordinarily carried on for profit. The facts that (1) these services will be provided solely for public benefit corporations and/or tax-exempt organizations, that (2) such services will assist such organizations in carrying out their public or exempt purposes, and that (3) such services will result in substantial savings to the organizations are not sufficient to characterize such services as charitable within the meaning of section 501(c)(3) of the Code and the applicable regulations. Although you will provide financial services to public benefit corporations, there is no indication that such an activity is a burden of a governmental unit or that any governmental unit considers your activities to be its burden. Therefore, you have not shown that your activities will lessen the burdens of government within the contemplation of Revenue Rulings 85-1 or 85-2. Accordingly, it is our conclusion that you will not be "operated exclusively" for an exempt purpose specified in section 501(c)(3) of the Code, and you are not entitled to exemption from Federal income tax under that section of the Code. You are, therefore, required to file income tax returns.

You have 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 judgment or decree under this section shall not be issued in any proceeding unless the United States Tax Court, the United States 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.

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, if you have any questions about your Federal income tax status, including questions concerning reporting requirements, please contact your key District Director.

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

Internal Revenue Service
E:EO:R:1-1, Room 6047
1111 Constitution Ave., N.W.
Washington, D.C. 20224

Sincerely,

[Redacted Signature]

Chief, Exempt Organizations
Rulings Branch 1

12-1-92
✓ [Handwritten initials]

cc: DD, Los Angeles
Attn: EO Group

cc: [Redacted]

[Redacted]