



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

Date: DEC 10 2002

Contact Person: [REDACTED]

Identification Number: [REDACTED]

Contact Number: [REDACTED]  
Fax: [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.

You were incorporated on [REDACTED] and your Certificate of Incorporation stated purposes were as follows:

To establish and operate a place where men may live together in a community and share a life of prayer, contemplation, work, play, study and service. The participants shall support each other in spiritual, emotional, physical, intellectual and material growth. The Corporation shall provide participants with opportunities in spiritual healing, spiritual education, and spiritual guidance.

Since then you have amended your Certificate of Incorporation to provide for religious and charitable purposes.

You state that you are an interfaith order of men in search of unnamable God. Your members are called monks and adhere to communal living. You are not affiliated nor are you seeking affiliation with any religious order or church. A prologue to your mission statement and rules state that because of many factors, including sexual orientation, you found it necessary to choose out of organized religion and thus out of those monastic communities of organized religion that might have fostered your vocation as monks.

Your mission statement provides the following:

The purpose of this order to support each other in spiritual, emotional, physical, intellectual, and material growth.



The programs include lodging, three meals per day, snacks, all amenities including pool, sauna and hot tub. There are four choices of lodging: a semi-private room includes two double beds and private bath; a quad includes four single bunks and a private bath; a dome is a dormitory style accommodation for up to twelve persons and shared baths; a private tent on a platform; and pitching your own tent on the camping ground.

Your program fees include tuition and accommodations. Depending on the program and choice of lodging, your fees vary from \$ [REDACTED] (pitching your own tent accommodation) to \$ [REDACTED] (semi-private accommodation). Individual massage and bodywork is available between workshop sessions for an extra cost.

You also offer services to the public that are available between sessions of your sponsored festivals, retreats, and workshops. Your one-hour session rates for these services are as follows:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Your activities include a daily schedule consisting of periods of yoga, reading, praying and singing. You also conduct a Sunday service consisting of praying, reading, singing, and dancing.

You lease the facility you use for conducting your activities. The leased facility is also used as a residence for your members. Four members are currently residing at the facility.

Your funds are primarily from income from program and service fees, contributions, and payments from members. Funds are used primarily for payment of rent, food, utilities, and other expenses.

You have submitted financial statements for two periods, which include [REDACTED] through [REDACTED], and [REDACTED] through [REDACTED]. No financial statement on actual operation was provided from your incorporation on [REDACTED] through [REDACTED]. However, your application included a budget for that none-month period.

The financial statements for the two periods reported total receipts of \$ [REDACTED] consisting of \$ [REDACTED] of contributions, \$ [REDACTED] of service/retreat fees, and \$ [REDACTED] from members as household payments. For the same periods, you report spending \$ [REDACTED] as follows: \$ [REDACTED] for food; \$ [REDACTED] for rent; \$ [REDACTED] for telephone and utilities; \$ [REDACTED] for household; \$ [REDACTED] for legal; \$ [REDACTED] for printing/postage; \$ [REDACTED] for lawn care; and \$ [REDACTED] for other expenses.

Section 501(c)(3) of the Code provides exemption to organizations organized and operated exclusively for religious, educational, charitable or other exempt purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(a)-1(c) of the Income Tax Regulations provides that the words "private shareholder or individual" in section 501 refer to persons having a personal and private interest in the activities of the organization.

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 engages primarily in activities which accomplish one or more 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)(1)(ii) of the regulations provides that an organization is not organized and operated exclusively for one or more exempt purposes 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 creators, shareholders of the organization or persons controlled, directly or indirectly, by such private interests.

Generally, courts have concluded that an applicant bears the burden of establishing that it meets the requirements for recognition of exempt status. In numerous cases, courts have upheld Service rulings denying recognition, where an applicant failed to establish its exempt purpose, or that it did not have substantial non-exempt purposes. See, e.g., *La Verdad v. Commissioner*, 82 T.C. 215 (1984) (lack of "concrete information" about future operations); *General Conference of the Free Church of America v. Commissioner*, 71 T.C. 920 (1979) ("incomplete" and "ambiguous" responses to questions posed by IRS); *Levy Family Tribe Foundation v. Commissioner*, 69 T.C. 615, 619 (1978) ("[R]ecord is replete with unsupported generalizations [that are] too general and lack the facts necessary to establish public, rather than personal, purposes . . ."); *Church in Boston v. Commissioner*, 71 T.C. 102, 106-07 (1978) ("documented criteria which would demonstrate the [grant] selection process of a deserving recipient, the reason for specific amounts given, or the purpose of the grant"); *American Science Foundation v. Commissioner*, T.C. Memo. 1986-556 (grant selection criteria and procedures); *Pius XII Academy, Inc. v. Commissioner*, T.C. Memo. 1982-97 (vague generalizations about proposed school operations); see also *Basic Bible Church of America v. Commissioner*, T.C. Memo. 1983-287 (failure to submit books and records for examination supports inference that activities were not in furtherance of exempt purposes).

In *Better Business Bureau of Washington, D.C., Inc. v. United States*, 326 U. S. 279 (1945), the Supreme Court of the United States interpreted the requirement in section 501(c)(3) that an organization be "operated exclusively" by indicating that in order to fall within the claimed exemption, an organization must be devoted to exempt purposes exclusively. This plainly means that the presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number and importance of truly exempt purposes.

Rev. Rul. 77-366, 1977-2 C.B. 192, holds that a nonprofit organization formed to provide a continuing educational program and whose only activities consisted of the regular arrangement and conduct of fourteen-day wintertime cruises on chartered ships was accomplishing both exempt and nonexempt purposes. For approximately four hours on each of the nine days the ship was at sea, the organization conducted lectures, discussions, and workshops. The

remainder of the time was available for meals, recreational activities, and social functions. Many of the social and recreational functions were arranged as part of the cruise, and recreational facilities were readily at hand for use. A day was spent at each of five different ports of call where arrangements were made for general sightseeing tours and shopping opportunities. At three of the ports of call, the cruise-sponsored programs also enabled the participants to spend minor portions of their time ashore meeting with local church leaders, attending worship services, and/or visiting mission projects.

The ruling held that the lectures, discussions, workshops, and some of the activities on shore further exempt purposes under section 501(c)(3) of the Code. However, the extensive amount of time, energy, and other resources, which were regularly devoted to the conduct of social and recreational activities, together with the manner in which such activities were scheduled in relation to other cruise programs, serve substantial independent purposes of a non-charitable nature.

While we acknowledge that some of your workshops and similar programs may be educational or in furtherance of an educational purpose, you are also engaged to a significant degree in activities that further purposes other than purposes exempt under section 501(c)(3) of the Code. In particular, we find that your sponsored festivals and similar programs further recreational and social purposes of participants. By engaging to a substantial degree in activities that are not in furtherance of an exempt purpose, you are not operated exclusively for one or more exempt purposes under section 501(c)(3) of the Code. See section 1.501(c)(3)-1(c)(1) of the regulations. See also *Better Business Bureau, supra*.

You have the burden of establishing that your activities are devoted exclusively to charitable purposes. *La Verdad v. Commissioner, supra*. You have failed to establish that you are organized and operated exclusively for purposes described in section 501(c)(3) of the Code. 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.

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 to this office, 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 a copy will be forwarded to the Ohio Tax Exempt and Government Entities (TE/GE) office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 877-829-5500 (a toll free number) or sending correspondence to: Internal Revenue Service, TE/GE Customer Service, P.O. Box 2508, Cincinnati, OH 45201. 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  
TEGE,  
1111 Constitution Ave, NW  
Washington, D.C. 20224

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

Sincerely,

(signed)  
Manager, Exempt Organizations  
Technical Group 3

copy:

copy:

Form 1937-A	Initiator	Reviewer 1	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
CODE							
Surname							
Date	12/09/02						