

FEB 0 2 1982

Dear Applicant:

We have completed our review of the application for recognition of exemption from Federal income tax which you recently filed.

The information submitted indicates that you were incorporated [REDACTED], under the laws of [REDACTED] for the purpose of holding church services and administering to the religious needs of the members of the church and of the community.

Your activities consist mainly of conducting a religious service each Wednesday at the home of your President and Minister. The services are geared to spiritual counseling, bible study and prayer. Attendance at these services range from five to thirty.

The officers of this church include the President, [REDACTED], who serves as Minister of the church and [REDACTED] and [REDACTED], daughters of the President, who serve in the capacity as secretary and treasurer.

All of the directors are employed in secular employment on a full-time basis. Minimal time is spent in church activities.

Funds for the organization total [REDACTED]. Of this amount, \$[REDACTED] has been donated by the minister to buy equipment for the services.

Section 501(c)(3) of the Internal Revenue Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for one or more exempt purposes.

Section 501(c)(3) of the Internal Revenue Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, and educational, religious and other stated purposes.

Income tax regulations section 1.501(a)(3)-(1)(A)(1) provides that, to be exempt, an organization described in section 501(c)(3) must be both organized and operated exclusively for one or more of the purposes described in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Regulations section 1.501(c)(3)-1(b)(1) specifies that an organization is organized exclusively for one or more exempt purposes only if its Articles of Incorporation limit the purposes of such organization to one or more exempt purposes.

Regulations section 1.501(c)(3)-1(b)(c) specifies that an organization is not organized for one or more exempt purposes unless its assets are dedicated to an exempt purpose.

Regulations section 1.501(c)(3)-1(c)(1) stipulates that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish any or more of such exempt purposes specified in section 501(c)(3). An organization will not be regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Regulations section 1.501(c)(3)-1(d)(1)(ii) specifies that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves public rather than private interests.

To qualify for exemption under section 501(c)(3), the applicant has the burden of showing (1) that it was organized and operated exclusively for religious or charitable purposes, (2) that no part of its earnings inured to the benefit of a private individual or shareholder, and (3) that no substantial part of its activities consisted of the dissemination of propaganda or otherwise attempting to influence legislation or engaging in political activity.

To qualify for recognition as a church within the meaning of section 170(b)(1)(A)(i) of the Code, an organization must, at a minimum, establish that it has a body of believers or communicants that assembles regularly in order to worship and that it is reasonably available to the public in its conduct of worship and educational instruction and promulgation of its doctrine.

In *Truth Tabernacle, TC 1981-214*, the U.S. Tax Court ruled that an organization claiming to be a church had the burden of proving that it qualified under this classification. In this case, Truth Tabernacle claimed it was a church, but did not furnish any documentation to the Service that it conducted regular religious services to an established congregation. Control of the organization was vested in the hands of the organization's founders and his family. Truth Tabernacle also did not maintain proper financial records so that the Service could determine whether or not expenditures were made for charitable or religious purposes. The Court ruled that the organization was not entitled to exemption under section 501(c)(3) or to classification as a church since it did not submit sufficient information to establish exemption.

In *American Guidance Foundation versus Commissioner*, November, 1980 an organization that held religious services in their personal residence applied for recognition of exemption as a church. The Court ruled in this case that the applicant, while sincere in his beliefs, was engaging in private religious enterprise, the court held that conducting religious services in the privacy of a personal residence does not give the communal activity necessary for a church. An organization claiming exemption under this classification must employ recognized accessible channels of instruction and worship, since private religious beliefs, practiced in the solitude of a family living room, cannot transform a man's home into a church.

Based on the information submitted, we have determined that you have not met the burden of proof required to establish exemption as an organization described in section 501(c)(3) since you fail both the organizational and operational tests required for exemption.

You fail the organizational test because your articles of incorporation do not contain the necessary dedication of assets clause required for exemption under section 501(c)(3). You fail to meet the standards of the operational test since you have not submitted sufficient documentation or evidence to show that you operate as a church. It also appears that since control of your organization is in the hands of your founder and her family, you serve the private interests of the founder rather than public interests which is required for exemption.

Therefore, you are not entitled to exemption under section 501(c)(3) and are required to file Federal income returns on Form 1120.

In accordance with section 6104(c) of the Code, we have notified the appropriate State officials of our determination.

You have the right to protest our determination if you believe it is incorrect. To appeal, please refer to the enclosed Publication 892.

"If you do not protest this determination within 30 days from the date of this letter, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code states in part, that "A declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization has exhausted all administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

District Director

Encl: Publication 892