

CERTIFIED MAIL

Date:

JUN 24 1992

Employer Identification Number:

Form Number:

1120

Tax Years:

1989 to present

Key District:

Baltimore

Person to Contact:

Contact Telephone Number:

Dear [REDACTED]:

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

Our adverse determination was made for the following reason(s):

You do not operate for an exclusively exempt purpose and your activities serve the private interests of your founders rather than public purposes. Also, your net earnings benefit private individuals.

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

You are required to file Federal income tax returns on the form indicated above. Based on the financial information you furnished, it appears that returns should be filed for the above years. You should file these returns with your key District Director, EP/EO Division, within 30 days from the date of this letter, unless a request for an extension of time is granted. Processing of income tax returns and assessment of any taxes due will not be delayed because you have filed a petition for declaratory judgment under Code section 7428. You should file returns for later tax years 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 United States Court of 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.

(over)

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,



Associate Chief, Appeals

[REDACTED]
[REDACTED]
[REDACTED]
APR 13 1990

Dear Applicant:

We have completed our review of your application for recognition of exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code.

The evidence submitted indicates that you were formed [REDACTED] under Articles of Incorporation in the State of [REDACTED] for exclusively charitable, religious, educational purposes within the meaning of section 501(c)(3) of the Code. You will conduct a church by the direction of the Lord Jesus Christ. Various other religious activities to be established include ordination of ministers upon completion of a prescribed course of study designated by the church; establishment of an organization of ministers to tend the church; establishment of a congregation membership based upon acceptance of a recognized creed and belief; spread the Word of the Gospel through seminars, church literature and mass media; establishment of Sunday School for children and adults; and, establishment of a Bible Training School of Theology for the preparation of ministers.

Your worship services are held at the home of your Pastor at [REDACTED]. This is the only property used by the church. To date, no other suitable place has been settled on. Sunday morning worship, Sunday School and a Tuesday Night Bible Study are held at the home. The average attendance at the Sunday morning worship service is [REDACTED].

Although you indicate you anticipate expanding to a larger more public facility, in the past three years of your existence there appears to be no real growth in the size of your congregation nor in your facility. From the photograph submitted it appears you have no real room for growth and make no attempt to make the public aware of your services or invite them to join you.

The funding of your church is primarily contributed by the founders of the church, [REDACTED], the father of [REDACTED]. During the years [REDACTED], [REDACTED] and the partial year of [REDACTED], these three persons contributed [REDACTED]%, [REDACTED]% and [REDACTED]% of total receipts for each respective year. For the period ending in [REDACTED], the same three individuals donated [REDACTED]% of total receipts.

[REDACTED]

Expenditures in the form of salary, rental allowance, medical reimbursement, auto allowance, utilities, telephone, travel and entertainment for the pastor [REDACTED] account for [REDACTED]%, [REDACTED]% and [REDACTED]% of the total receipts for the periods ending [REDACTED], [REDACTED] and [REDACTED] respectively.

The activities of the organization include the teaching of the principles of the Bible, conducting regular worship services, singing hymns and religious songs, receiving of tithes and offerings, performance of sacerdotal functions and ministry to the individual needs of the people.

The Trustees of the church are comprised of [REDACTED] and [REDACTED] the sister in law of [REDACTED]. The officers of the church are [REDACTED], who hold the offices of President and Secretary/Treasurer, respectively. [REDACTED] is shown as Trustee.

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

Income Tax Regulations section 1.501(c)(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 such purposes. If an organization fails to meet either the organizational or 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 organization limit the purposes of such organization to one or more exempt purposes.

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 of the activities 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 state that an organization is not organized or operated exclusively for exempt purposes unless it serves public rather than private interest. Thus, to meet the requirement of this section, it is necessary for the 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, or persons controlled directly or indirectly by such private interests.

[REDACTED]

In The Church of Eternal Life and Liberty, Inc. v. Commissioner of Internal Revenue, 86 TC 916, an organization was formed to operate a church and the founder of the organization donated a significant percentage of the organization's financial support from his own funds. This individual was also one of the organization's ministers who had control over the financial decisions of the organization and determined how the organization's funds would be spent. In addition, the founders living expenses were also paid out of the organization's funds.

The court ruled in this case that the organization was not entitled to exemption under section 501(c)(3) since a substantial amount of the organization's assets were used for the private benefit of the founder and creator of the organization.

Basic Bible Church v. Commissioner, 74 TC 846, 857 (1980), states in part that "...Prohibited inurement is strongly suggested where an individual or small group is the principal contributor to an organization and the principal recipient of the distributions of the organization and that individual or small group has exclusive control over the management of the organization and its funds."

To qualify for exemption under section 501(c)(3), the applicant organization has the burden of showing, (1) that it was organized and operated exclusively for religious stated purposes, (2) that no part of its net 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, National Association of American Churches v. Commissioner, 82 TC 18 (1984).

Our review of the application submitted indicates that [REDACTED] are two of the three trustees and are totally responsible for decisions made for the organization. [REDACTED], in their capacity as President and Secretary/Treasurer have exclusive control over the organization's assets and distribution of its funds, a substantial portion of which they contributed to the organization. Since [REDACTED], when the organization amended its Articles of Incorporation to form a church, the organization has provided for the aforementioned expenses for the [REDACTED] home.

While your organization is providing religious services, you have not established that you are operating exclusively for an exempt purpose described in section 501(c)(3). The record shows that the majority of the organization's assets have been donated by the founders and are directly used for their personal benefit in the form of salary and living expenses. Your founders in their capacities as President and Secretary/Treasurer maintain substantial, if not complete control over the organization's fund.



Based on the information submitted, we have determined that you are not entitled to exemption under section 501(c)(3) of the Code since you have not established that you are operating exclusively for an exempt purpose and your activities serve the private interests of your founders rather than public purposes, your net earnings also benefit private individuals. Therefore, you are a taxable entity and are required to file federal income tax returns on Form 1120.

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

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office, or if you request, at any mutually convenient District office. If we do not hear from you within 30 days from the date of this letter, this determination will become final and a copy of this letter will be sent to the appropriate state officials in accordance with section 6104(c) of the Internal Revenue Code.

If you do not protest this proposed determination 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 states, in part, that, "A declaratory judgment 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 involved has exhausted all administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,



District Director

Enclosure: Publication 892

cc: State Attorney General 