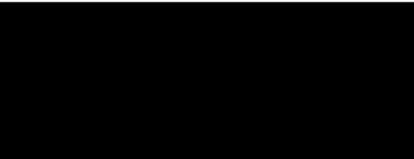


Atlanta, Georgia 30370



SEP 17 1984

CERTIFIED MAIL-RETURN RECEIPT
REQUESTED

EIN: [Redacted]
File Folder Number: [Redacted]

Dear Applicant:

It has been determined that [Redacted], is not entitled to recognition of exemption from Federal income taxes under Section 501(c)(3) of the Internal Revenue Code because the organization is not operated exclusively for one or more of the exempt purposes specified in Section 501(c)(3). Specifically, the organization is being operated for social and/or private purposes; therefore, it does not qualify for recognition of exemption under Section 501(c)(3) of the Internal Revenue Code.

On January 17, 1984, the National Office of the Internal Revenue Service issued a technical advice memorandum denying tax exempt status to [Redacted]. A copy of this memorandum is enclosed. Section 8.01 of Revenue Procedure 80-26, 1980-1, C.B. 671, states, in part, "... The Chief, Appeals Office, must follow the conclusions in a technical advice memorandum on issues of an organization's status" Thus, the National Office technical advice constitutes an exhaustion of administrative remedies and the organization has no appeal rights within the Internal Revenue Service. This letter is to notify you that this final denial of exemption is effective May 8, 1980.

You may file a petition for declaratory judgment with respect to this final adverse letter before the 91st day after the date this determination was mailed to you. The petition must be filed with the United States Tax Court, the United States Claims Court, or the United States District Court for the District of Columbia. Contact the clerk of the appropriate court for rules for initiating suits for declaratory judgment. The processing of income tax returns and the assessment of any taxes due will not be delayed because a petition for declaratory judgment has been filed.

In accordance with Section 6104(c) of the Internal Revenue Code, the appropriate State officials will be notified of this action.

Case file

Code	9/17	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[Redacted]							
Date	9-17-84	9-17-84	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]

[REDACTED]

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

[REDACTED]

District Director

Enclosure

This letter supersedes our letter dated May 24, 1984.

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname							
Date							

Internal Revenue Service

National Office Technical Advice Memorandum

District Director
Atlanta, GA

Taxpayer's Name:

Taxpayer's Address:

Taxpayer's Identification Number:
Conference Held:

Yes

Issue:

A. Whether the applicant qualifies as a church within the meaning of section 170(b)(1)(A)(i)?

B. Whether the applicant qualifies for exemption under section 501(c)(3) on any other basis.

Facts:

The above-named organization was incorporated on [REDACTED] and filed an application for exemption under section 501(c)(3) of the Internal Revenue Code on November 15, 1982. The applicant requested classification as other than a private foundation under section 170(b)(1)(A)(i).

The applicant organization was informally organized in [REDACTED] by [REDACTED]. From [REDACTED] to the present the membership of the organization has grown from the [REDACTED] founding members to [REDACTED] members. However, only the [REDACTED] founding members have voting rights since a minimum of two years service and participation is required for voting rights. The corporation's affairs have been managed by a Board of Directors consisting of these [REDACTED] voting members. During the course of correspondence regarding the application, [REDACTED] has been replaced as a director by [REDACTED].

The organization does not seek publicity or make any effort to attract members. The church site is the home of [REDACTED] where he resides along with [REDACTED] other members, his daughter [REDACTED], [REDACTED] and [REDACTED]. Most of the organization's activities are conducted at the church/home. Participants are generally members of the organization, although friends and visitors are invited to participate in the activities.

Re: [REDACTED]

Activities actually conducted thus far have consisted of: (1) free daily lunches of vegetarian food for members and invited visitors, (2) natural foods cooking classes, and (3) informal social and educational gatherings of members, "near-members" and friends which usually include an evening meal and discussion of spiritual and educational topics. [REDACTED] has also taught classes on acupuncture at various local educational and religious institutions generally without compensation.

The applicant further states the church/home is the teaching and social center where members follow their spiritual practices which include meditating on a regular basis, praying throughout the day and reading the teachings of their spiritual master and teacher, [REDACTED]. The teachings of [REDACTED] include (1) no intoxicants, (2) no eating of flesh, (3) no gambling, (4) no illicit sex, and (5) keep the name of God on one's lips at all possible times.

Vegetarianism and natural health practices are cited as mainstays of the applicant's religious beliefs.

[REDACTED], written by [REDACTED], one of the founding members, is cited in numerous places in the application and correspondence as being the applicant's "guiding literature" and setting forth "guidelines and precepts."

The applicant states many of their beliefs are based on spiritual practices of Oriental and Eastern religions. Parallels are also pointed out by the applicant between their practices and those of many Christian denominations.

The organization has no distinct government aside from their Board of Directors. It does not have ordained ministers or clerical hierarchy. No sacerdotal functions are performed. It does not presently have schools for the preparation of ministers or the teaching of the young. Although not addressed in the organizational documents or other literature the applicant states voting members are assumed to have disassociated themselves from other churches. Nothing is required of non-voting members.

There has been very little financial activity in the organization to date other than donation and expenditure of funds to form the corporation. There are no paid employees. The church/home is owned by [REDACTED] and used by the organization free of charge. No assets have been transferred to the corporation and its only present asset is a small amount of cash. All activities have been conducted on a pay as you go basis with individual participants bearing any expense of conducting or participating in activities.

Re: [REDACTED]

The applicant organization is affiliated with [REDACTED] due to interlocking directors and similar philosophies. The applicant indicates [REDACTED] will handle the more public oriented presentations, sale and publication of literature and there will be exchanges of financial support between the two entities. The applicant considers [REDACTED] an integrated auxiliary of the Church. [REDACTED] had applied separately for recognition under section 501(c)(3), however, the taxpayer indicated that the organization withdrew this application.

Section 501(c)(3) of the Code provides for the exemption of organizations which are organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, for the prevention of cruelty to children or animals, or to test for public safety. No part of the net earnings of the organization may inure to the benefit of any individual.

Section 1.501(c)(3)-1(b)(1) of the Income Tax Regulations, states that an organization is organized exclusively for one or more exempt purposes only if its articles or organization limit the purposes of such organization to one or more exempt purposes and do not expressly empower it to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt 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 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 creator or his/her family, shareholders of the organization, persons controlled, directly or indirectly, by such private interests.

In Better Business Bureau v. U.S., 326 U.S. 279 (1945), the Supreme Court states that the presence of even a single, non-exempt purpose, if more than insubstantial in nature, will defer exemption under section 501(c)(3) of the Code, regardless of the number or importance of the truly exempt purposes.

Section 170(b)(1)(A)(i) of the Code excludes churches from the definition of a private foundation.

Re: [REDACTED]

In American Guidance Foundation, Inc. v. U.S. 490 F. Supp. 304 (DDC: 1980) the court stated that, at a minimum, a church must include a body of believers that assemble regularly in order to worship. It must also be reasonably available to the public in its conduct of worship, in its educational instruction and in its promulgation of doctrine. A religious organization comprised of a few family members who attend worship services at a relative's apartment was held not be a church under section 170(b)(1)(A)(i) because it did not meet these requirements the court noted that the Internal Revenue Service has developed 14 criteria which it applies as the circumstances warrant in order to determine if an organization is a church. These criteria are as follows:

- (a) a distinct legal existence
- (b) a recognized creed and form of worship
- (c) a definite and distinct ecclesiastical government
- (d) a formal code of doctrine and discipline
- (e) a distinct religious history
- (f) a membership not associated with any other church or denomination
- (g) ordained ministers ministering to its congregations
- (h) ordained ministers selected after completing prescribed studies
- (i) a literature of its own
- (j) established places of worship
- (k) regular congregations
- (l) regular religious services
- (m) Sunday schools for religious instruction of the young
- (n) Schools for the preparation of its ministers.

Rev. Rul. 55-231, 1955-1 C.B. 72 provides that an organization whose primary purpose is to promote the circulation of books of one of its founders is not organized and operated for 501(c)(3) purposes.

Re: [REDACTED]

Rationale:

Based on the information submitted the organization has failed to establish that it would be entitled to exemption under section 501(c)(3) as a church or on any other basis.

In order to be recognized as exempt under section 501(c)(3) an organization must demonstrate that it serves a public rather than a private interest. The organization has failed to demonstrate that it is reasonably available to the public in its conduct of worship, educational instruction and in its promulgation of doctrine. The organization does not seek publicity or make any significant efforts to attract members. In addition, it appears that a substantial activity of the organization has been providing vegetarian meals for its limited membership, while organization vegetarian may be integral to the member's faith, this does not negate the social or recreational purpose which is evident in this case.

Finally, the organization appears to be engaged in the promotion of the work of its founder, specifically [REDACTED]. Since the copyrights are held by [REDACTED] this would appear to suggest private benefit to the founder, within the meaning of Rev. Rul. 55-231 (Supra).

Finally, it is clear that the organization is not a church as defined in section 170(b)(1)(A)(i) of the Code. At minimum, a church must include a body of believers that assemble regularly in order to worship and which is reasonably available to the public. This organization is similar to that described in the American Guidance Foundation case, which was denied church classification where the court found that the membership was comprised of a few family members who attended worship services at a relative's apartment.

While the organization does meet some of the criteria that the Service considers in determining whether "church" classification is proper it has not demonstrated that it meets those criteria which are viewed as most important. It has not demonstrated that it has a regular congregation, administers sacerdotal functions, has training for the young, etc. Furthermore, it is not clear that renunciation of any other religion is required. Finally, while these factors must be modified when applying them to non-traditional churches it does not appear that the organization is actually seeking to establish a regular congregation and attract potential members.

Re: 

Conclusion:

The organization is not entitled to classification as a church
furthermore, the organization is not entitled to exemption under section
501(c)(3) of the Code.

Atlanta, Georgia 30370

MAY 24 1984

Employer Identification
Number:

Person to Contact:

Contact Telephone Number:

File Folder Number:

Dear Applicant:

We have considered your application for exemption from Federal Income tax as an organization described in section 501(c)(3) of the Internal Revenue Code.

The information submitted indicates you were incorporated on [REDACTED] under the laws of the State of [REDACTED]. Your Articles of Incorporation were amended [REDACTED]. Your Articles of Incorporation state that you are organized exclusively for religious, charitable, educational and scientific purposes, including the making of distributions to organizations under section 501(c)(3) of the Internal Revenue Code. They further provide that you can establish branch churches, affiliates and/or outreach ministries any and every place where like-minded people are found.

You were informally organized in [REDACTED] by [REDACTED], [REDACTED] and [REDACTED]. From [REDACTED] to the present, the membership of your organization has grown from the [REDACTED] founding members to [REDACTED] members. However, only the [REDACTED] participation is required for voting rights since a minimum of two years service and a Board of Directors consisting of these [REDACTED] voting members. During the course of correspondence regarding the application, [REDACTED] has been replaced as a director by [REDACTED].

You do not seek publicity or make any effort to attract members. The church site is the home of [REDACTED] where he resides along with [REDACTED] other members, his daughter [REDACTED], [REDACTED] and [REDACTED]. Most of your activities are conducted at the church/home. Participants are generally members of your organization, although friends and visitors are invited to participate in the activities.

Your activities actually conducted thus far have consisted of : (1) free daily lunches of vegetarian food for members and invited visitors, (2) natural foods cooking classes, and (3) informal social and educational gatherings of members, "near-members" and friends which usually include an evening meal and discussion of spiritual and educational topics. [REDACTED] has also taught classes on acupressure at various local educational and religious institutions generally without compensation.

MAY 24 1934

[REDACTED]

The information submitted further indicates that [REDACTED]'s home (church) is the teaching and social center where members follow their spiritual practices which include meditating on a regular basis, praying throughout the day and reading the teachings of their spiritual master and teacher, [REDACTED]. The teachings of [REDACTED] include (1) no intoxicants, (2) no eating of flesh, (3) no gambling, (4) no illicit sex, and (5) keeping the name of God on one's lips at all possible times.

Vegetarianism and natural health practices are cited mainstays of your religious beliefs.

[REDACTED] written by [REDACTED], one of your founding members, is cited in numerous places in your application and correspondence as being your "guiding literature" and setting forth "guidelines and precepts."

SP

You indicate many of your beliefs are based on spiritual practices of Oriental and Eastern religions. You have also pointed out parallels between your practices and those of traditional Christian denominations.

Your organization has no distinct government aside from your Board of Directors. You do not have ordained ministers or a clerical hierarchy. No sacerdotal functions are performed. You do not presently have any schools for the preparation of ministers or the teaching of the young. Although not addressed in your organizational documents or other literature you have indicated that voting members are assumed to have disassociated themselves from other churches. Nothing is required of non-voting members.

There has been very little financial activity in your organization to date other than donation and expenditure of funds to form the corporation. There are no paid employees. Your church/home is owned by [REDACTED] an used free of charge. No assets have been transferred to the corporation and your only current asset is a small amount of cash. All activities have been conducted on a pay as you go basis with individual participants bearing any expense of conducting or participating in these activities.

The information submitted indicates you are affiliated with [REDACTED], [REDACTED], due to interlocking directors and similar philosophies. You indicate [REDACTED] will handle the more publicly oriented presentations, such as the sale and publication of literature, and there will be exchanges of financial support between yourselves. You further indicate that you consider [REDACTED] an integrated auxiliary of your organization. [REDACTED] had applied separately for recognition of exemption under section 501(c)(3) of the Code, however, they have withdrawn this application.

Section 501(c)(3) of the Code provides for the exemption of organizations which are organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, for the prevention of cruelty to children or animals, or to test for public safety. No part of the net earnings of the organization may inure to the benefit of any individual.

MAY 24 1924

[REDACTED]

Section 1.501(c)(3)-1(b)(1) of the Income Tax Regulations, states that an organization is organized exclusively for one or more exempt purposes only if its articles or organization limit the purposes of such organization to one or more exempt purposes and do not expressly empower it to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt 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 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 creator or his/her family, shareholders of the organization, persons controlled, directly or indirectly by such private interests.

In Better Business Bureau v. U.S., 326 U.S. 279 (1945), the Supreme Court states that the presence of even a single, non-exempt purpose, if more than insubstantial in nature, will defer exemption under section 501(c)(3) of the Code, regardless of the number or importance of the truly exempt purposes.

Revenue Ruling 55-231, 1955-1 C.B. 72, provides that an organization whose primary purpose is to promote the circulation of books of one of its founders is not organized and operated for 501(c)(3) purposes. ^{SP}

You have failed to show that you are reasonably available to the public in the conduct of your worship, educational instruction or promulgation of your doctrine. You do not seek publicity or make any significant effort to attract members. In addition, it appears that a substantial part of your activities has been providing vegetarian meals for your limited membership. While vegetarianism may be an integral part of your faith, this does not negate the social and recreational purposes which are evident in this case.

Finally, you appear to be engaged in the promotion of the work of your founder, specifically [REDACTED]. Since the copyrights are held by [REDACTED] this would appear to suggest private benefit to the founder within the meaning of Rev. Rul. 55-231 (Supra).

Accordingly, we conclude that you are being operated for social and/or private purposes and therefore do not qualify for recognition of exemption under section 501(c)(3) of the Code or under any related paragraph of the Internal Revenue Code.

Section 170(b)(1)(A)(i) of the Code excludes churches from the definition of a private foundation.

Section 1.511-2(a)(3)(ii) of the regulations provides that the term church includes a religious order of organization if such order or organization is an integral part of a church and is engaged in carrying out the function of a church. A religious order of organization shall be considered to be engaged in carrying out the functions of a church if its duties include the ministration of sacerdotal functions and the conduct of a religious worship.

MAY 1 1981

Although the term church is used in several other sections of the Internal Revenue Code, including section 170, the only section which is referred to in the Code or regulations as giving a definition of the term church is section 1.511-2(a)(3)(ii) (discussed above), and this by section 1.170-2(b)(2) of the regulations, which provides that for the definition of a church, "see the regulations under section 511."

In American Guidance Foundation, Inc. v. U.S. 495 F. supp. 304 (DC: 1980) the court stated that, at a minimum, a church must include a body of believers that assemble regularly in order to worship, in its educational instruction and in its promulgation of doctrine. A religious organization comprised of a few family members who attend worship services at a relative's apartment was held not to be a church under section 170(b)(1)(A)(i) because it did not meet these requirements. The court noted that the Internal Revenue Service has developed 14 criteria which it applies as the circumstances warrant in order to determine if an organization is a church. These criteria are as follows:

- (A) a distinct legal existence
- (b) a recognized creed and form of worship
- (c) a definite and distinct ecclesiastical government
- (d) a formal code of doctrine and discipline
- (e) a distinct religious history
- (f) a membership not associated with any other church or denomination
- (g) ordained ministers ministering to its congregations
- (h) ordained ministers selected after completing prescribed studies
- (i) a literature of its own
- (j) established places of worship
- (k) regular congregations
- (l) regular religious services
- (m) Sunday schools for religious instruction of the young
- (n) Schools for the preparation of its ministers.

On the basis of the information you have presented we further conclude that you do not qualify as a church within the meaning of section 1.511-2(a)(3)(ii) of the Regulations because you are not carrying on activities or functions commonly associated with the term "church". You do not require your members to renounce their prior religious beliefs, nor are they prohibited from holding memberships in other religious organizations. You do not have a distinct religious history, a regular congregation, religious instruction for the young, nor do you perform any sacerdotal functions. You do not have any schools for the preparation of ministers or an ordained minister ministering to your members.

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

You are required to file Federal income tax returns on Form 1120 with your Key District Director for exempt organization matters. Based on review of the financial information you furnished, it appears that return Form 1120 for the years ending December 31, 1980, 1981, 1982 and 1983 should be filed. Return Form 1120 should be filed within 30 days from the date of this letter unless a

MAY 24 1984

[REDACTED]

request for an extension of time is granted. Processing of income tax returns and assessment of any taxes due will not be delayed because a petition for declaratory judgment has been filed under Code section 7428.

You need an employer identification number even if you have no employees. If an employer identification number was not entered on your application, a number will be assigned to you and you will be advised of it. Please use that number on all returns you file and in all correspondence with the Internal Revenue Service.

Section 7428 of the Internal Revenue Code, entitles you to file a petition for a declaratory judgment in the United States Tax Court, the United States Court of Claims, or the United States District Court for the District of Columbia with respect to this determination. However, 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 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 administrative remedies available to it within the Internal Revenue Service."

If you do not agree with our proposed denial, we recommend that you request a conference with a member of the Regional Director of Appeals Staff. Your request for a conference should include a written appeal signed by an authorized officer giving the facts, law and any other pertinent information to support your position as explained in the enclosed Publication 892. If you are to be represented by someone who is not one of your authorized officers, he/she will need to file a power of attorney or tax information authorization and be qualified to practice before the Internal Revenue Service as provided in Treasury Department Circular No. 230. The conference may be held at the Regional Office or, if you request, at any mutually convenient District office. In the event the proposed adverse determination explained in this determination letter should become a final determination, such information will be provided to the Attorney(s) General and State Tax officer(s) of the State in which your principal office is located (See Section 6104(c) of the Internal Revenue Code).

If we have not received an appeal within 30 days, this will become our final determination letter. Your failure to exercise your appeal rights will be considered by the Internal Revenue Service as a failure to exhaust your available administrative remedies.

Sincerely yours,

[REDACTED]

District Director