

**Internal Revenue Service**

**Department of the Treasury**

Regional  
Commissioner

North-Atlantic Region

Address any reply to Appeals Office  
at office No. 1.

Person to Contact: [REDACTED]

Telephone Number: [REDACTED]

Refer Reply to:

Date: NOV 4 1993

CERTIFIED MAIL



Dear [REDACTED]:

This is a Final Adverse Determination/Ruling Letter indicating that your organization does not qualify for tax exempt status under the provisions of Section 501(c)(3) of the Internal Revenue Code of 1954.

The administrative file of [REDACTED] disclosed that it was organized under the laws of the [REDACTED], under the provisions of Chapter [REDACTED] General Laws, on [REDACTED]. Its purposes, as provided in your Article of Organization, are "to establish, in the City of [REDACTED], a home for the assistance and rehabilitation of persons addicted to alcohol and to aid those persons seeking help, guidance, instruction and encouragement to abstain from the use of intoxicating beverages of any kind and to promote temperance and to this end to operate a 'halfway house' and take in and assist those persons recovering from the disease of alcoholism, to rehabilitate and re-establish themselves in the community."

Section 501(c)(3) of the Code provides for exemption from Federal income taxes, "corporations organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of its activities of which are carrying on propoganda, or otherwise attempting to influence legislation, and does not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of any candidate for public office."

1 100 Summer Street, Rm. 1720  
Boston, Mass. 02110

3 150 Court Street, 6th Floor  
New Haven, Conn. 06510

5 393 Old Country Road  
Coral Place, New York 11514

2 300 U.S. Courthouse  
68 Court St., Buffalo, N.Y. 14202

4 P.O. Box 7954, Church Street Station  
New York, N.Y. 10008

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provide, in pertinent part, that "in order to be exempt an organization must be both organized and operated exclusively for one or more purposes specified in Section 501(c)(3). If an organization fails to meet either the organizational or operational tests, it is not exempt."

Section 1.501(c)(3)-1(b)(1)(i) of the Regulations provide that an organization is organized exclusively for one or more exempt purposes only if its Articles of Organization, "(A) limit the purposes of such organization to one or more exempt purposes; and (B) do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities which in themselves are not in furtherance in one or more exempt purposes."

Section 1.501(c)(3)-1(c)(2) of the Regulations provide that, "an organization is not operated exclusively for one or more purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals."

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations provide that, "an organization is not organized and operated exclusively for the purposes specified in Section 501(c)(3) unless it serves a public rather than a private interest. It must not be operated for the benefit of designated individuals or the persons who created it."

Based upon the information you have provided, as well as the above facts and law, it has been determined that your organization has failed to meet the organizational tests because your organization's Article of Organization do not specifically limit its purposes to Section 501(c)(3) of the Internal Revenue Code. In addition, your organization has failed to meet the operational tests because your proposed corporate officer salaries are excessive based upon their qualifications and experience.

Accordingly, your organization does not qualify for the exemption from Federal income taxes under Section 501(c)(3) of the Internal Revenue Code. Therefore, you are required to file Federal income tax returns on Form 1120.

If you decide to contest this determination under the declaratory judgement 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 judgement.

As provided in Section 6104(c) of the Internal Revenue Code of 1954 and applicable Regulations, the appropriate State Officials will be notified of this determination.

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

Sincerely,

  
Commissioner

By: \_\_\_\_\_  
Associate Chief  
New England Appeals Office

CERTIFIED MAIL

██████████  
██████████  
██████████  
EP:EO Division

Gentlemen and Mesdames:

We have considered your application for recognition of exemption under Section 501(c)(3) of the Internal Revenue Code.

The evidence presented disclosed that you were incorporated ██████████ under the laws of ██████████. Your purpose, briefly stated, is to establish, in the city of ██████████, a home for the assistance and rehabilitation of persons addicted to alcohol.

Membership is open to anyone upon the payment of \$██████ per year. Your activities are limited to providing persons afflicted with alcoholism room and board as may be necessary together with counseling and assistance in securing and keeping a position or job, so that they may eventually return to the social and business community.

Your expected source of receipts are from government grants, donations, membership fees, and fees for services rendered. Your disbursements are for salaries, supplies, and other operating expenses.

The incorporators and officers of the organization are as follows: ██████████ - President, ██████████ - Treasurer, and ██████████ - Secretary. These same individuals are also salaried employees of ██████████. ██████████ will receive \$██████ yearly as Executive Project Director. He brings to the job his experience as a rehabilitated alcoholic. He further states he has been rehabilitating alcoholics on his own for ████████ years. ██████████ will be the head bookkeeper for which she will receive \$██████ yearly. She has ten years of bookkeeping experience. ██████████ will receive \$██████ yearly as head of transportation and maintenance. His experience includes a knowledge of alcoholism. ██████████ and ██████████ are friends of the President of the organization, ██████████.

Section 501(c)(3) of the Internal Revenue Code exempts from Federal income tax corporations organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.



In Re: [REDACTED]

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that an organization is not organized and operated exclusively for purposes specified in Section 501(c)(3) unless it serves a public rather than a private interest. It must not be operated for the benefit of designated individuals or the persons who created it.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations requires that the organizational purposes be specified in the articles and that the purposes specified be one or more of the purposes set out in IRC 501(c)(3).

Income Tax Regulations 1.501(c)(3)-1(b)(1)(i) provide that an organization is organized exclusively for one or more exempt purposes only if its articles of organization:

- "(a) Limit the purposes of such organization to one or more exempt purposes; and
- "(b) Do not expressly empower the organization 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."

Although the organization is willing to amend its Articles of Incorporation to limit its purposes to those specified in Section 501(c)(3) of the Internal Revenue Code, presently it fails to meet the organizational test requirements of said Code section.

The prohibition of inurement, in its simplest terms, means that a private shareholder or individual cannot receive the organization's funds except as reasonable payment for goods or services. On the basis of the evidence presented, we hold that the salary of [REDACTED], [REDACTED], and [REDACTED] is unreasonable as it is not commensurate with the qualifications and experience that they bring to the organization, and their respective positions. Also, exemption is further precluded as the organization is sacrificing the interests of charity to the private interests of the founder and those in control of the organization.

In conclusion, the organization fails to meet the organizational test as its Articles of Incorporation are not limited to one or more exempt purposes under section 501(c)(3) of the Internal Revenue Code. The organization fails to meet the operational test requirements under Section 501(c)(3) of the Internal Revenue Code as the organization's net earnings will inure to the benefit of private individuals and the organization is serving private rather than public interests, as it contains no independent body of control over the administrative and professional activities of the organization. Therefore, you are required to file Federal income tax returns on Form 1120.

If you are in agreement with our findings, please sign, date and return one copy of the enclosed Form 6018.

If you do not accept our findings, you may request a conference with a member of our Appeals Office. 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 898. You will then be

In Re: [REDACTED]

contacted to arrange a date for a conference. The conference may be held at the Appeals Office, or, if you request at any mutually convenient District Office. A self-addressed envelope is enclosed.

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 Internal Revenue 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 we do not hear from you within 30 days, this determination will become final.

Sincerely,

[REDACTED]  
District Director

Enclosures:

Self-Addressed envelope  
Form 6018 (2)  
Publication 892