

INTERNAL REVENUE SERVICE

North Atlantic Region

Department of the Treasury

Address reply to:



Person to Contact:



Telephone Number:



Refer Reply to:



Date: APR 17 1992

Gentlemen:

This is a Final Adverse Determination Ruling Letter concerning your organization's request for tax exempt status under Section 501(c)(3) of the Internal Revenue Code.

The evidence presented indicates that your organization was organized on [REDACTED] based upon its filing, with the Town Clerk, for the City of [REDACTED], a "Trade Name Certificate".

Your purposes, as stated in your "organizing document" is to own, conduct and transact the business under the assumed name of [REDACTED], [a] (non-profit organization). (Underlining added.)

In response to the [REDACTED] District Director's request for additional information concerning the purpose of your organization you stated that the purposes of [REDACTED] are "to improve our life in U.S.A. by improving our way of life and our standard of life through a more efficient use of hydrocarbon [sic] and fuel; and [to] decrease pollution in the air, so to improve our health with cleaner "air" to breath."

Section 501(c)(3) of the Internal Revenue Code exempts from Federal income taxes organizations that are organized and operated exclusively for charitable, educational, scientific, etc. purposes, in which no part of its net earnings inures to the benefit of any private shareholder or individual.

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

Section 1.501(c)(7)-1(a)(1)(i) of the Income Tax Regulations provides that an organization is organized exclusively for charitable, educational, scientific, etc. purposes only, if its articles of organization (a) limit the purposes of such organization to one or more of the purposes specified in Section 501(c)(3); and (b) do not expressly empower the organization to engage, other than as an incidental part of its activities, in activities which themselves are not in furtherance of one or more of the purposes specified in Section 501(c)(3) of the Code. (Underlining added.)

Section 1.501(c)(7)-1(a)(1)(ii) of the Regulations provides that in meeting the organizational test, the organization's purposes, as stated in its articles of organization, as well as stated or otherwise specific thereto, shall be stated in Section 501(c)(3).

Section 1.501(c)(7)-1(a)(2) of the Regulations provides that for purposes of this section, the term "articles of organization" or "articles" includes the trust instrument, the corporate charter, the articles of association, or an other charter instrument by which an organization is created. (Underlining added.)

Section 1.501(c)(7)-1(a)(4) of the Regulations provides that an organization is not organized exclusively for one or more Section 501(c)(7) purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, for example, if, upon dissolution, such assets would, by reason of a provision in the organization's written instrument or by operation of law, be distributed for one or more exempt purposes, or to the Federal government, or to a State or local government, for a public purpose, or would be distributed by a court to another organization to be used in such manner as in the judgment of the court will best accomplish the general purposes for which the dissolved organization was organized. (Underlining added.)

Section 1.501(c)(7)-1(a)(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 of the purposes specified in Section 501(c)(3).

Section 1.501(c)(7)-1(a)(2) of the Regulations provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Section 1.501(a)-1(c) of the 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(d)(3)(1) of the Regulations provides that the term "educational", as used in Section 501(c)(3), relates to (a) the instruction or training of the individual for the purpose of improving or

developing his capabilities; or (b) the instruction of the public on subjects useful to the individual and beneficial to the community.

Section 1.501(c)(3)-1(d)(1) of the Regulations provides examples of educational organizations.

Section 1.501(c)(3)-1(b) 5(x) of the Regulations provides that since an organization may meet the requirements of Section 501(c)(3) only if it serves a public rather than a private interest, a "scientific" organization must be organized and operated in the public interest. Therefore, the term "scientific", as used in Section 501(c)(3), includes the carrying on of scientific research in the public interest.

Section 1.501(c)(3)-1(d)(5)(ii) of the Regulations provides that scientific research does not include activities of a type ordinarily carried on as an incident to commercial or industrial operations, as, for example, the ordinary testing or inspection of materials or products or the designing or construction of equipment, buildings, etc.

Section 1.501(c)(3)-1(d)(5)(iii) of the Regulations provides that scientific research will be regarded as carried on in the public interest (a) if the results of such research (including any patents, copyrights, processes, or formulae resulting from such research) are made available to the public on a nondiscriminatory basis; (b) if such research is performed for the United States, or any of its agencies or instrumentalities, or for a State or political subdivision thereof; or (c) if such research is directed toward benefiting the public. The following are examples of scientific research which will be considered as directly toward benefiting the public, and, therefore, which will be regarded as carried on in the public interest:

- \* Scientific research carried on for the purpose of aiding in the scientific education of college or university students;
- \* Scientific research carried on for the purpose of obtaining scientific information, which is published in a treatise, thesis, trade publication, or in an other form that is available to the interested public;
- \* Scientific research carried on for the purpose of discovering a cure for a disease; or
- \* Scientific research carried on for the purpose of aiding a community or geographical area by attracting new industry to the community or area or by encouraging the development of, or retention of, an industry in the community or area.

Section 1.501(c)(3)-1(d)(5)(iv) of the Regulations provides that an organization will not be regarded as organized and operated for the purposes of carrying on scientific research in the public interest and,

consequently, will not qualify, under Section 501(c)(7), as a "scientific" organization, if

- \* Such organization will perform research only for persons which are (directly, or indirectly) its creators and which are not described in Section 501(c)(7)(B).
- † Such organization (directly, or indirectly,) the ownership or control of more than an insubstantial portion of the patents, copyrights, processes, or formulae resulting from its research and does not have such patents, copyrights, processes, or formulae available to the public.

Based upon a review of your administrative records, it has been determined that your "organization" fails to meet the operational test because it has not written instruments which state that its purposes comply with Section 501(c)(7) of the Code and it fails to provide for the dissolution of assets upon termination of its operations.

In reference to the operational test, it has been determined that your "organization" fails to meet this test since the administrative record implies that your operations are primarily geared to commercial activities, that is, the invention of a more efficient gasoline engine. In addition, you have failed to provide sufficient information to establish that the payments made to your President and Founder [REDACTED], are reasonable.

Finally, the administrative record fails to provide sufficient information to establish that the scientific research conducted by your "organization" serves that public versus private interests since there is a question of the control of any patents, copyrights, etc. developed by the activities of the "organization".

Therefore, your "organization" fails both the organizational and operational tests required under Section 501(c)(7) of the Internal Revenue Code and applicable regulations.

In conclusion, we have determined that you are not organized nor operated exclusively for charitable, educational, scientific, etc. purposes. Accordingly, your "organization" does not qualify for tax exempt status under Section 501(c)(7) of the Internal Revenue Code. Therefore, you 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 decide to contest this determination under the declaratory judgment provisions of 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 of the date this date information is mailed to you. Contact the clerk of the appropriate court for rules for filing petitions for declaratory judgment.

As provided in Section 5110 of the Internal Revenue Code of 1986 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,

[Redacted]  
Commissioner

B:

[Redacted]  
Associate Chief  
Boston Appeals Office