

INTERNAL REVENUE SERVICE

DEPARTMENT OF THE TREASURY

CERTIFIED MAIL

Address any reply to:

Employer Identification Number:

Form Number:

1120A

Tax Years:

& subsequent years

Key District:

Person to Contact:

Contact Telephone Number:

JAN 30 1991

Dear Sir:

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:

You were incorporated under the Nonprofit Corporation Laws of the State of [REDACTED] on [REDACTED]. The purpose or purposes for which the corporation was organized are to raise and accept donations for starting and operating an orphanage in [REDACTED], [REDACTED]. The initial board of directors is made up of one person, [REDACTED], who is also the sole incorporator. You applied for exempt status in 1987. Section 1.501(c)(3)-1(b)(2)(v) of the Income Tax Regulations provides that an organization must, in order to establish exemption, submit a detailed statement of its proposed activities with and as a part of its application for exemption. Section 5.02 of Revenue Procedure 90-27 provides that exempt status will be recognized in advance of operations if proposed operations can be described in sufficient detail to permit a conclusion that the organization will clearly meet the requirements of the section under which exemption is claimed.

Because you were unable to provide sufficient information as to exactly how your organization will operate, exemption under IRC section 501(c)(3) cannot be granted in advance of operations.

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 with the appropriate service center shown in the instructions for those returns.


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,


Acting Associate Chief
St. Louis Appeals Office




1-4-91


1/4/91

[REDACTED]

Person to Contact: [REDACTED]
Telephone Number: [REDACTED]
Refer Reply to:
Internal Revenue Service
[REDACTED]

Date: SEP 13 1988

Dear Applicant:

We have considered your application for recognition of exemption from Federal Income Tax under Section 501(c)(3) of the Internal Revenue Code of 1986.

The information submitted discloses that you were incorporated on [REDACTED] under the nonprofit corporation laws of the State of [REDACTED].

Your purpose as stated in your Articles of Incorporation is to raise and accept donations for starting and operating an orphanage in [REDACTED].

Your activities will consist of soliciting contributions for the creation and maintenance of an orphanage in [REDACTED].

Your organization consists of two members; [REDACTED], President and [REDACTED], Vice-President. The President is responsible for all functions of the organization.

In a letter dated [REDACTED], you were asked to furnish a detail narrative of the manner in which you plan to operate an orphanage in [REDACTED].

On [REDACTED] you responded to this request by stating in a narrative that your organization had not received approval from the government of [REDACTED] for the operation of an orphanage, your organization presently did not plan to work with any social service agencies. Also, you stated that all monies and assets of the organization will be handled by the [REDACTED] bank with the organization relying on the bank's knowledge in the operation of transmitting funds directly to the orphanage.

Section 501(c)(3) of the Code provides for the exemption from Federal Income Tax of corporations organized and operated exclusively for religious, charitable, literary, scientific, and educational purposes; no part of the net earnings of which inure to any private shareholder or individual.

Section 1.501(c)(3)-1 of the Tax Regulations relates to the definition of the organization and operation of organizations described in Section 501(c)(3). It is quoted, in part, as follows:

"(a) Organizational and operational tests. (1) In order to be exempt as an organization described in Section 501(c)(3), an organization must be both organized and operated exclusively for one or more purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt. (2) The term "exempt purpose or purposes", as used in this section, means any purpose or purposes specified in Section 501(c)(3)..."

"(b) Operational test. (1) Primary activities. 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 such exempt purposes 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. (2) Distribution of earnings. 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(c)(3)-1(a) of the Income Tax Regulations provides that in order to be exempt as an organization described in Section 501(c)(3), the organization must be one that is both organized and operated exclusively for one or more of the purposes specified in that section. If an organization fails to meet either organizational or the operational test it is not exempt.

The above facts clearly indicate that you do not serve a public purpose. You will be operating an orphanage with no governmental approval of your facilities or services. In addition, the

children who receive your services will not be selected in conjunction with other social service agencies to determine relative need.

Accordingly, we have concluded that you are not entitled to recognition of exemption from Federal Income Tax under Section 501(c)(3) of the Code, since you are not organized and operated exclusively for charitable, religious, or other exempt purposes within the meaning of Section 501(c)(3).

You are required to file Federal Income Tax Returns.

If you do not agree with these conclusions, you may within thirty days from the date of this letter, file a brief of the facts, law and argument (in duplicate) which clearly sets forth your position. In the event you desire an oral discussion of the issues, you should so indicate in your submission. A conference will be arranged in the Regional Office after you have submitted your brief to the Chicago District Office and we have had an opportunity to consider the brief and it appears that the conclusions reached are still unfavorable to you. Any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the Conference and Practice Requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met. We have enclosed Publication 892, Exempt Organization Appeal Procedures for Adverse Determinations, which explains in detail your rights and procedures.

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".

[REDACTED]

If we do not hear from you within 30 days from the date of this letter, this determination will become final. In accordance with Code Section 6106(c), we will notify the appropriate State officials of this action.

Please keep this determination letter in your permanent records.

If you agree with this determination, please sign and return the enclosed Form 6010.

Sincerely yours,

[REDACTED]

Director

Enclosure:
Publication 892
Form 6010