

Internal Revenue Service

Department of the Treasury

District
Director

[REDACTED]

Date: MAY 13 1985

Person to Contact:

[REDACTED]

Contact Telephone Number:

[REDACTED]

Refer Reply to:

[REDACTED]

CERTIFIED MAIL

Dear Sir/Madam:

Upon review of your protest dated [REDACTED] wherein you brought to our attention the typographical error in referring to the Director of [REDACTED] as [REDACTED] instead of [REDACTED], we have corrected our denial letter of November 15, 1984 and restate our denial letter herein. You have a new 30 (thirty) day protest period in which to respond.

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 associated under the terms of an agreement approved by the founding directors on [REDACTED] with an effective date of [REDACTED]. As an unincorporated association, you stated you are formed exclusively for charitable, literary, and scientific purposes within the meaning of section 501(c)(3) of the Internal Revenue Code.

The first activity of the organization is the reprint of an out-of-print book on archaeology. The production of publications is to be a major activity. Books and pamphlets will primarily be available via mail order. Publication charges will be determined based on standard fair market and commercial business rates. Publication projects will not be limited to the reprint of archaeological or historical literature. Any individual normally having copyright interest in any work, as provided under Public Law title 17, shall continue to have same. Also, [REDACTED] wishes to establish a non-partisan research library and archive. Future projects, may include the survey of sites, general research, possible field projects, and the funding of a field school.

(2)

Full details concerning present and future activities were not furnished as activities are in the planning stages and the organization stated such discussions were premature.

The present and founding directors are as follows:

Director, (chairman) - [REDACTED]

Senior Associate Director - [REDACTED]

Associate Director - [REDACTED]

[REDACTED] has been in business for over [REDACTED] years, primarily in mail order. He is a member of various archaeological related organizations. He is an Archivist of [REDACTED] years experience, and professionally a publisher, newsletter editor, and senior professional Gamemaster.

[REDACTED] is an accredited Master Mason (stone). He has worked on various restoration projects and has served as a consultant to same. He has been a professional newspaper editor, copy editor, wire editor, and a district reporter as well as a production editor. He is a publisher of music.

[REDACTED] is also an accredited Excavation Technician under the [REDACTED] program. He has professional experience in the printing profession, acting as cameraman for plate making printers camera, pressman, and in graphic arts. He is experienced in layout and production necessary to publication.

**** The Director is compensated for hours worked for any purpose pursuant to the administration of the organization, and the compliance with the operation of the Bylaws; the Associate Directors are compensated as above and when assisting same; this time to include, but is not limited to attendance of meetings of the Board, travel expenses for such meetings or to field trip locations; acting as chairman or supervisor at meetings or on field trips, and for conducting the business of the organization as assigned by the Bylaws or the Director. The Director has authority by sole signature, and without prior consultation of Board to conduct the daily business of [REDACTED], conclude contracts, purchase necessary supplies, write checks payable for all manner of disbursements (including employee compensation).

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

(3)

To meet the operational test an organization must be engaged in activities furthering "public" purposes rather than private interests. It must not be operated for the benefit of designated individuals or the persons who created it. (See Income Tax Regulations 1.501(c)(3)-1(d)(1)(ii)).

Income Tax Regulations 1.501(c)(3)-1(d)(2) provides that the term "charitable" is used in section 501(c)(3) in its generally accepted legal sense. To emphasize that the "generally accepted legal sense" of the term "charitable" does not mean simply relief of poverty, the regulations list examples of purposes which are charitable in the legal sense. These purposes include the advancement of education or science.

Income Tax Regulation 1.501(c)(3)-1(d)(3)(i) provide that the term "education" includes the instruction of the public on subjects useful to the individual and beneficial to the community. The publication of printed material may be educational if:

- (a) the content of the publication is educational,
 - (b) the preparation of material follows methods generally accepted as "educational" in character,
 - (c) the distribution of materials is necessary or valuable in achieving the organization's educational and scientific purposes, and
 - (d) the manner in which the distribution is accomplished is distinguishable from ordinary commercial publishing practices.
- See Rev. Rul. 67-4, 1967 1 C.B. 121.

Revenue Procedure 72-4 C.B. 1972-1, 706 states:

"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 particular requirements of the section under which exemption is claimed. A mere restatement of purposes or a statement that proposed activities will be in furtherance of such purposes will not satisfy these requirements. The organization must fully describe the activities in which it expects to engage, including the standards, criteria, procedures, or other means adopted or planned for carrying out the activities."

On the basis of the evidence presented, we hold you fail to qualify for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code on the basis of the following:

(4)

1. Your publication procedures are indistinguishable from an ordinary trade or business thereby precluding exemption from Federal income tax;
2. Work projects are indistinguishable from those done in the name of the organization from those accomplished in an individual capacity thereby sacrificing the charitable and educational purposes of the organization for private interests;
3. Activities were not described in sufficient detail to permit a clear conclusion that the organization would meet the requirements of section 501(c)(3) of the Internal Revenue Code;
4. Historically, the distinction between an exempt organization and a commercial enterprise has been a Board of Directors who are not compensated in their capacity as an officer or director of the organization, thereby serving the public by protecting the charitable interest of the organization.

In the instant case, there is no distinction or separation of the administrative from the professional staff. The officers and directors are compensated in their capacity as such. The organization has failed to safeguard and protect any charitable or educational purpose the organization may have; and

5. The organization fails the operational test under section 501(c)(3) of the Internal Revenue Code as it is serving the private interests of [REDACTED] who virtually operates and controls [REDACTED] at his will. Further, [REDACTED] is operated to allow the persons who control it to carry on their professional activities in various fields for compensation. The organization's primary interest is to serve the private interest of the persons who control it rather than a public interest.

In conclusion, based on the evidence presented, we hold that you do not qualify from Federal income tax under section 501(c)(3) or any other section of the Internal Revenue Code. Therefore, you are required to file Federal income tax returns on Form 1120 annually.

If you do not accept our findings, you may request a conference with a member of our Regional Office Conference Staff. 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. A self-addressed envelope is enclosed.


(5)

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 Claims Court, 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 with the Internal Revenue Service."

In the event this letter becomes our final action, as provided in section 6104(c) of the Internal Revenue Code of 1954 and applicable regulations, the appropriate State Officials will be notified of our determination.

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

Sincerely yours,


District Director

Enclosure: Publication 892

Internal Revenue Service

Department of the Treasury

District
Director

[REDACTED]

NOV 15 1984

Date:

Person to Contact:

Contact Telephone Number:

Refer Reply to:

CERTIFIED MAIL

Gentlemen:

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

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Full details concerning present and future activities were not furnished as activities are in the planning stages and the organization stated such discussions were premature.

The present and founding directors are as follows:

Director, (Chairman) - [REDACTED] Senior Associate
Director - [REDACTED] Associate Director - [REDACTED]
[REDACTED]

[REDACTED] has been in business for over [REDACTED] years, primarily in mail order. He is a member of various archaeological related organizations. He is an Archivist of [REDACTED] years experience, and professionally a publisher, newsletter editor, and senior professional Gamemaster.

██████████ is an accredited Master Mason (stone). He has worked on various restoration projects and has served as a consultant to same. He has been a professional newspaper editor, copy editor, wire editor, and a district reporter as well as a production editor. He is a publisher of music.

██████████ is also an accredited Excavation Technician under the ██████ program. He has professional experience in the printing profession, acting as cameraman for plate making printers camera, pressman, and in graphic arts. He is experienced in layout and production necessary to publication.

The Director is compensated for hours worked for any purpose pursuant to the administration of the organization, and the compliance with the operation of the Bylaws; the Associate Directors are compensated as above and when assisting same; this time to include, but is not limited to attendance of meetings of the Board, travel expenses for such meetings or to field trip locations; acting as chairman or supervisor at meetings or on field trips, and for conducting the business of the organization as assigned by the Bylaws or the Director. The Director has authority by sole signature, and without prior consultation of the Board to conduct the daily business of ██████, conclude contracts, purchase necessary supplies, write checks payable for all manner of disbursements (including employee compensation).

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On the basis of the evidence presented, we hold you fail to qualify for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code on the basis of the following:

1. Your publication procedures are indistinguishable from an ordinary trade or business thereby precluding exemption from Federal income tax;
2. Work projects are indistinguishable from those done in the name of the organization from those accomplished in an individual capacity thereby sacrificing the charitable and educational purposes of the organization for private interests;
3. Activities were not described in sufficient detail to permit a clear conclusion that the organization would meet the requirements of section 501(c)(3) of the Internal Revenue Code;

4. Historically, the distinction between an exempt organization and a commercial enterprise has been a Board of Directors who are not compensated in their capacity as an officer or director of the organization, thereby serving the public by protecting the charitable interest of the organization.

In the instant case, there is no distinction or separation of the administrative from the professional staff. The officers and directors are compensated in their capacity as such. The organization has failed to safeguard and protect any charitable or educational purpose the organization may have; and

5. The organization fails the operational test under section 501(c)(3) of the Internal Revenue Code as it is serving the private interests of ██████████, who virtually operates and controls ██████████ at his will. Further, ██████████ is operated to allow the persons who control it to carry on their professional activities in various fields for compensation. The organization's primary interest is to serve the private interest of the persons who control it rather than a public interest.

In conclusion, based on the evidence presented, we hold that you do not qualify from Federal income tax under section 501(c)(3) or any other section of the Internal Revenue Code. Therefore, you are required to file Federal income tax returns on Form 1120 annually.

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 Regional Office Conference Staff. 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. A self-addressed envelope is enclosed.

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In the event this letter becomes our final action, as provided in section 6104(c) of the Internal Revenue Code of 1954 and applicable regulations, the appropriate State Officials will be notified of our determination.

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

Sincerely yours,

A solid black rectangular redaction box covering the signature of the District Director.

District Director

Enclosure: Publication 892