

Internal Revenue Service

Department of the Treasury

District
Director

JAN 09 1986

Date:

Person to Contact:

Contact Telephone Number:

Refer Reply to:

CERTIFIED MAIL

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.

The evidence presented indicates that you were organized on [redacted] pursuant to [redacted] of the Nonprofit Corporation Law in the State of [redacted].

The primary purposes for which the organization is formed is "to produce and distribute a Community News source for the areas of [redacted], [redacted] and surroundings and to make charitable donations to qualified tax deductible organizations if any when any surplus over expenses exists.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, etc.

Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations provides that the term "charitable" includes relief of the poor and distressed, advancement of education and science and the promotion of social welfare designed to accomplish any the above purposes.

Section 1.501(c)(3) of the Regulations states that the term educational, as used in section 501(c)(3), relates to the instruction or training of the individual for the purposes of improving or developing his capabilities.

Section 1.501(c)(3)-1(c)(1) of the Regulations states states 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 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.

Revenue Ruling 77-4, 1977-1 C.B. 141 states a nonprofit organization, whose only activities are preparing and publishing a newspaper of local, national, and international news articles with an ethnic emphasis, soliciting advertising and selling subscriptions to that newspaper in a manner indistinguishable from ordinary commercial publishing practices, is not operated exclusively for charitable and educational purposes and does not qualify for exemption.

Rev. Rul. 67-4, 1967-1 C.B. 121, holds that an organization engaged in publishing may qualify for exemption under section 501(c)(3) of the Code if (1) the content of the publication is educational (2) the preparation of the material follows methods generally accepted as educational in character, (3) the distribution of the materials is necessary or valuable in achieving the organization's exempt purposes, and (4) the manner in which the distribution is accomplished is distinguishable from ordinary commercial publishing practices.

Like the organization in Revenue Ruling 77-4, your only activity appears to be the publication and distribution of a bi-monthly newspaper which presents local news, community interest articles and regular commercial advertising. Your income appears to be derived from 1) sales of the newspaper; 2) advertisements; and 3) subscription fees.

Unlike the organization in Revenue Ruling 67-4, the content of the publication does not appear to be educational in character, and the manner in which the distribution is accomplished is indistinguishable from ordinary commercial publishing practices. Nor are your purposes on activities in the Articles of Incorporation limited to those in section 501(c)(3).

Accordingly, we conclude that you are not operated exclusively for the purposes described in section 501(c)(3) of the Code. Therefore, you do not qualify for exemption for Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954.

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

Contributions made to you are not deductible by the donors as charitable contributions as defined in section 170(c) of the Code.

If you do not agree with this determination you may protest in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completions.

If we do not hear from you within that time this determination will be considered final and the appropriate State Officials will be notified.

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 within the Internal Revenue Service."

Sincerely yours,

7SJ [Redacted]
District Director

Enclosure: Pub. 892