

Donal

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[REDACTED]

APR 16 1982

JUN 16 1982

Dear Applicant:

We have completed our review of the application for recognition of exemption under section 501(c)(3) of the Internal Revenue Code which you recently filed.

The evidence submitted indicates that you were incorporated under the laws of the State of [REDACTED] for the purpose of operating as a traditional, evangelical christian church, to provide services which include, but are not limited to, marriage, funerals, baptisms, ordain ministers and Sunday worship services.

Your organizing instrument also provides that upon termination of the organization, the assets shall be distributed to carry out the objectives and purposes for which the corporation is formed and/or to carry out similar or related objectives and purposes.

Your activities consist primarily of holding religious meetings in your pastor's home, providing spiritual counseling, visiting shut-ins and those confined to nursing homes. Your pastor and creator is also employed full-time as an alcoholism counsellor.

Your membership currently consists of [REDACTED] adult members and [REDACTED] children.

Funds for your organization have been donated primarily by the founders and creators during the year [REDACTED]. It is expected that approximately \$[REDACTED] will be received from the general membership during the next year.

Expenditures have been primarily for printing, postage, automobile maintenance and expenses. During [REDACTED], it is expected that monies will be allocated for church rent, utilities and salaries.

Section 501(c)(3) of the Internal Revenue Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for charitable and educational purposes.

Income tax regulations section 1.501(c)(3)-1(A)(1) provides that, to be exempt, an organization described in section 501(c)(3) must be both organized and operated exclusively for one or more of the purposes described in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Regulations section 1.501(c)(3)-1(b)(1) specifies that an organization is organized exclusively for one or more exempt purposes only if its Articles of Incorporation limit the purposes of such organization to one or more exempt purposes.

Regulations section 1.501(c)(3)-1(b)(4) specifies that an organization is not organized for one or more exempt purposes unless its assets are dedicated to an exempt purpose.

Regulations section 1.501(c)(3)-1(c)(1) stipulates that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish any 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.

Regulations section 1.501(c)(3)-1(d)(1)(ii) specifies that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves public rather than private interests.

To qualify for exemption under section 501(c)(3), the applicant has the burden of showing (1) that it was organized and operated exclusively for religious or charitable purposes, (2) that no part of its earnings inured to the benefit of a private individual or shareholder, and (3) that no substantial part of its activities consisted of the dissemination of propaganda or otherwise attempting to influence legislation or engaging in political activity.

To qualify for recognition as a church within the meaning of section 170(b)(1)(A)(i) of the Code, an organization must, at a minimum, establish that it has a body of believers or communicants that assembles regularly in order to worship and that it is reasonably available to the public in its conduct of worship and educational instruction and promulgation of its doctrine.

The United States Tax Court has provided the following additional guidelines to help determine whether an organization claiming status as a church qualifies under this classification.

In *Truth Tabernacle, TC Memo 1981-214*, the Court upheld the Service's denial of tax exempt and church status to an organization. This denial was based on the fact that the organization failed to meet both the organizational and operational tests required for exemption. The court noted that the applicant had submitted no concrete information to show that they conducted religious services and had a regular congregation of members.

The founder and pastor of the church appeared to maintain substantial control over the organization's funds. The organization did not maintain proper financial records to show that monies were being used for charitable purposes and the majority of the funds were spent for maintenance and upkeep of property. The Court concluded that based on this evidence, the organization was not entitled to tax exempt status since it had not shown that it was being operated exclusively for an exempt purpose.

In *American Guidance Foundation, Inc. versus US 80-1 USTC 9452 (DCC-1980)*, an organization which conducted religious services in the personal residence of the founder applied for church status. In analyzing this situation, the court noted that for an organization to be considered a church, at a minimum, a church includes a body of believers or communicants that assembles regularly to worship and unless the organization is reasonably available to the public in its conduct of worship, it cannot fulfill its intended associational role.

The Court concluded in this case that a worship service conducted in a private residence does not meet the congregation requirement needed to be considered a church and this particular organization was denied both tax exempt and church status on the basis that it served private religious enterprise rather than a public purpose.

Our review of the application submitted by your organization indicates that you appear to be operating in substantially the same manner as the organizations described. Therefore, based on this evidence, we have determined that you are not entitled to exemption under section 501(c)(3) of the Code since you fail both the organizational and operational tests required. Even if you did qualify for exemption under section 501(c)(3), you would be considered a private foundation rather than a church.

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.

You have the right to appeal this determination if you believe it is incorrect. To appeal, please refer to the enclosed Publication 992.

In accordance with section 6104(c) of the Code, we are notifying the appropriate state officials of this determination.

If you do not protest this determination within 30 days from the date of this letter, this will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies.

[REDACTED]

Section 7428(b) (2) states, 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 this District Court of the United States for the District of Columbia determines that the organization has exhausted all administrative remedies available to it within the Internal Revenue Service.

Sincerely yours,

[REDACTED]  
District Director

Encl: Pub. 892  
[REDACTED]