

Internal Revenue Service

Department of the Treasury

District
Director

P.O. Box 2508
Cincinnati, OH 45201

Person to Contact:

Telephone Number:

Refer Reply to:

EP/EO
Date: MAR 22 1989

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954 and its applicable Income Tax Regulations. Based on the available information, we have determined that you do not qualify for the reasons set forth on Enclosure I.

Consideration was given to whether you qualify for exemption under other subsections of section 501(c) of the Code and we have concluded that you do not.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1120. Contributions to you are not deductible under section 170 of the Code.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe that it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892, "Exempt Organizations Appeal Procedures for Unagreed Issues". The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office, or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

[REDACTED]

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.

If we do not hear from you within the time specified, this will become our final determination. In that event, appropriate State officials will be notified of this action in accordance with the provisions of section 6104(c) of the Code.

Sincerely yours,

[REDACTED]

[REDACTED]
District Director

Enclosures: 3

ENCLOSURE I

The information submitted discloses that you were incorporated in the State of [REDACTED] on [REDACTED]. You filed restated articles of incorporation on [REDACTED]. Your purposes as set forth in your restated articles of incorporation are as follows:

To unite all women, fraternally and socially to assist and promote the welfare of the members, particularly by the payment from a fund set aside for that purpose, known as the death benefit fund, so that at the death of any member, benefits shall be paid to the family of the deceased member. In addition thereto the society shall assist at the services of the deceased member and send a representative group to accompany the deceased to the cemetery. Said death benefits will not exceed \$ [REDACTED] on account of any member.

According to your application, your activities are the same as the above stated purpose.

Article V of your by-laws provide that a member who has belonged to the society for six (6) months is automatically a member of the mutual fund. In the case of death, the member's death benefit of [REDACTED] (\$ [REDACTED]) dollars will be paid to her family or to whom she has requested.

Your financial statements show that your support is primarily from dues and interest. Funds are disbursed primarily for death benefits.

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

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

Section 1.501(c)(3)-1(a)(2) of the Regulations states that the term "exempt purpose or purposes", means any purpose or purposes specified in section 501(c)(3) of the Code.

[REDACTED]

Section 1.501(c)(3)-1(b)(1)(i) of the Regulations states that an organization is organized exclusively for one or more exempt purposes only if its articles of organization:

- (a) Limit the purposes of such organization to one or more exempt purposes; and
- (b) Do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(b)(4) of the Regulations states that an organization is not organized exclusively for one or more exempt purposes unless its asset are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, if upon dissolution, such assets would by reason of a provision in the organization's articles of organization or by operation of law, be distributed for one or more exempt purposes.

Section 1.501(c)(3)-1(c)(1) of the Regulations 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) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations states that an organization is not operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. It must not be operated for the benefit of designated individuals or the persons who created it.

Based on the information submitted, it is our opinion that you are not an organization described in section 501(c)(3) of the Code because you are not organized and operated exclusively for one or more exempt purposes set forth in section 501(c)(3) of the Code.

[REDACTED]

You are not organized exclusively for one or more exempt purposes because your purposes as set forth in your articles of incorporation are not restricted to those exempt purposes set forth in section 501(c)(3) of the Code. In addition, your articles of incorporation do not provide for the distribution of assets in the event of dissolution for one or more exempt purposes set forth in section 501(c)(3) of the Code.

You are not operated exclusively for one or more exempt purposes because you are operated for the private benefit of your members rather than operating to provide a public benefit under section 501(c)(3) of the Code. In addition, the payment of death benefits is not a recognized charitable activity under section 501(c)(3) of the Code.