[redacted] [redacted]

NOV 9 1987

Dear Sir or Madam:

We have completed our consideration of your application for tax-exempt status under section 501(c)(3) of the Internal Revenue Code.

You are a trust created under a declaration of trust dated [redacted]. The declaration of trust provides that you will make payments to or for the use of charitable organizations, but limited to such charitable purposes as defined in paragraph 3.6 of the declaration. Paragraph 3.6 specifies that the term 'charitable purposes' is limited to furthering the missionary activities and programs of [redacted] through contributions to the Missionary Fund of any stake, ward or other unit of the [redacted] and to formally called full-time missionaries serving for said church who are the grand-children of [redacted] or their issue as provided in the [redacted] dated the [redacted] day of [redacted].

Your application further states that no contributions will be made for the expenses of individual missionaries unless written notification of a formal full-time mission call is received along with a copy of the document memorializing such call to missionary service. In no event shall payment be made for costs or expenses not reasonably required for the missionary service performed by such individual.

Accordingly, a substantial purpose, if not your primary purpose is to make payments directly to and for the support of specific predetermined individuals who are also members of your founder's family. Such payments are to cover the personal expenses of the recipients incurred while in missionary service to the church named above.

Section 501(c)(3) of the Code provides exemption for:

> "Corporations...organized and operated exclusively for religious, charitable,...or educational purposes,...no part of the net earnings of which inures to the benefit of any private shareholder or [illegible]."

Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
[redacted]						

[redacted]

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides 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)..."

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that all the organizations there described must serve a public rather than a private interest.

It has long been the position of the Service that a charitable organization must be set up for the benefit of an indefinite class of individuals rather than for specific persons. A trust organized and operated for the benefit of specific individuals is not charitable. Thus, a trust set up to benefit John Doe is not a charitable trust even though the facts may show that John Doe is needy. However, a trust set up with the general charitable purpose of benefitting needy persons in a particular community is a charitable organization and it may select John Doe as a beneficiary. See Carrie A. Maxwell Trust, Pasadena Methodist Foundation v. Commissioner, 2 TCM 905 (1943) which held that a trust set up for the benefit of an aged clergyman and his wife was not an exempt organization. Despite the fact that the recipients were in financial need, the organization was held to be a private trust, not a charitable one.

Likewise, Revenue Ruling 67-367, 1967-2 C. B. 188, holds that a nonprofit organization whose sole activity is the operation of a scholarship plan for making distributions to pre-selected, specifically named individuals does not qualify for exemption because it is serving private interests rather than public charitable educational interests contemplated under section 501(c)(3) of the Code.

Revenue Ruling 62-113, 1962-2 C. B. 10, describes the treatment, for Federal income tax purposes, of (1) payments made to a missionary [illegible] a church fund [illegible] reimbursement for travel and living expenses incurred in [illegible] service of his church; (2) contributions to the church fund by the parent of the missionary, and (3) direct payments by the parent for the support of the missionary. The ruling holds that such a fund may serve a charitable [illegible] religious purpose, but donations to it will not be deductible if the [illegible] are earmarked by the donor for particular beneficiaries. [illegible] so earmarked, they are treated as being gifts to the [illegible] and are not deductible. The ruling further states [illegible] of payments made by parents directly to their missionary [illegible] constitute support to be used in [illegible] entitled to a dependency exemption for their [illegible]

[redacted]

payments made to a general fund to benefit missionaries may serve a charitable purpose, but where such payments are earmarked for specific persons, or in the case of where payments are made directly to designated persons, a charitable purpose is not served exclusively. A substantial private purpose is served as well.

Revenue Ruling 75-434, 1975-2 C. B. 205, holds that an organization established to provide temporary low-cost housing and related services for missionary families on furlough for recuperation or training in the U. S. from their assignments abroad is operated exclusively for charitable purposes and qualifies for exemption under section 501(c)(3) of the Code. The board of trustees of the organization is comprised of members of various evangelical churches. Candidates for the housing are selected on the basis of requests for housing assistance submitted by the various mission boards. The organization served a charitable purpose because the assistance provided to the missionaries was provided them in their official capacities for use in furtherance of and as part of the organized religious programs with which they are associated. By providing the assistance, the organization is directly assisting in the accomplishment of the religious work of the missions involved.

In considering Revenue Ruling 75-4[illegible]4, it is very important to note that the organization was not created to provide aid and support to pre-selected specifically designated and identifiable individuals, but to members of broad general class of missionaries selected by an independent board of trustees.

In a recent court case, see Harold Davis and Enid Davis, Plaintiffs v. United States of America, Defendant, U. S. District Court, Dist. Idaho; No. 85-4106, 7/15/87, the court held that the parents of missionaries performing service for the Mormon Church were not entitled to a charitable contribution deduction for the expenses that they paid while their sons were on missionary duty. The court held that the primary benefit test was not the appropriate test in the case of a taxpayer attempting to deduct expenses incurred by another. The court stated that the [illegible] whether the church had control over the amounts contributed. [illegible], the payments were made directly to the sons and the sons had [illegible] of the funds. The sons used the money to pay for rent, [illegible] transportation. The court concluded that such donations to the sons [illegible] of the church and thus did not serve [illegible]

[illegible] be seen from a review of the above rulings and court [illegible] created and operated to make payments [illegible]

[redacted]

of designated beneficiaries will not qualify for exemption. An organization may qualify for exemption if it is operated to support a charitable organization directly or if it is operated to serve a general charitable class of beneficiaries, the individual recipients of support not being pre-determined in advance.

You are created to directly support designated persons, who are also members of a particular family.

Accordingly, we have determined that, because you are organized and operated to benefit a substantial private interest, rather than an exclusively public and charitable interest, tax exemption under section 501(c)(3) is denied.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If we do not hear from you within 30 days, this letter will be our determination in the matter.

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."

If this determination letter becomes a final determination, [illegible] appropriate State Officials, as required by section [illegible]

[redacted]

Based on the information we have, we are unable to recognize you as an organization of the type described in Code section 501(c)(3).

If you have any questions, you may contact the person whose name, telephone number and address is in the heading of this letter.

Sincerely,

[redacted]
District Director

Enclosure:
Form 6018
Publication 892

cc: [redacted]