

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

AUG 16 1994

Employer Identification Number: [REDACTED]  
Form: [REDACTED]  
Tax Years: [REDACTED]

Dear Applicant:

This is a final adverse ruling with respect to your exempt status under section 501(c)(5) of the Internal Revenue Code.

We have considered your protest letters of [REDACTED], and [REDACTED]. After careful review of your protests, as well as the entire file, we conclude that the grounds for denial of tax exemption under section 501(c)(5) of the Code, as set forth in our letter dated March 17, 1994, are still fully valid. Accordingly, we hereby affirm our denial of your application for recognition of exemption from federal income tax under section 501(c)(5).

You are required to file federal income tax returns on the above form. Based upon the financial information which you furnished, returns should be filed for the years shown above. You should file these returns with your key District Director for exempt organization matters within 30 days from the date of this letter unless your Key District Director approves a request for an extension of time to file. Returns for subsequent tax years should be filed with the appropriate Service Center indicated in the instructions for those returns.

A copy of this letter, as well as the ruling letter of March 17, 1994, will be forwarded to your key District Director for exempt organization matters in Cincinnati, Ohio.

If you have any questions about this ruling, please contact the person whose name and telephone number are shown above.

Sincerely yours,

cc: [REDACTED]

cc: DD, Cincinnati, w/copy of  
03/17/94 letter  
Attn: EO Group

[REDACTED]  
Chief, Exempt Organizations  
Rulings Branch 4

[REDACTED]

[REDACTED]

8-15-94

8-17-94

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

MAR 17 1994

Employer Identification Number: [REDACTED]  
Key District: Cincinnati, OH

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax as an organization described in section 501(c)(5) of the Internal Revenue Code. We have determined that you do not qualify for exemption under that section of the Code. Our reasons for this conclusion and the facts upon which it is based are explained below.

The information submitted indicates that you were incorporated on [REDACTED], under the laws of the State of [REDACTED]. Your Articles of Incorporation state that your purposes are (1) to use biodynamic agriculture methods that strive to build and maintain a healthy soil and produce high quality food, while providing the farmers with a just livelihood, (2) to provide urban and suburban people access to a farm while putting the "culture" back into agriculture, and (3) to create a partnership in which the bounty and risks of production are shared among all members.

Your bylaws state that your purpose is to support a farm which grows a variety of farm products to be shared by members, using biodynamic farming methods. Your bylaws also state that any individual residing and participating in a household which holds a "share" shall be termed a member, and that individuals or households holding "shares" are those which have made a commitment to participate in and materially support you, as determined on an annual basis. In return for their support, members receive a share of your production. Your bylaws further state that your membership includes farmers, those members who actually carry forward the day-to-day work of the farming operation, including responsibility for management of the farm and garden, budget creation, produce projection, hiring of co-workers, determining the number of "shares" available, and financial oversight. Your application states that in [REDACTED] you had one full-time grower, two part-time growers, and one apprentice, and that [REDACTED] "shares" were available, with the average cost being \$ [REDACTED].

[REDACTED]

In your application, you state that your activities may be grouped into agricultural activities, educational activities, and social activities. Agricultural activities include the development and application of techniques for growing food without the use of synthetic pesticides or fertilizers, the development and promotion of techniques for improving and sustaining the condition of the soil, and the application and extension of biodynamic principles of agriculture. You state that the major goal of your agricultural activities is to develop the means for producing the highest quality food possible without the use of synthetic pesticides or fertilizers. Educational activities include the training of apprentices, programs for children, presentations of the farm's purposes and organization to community groups and conferences, biodynamic study groups, and demonstration of biodynamic techniques to members and to the greater community. Social activities include open houses for the general public, seasonal festivals for the members, and the development of a model of operation which will enable small farms to remain viable.

You state that virtually all of the operating expenses of the farm are supported by member contributions. Members purchase shares in the farm each spring, the average cost of a share being determined by projecting total expenses and dividing by the number of shares to be made available. Members share in all that the farm has to offer, including use of the farm facilities, participation in all farm activities, and equal shares of anything that the farm produces. Your brochure states that volunteers are encouraged to come to the farm and help or merely observe.

In your letter written in response to an Internal Revenue Service letter dated [REDACTED], you state that you do not derive profits from the sale of agricultural products, but that members buy shares in the farm, and that among the benefits of membership is the opportunity to share in the farm produce. Vegetables are harvested twice a week, and each shareholder comes to the farm on one or the other of those days to pick up their share of the harvest. All produce is grown by the farmers, with the assistance of the apprentices and volunteers; there are no individual plots. The letter also states that altogether the agricultural activities occupy perhaps [REDACTED]% of the farmers' time, [REDACTED]% is spent on activities of an explicitly educational nature (such as speaking to community groups, conducting tours of the farm for student groups, members of the community and representatives of other agricultural organizations, and attending conferences), and [REDACTED]% is spent in activities of a social nature (such as organizing and participating in community gatherings and festivals).

Section 501(c)(5) of the Code provides for the exemption from federal income tax of labor, agricultural, or horticultural organizations.

Section 1.501(c)(5)-1 of the Income Tax Regulations provides that agricultural organizations contemplated by section 501(c)(5) of the Code are those which have no net earnings inuring to the benefit of any member, and have as their objects the betterment of the conditions of those engaged in agriculture, the improvement of the grade of their products, and the development of a higher degree of efficiency in their agricultural occupations.

Rev. Rul. 67-251, 1967-2 C.B. 196, holds that a business league which extends financial aid and welfare services to its members does not qualify under section 501(c)(6) of the Code since part of its net earnings is inuring to the benefit of private individuals. Because the exempt purposes of an agricultural organization under section 501(c)(5) of the Code are to better the conditions of those engaged in agricultural pursuits generally rather than to benefit the individual members specifically, this revenue ruling applies equally to agricultural organizations under section 501(c)(5).

Rev. Rul. 67-252, 1967-2 C.B. 195, holds that a nonprofit organization whose members are processors, packers, and distributors of agricultural products is not exempt under section 501(c)(5) of the Code because its members are not engaged in agriculture. In this case, the organization was formed to promote the sale and use of a processed agricultural product; its members were processors, packagers, and distributors of the product. The revenue ruling holds that improvement of the conditions of persons engaged in agriculture arises only indirectly from the activities of this organization whose purpose is to improve business conditions among its members by promoting their common business interest in the development, sale, and use of the product; these persons are not engaged in agriculture.

Rev. Rul. 81-59, 1981-1 C.B. 334, holds that a local association of farmers formed to promote more effective agricultural pest control, that employs pest management scouts who periodically inspect members' fields, identify and count agricultural pests, and compile data on agricultural infestation qualifies for exemption under section 501(c)(5) of the Code. The revenue ruling explains that such service benefits farmers in general and that individual benefits received by the members are only incidental to the objectives of the program as a whole.

It is clear that while your members who are designated as "farmers" do primarily perform agricultural activities within the meaning of section 501(c)(5) of the Code, it is also clear that your membership is primarily composed of persons who are not engaged in agriculture, but who rather merely pay for a share of your harvest. Although you encourage volunteers from among your non-farmer members, such participation, even if required, would not be sufficient to classify the majority of your members as being engaged in agriculture within the meaning of section 501(c)(5). Any one of your activities that might tend to better the conditions generally of those engaged in agriculture, such as education about biodynamic farming methods to the area, does not constitute your primary activity, which is farming for your members. Pursuant to the reasoning in Rev. Rul. 67-252, supra, your membership and purposes are not within the scope of section 501(c)(5).

As explained in Rev. Rul. 81-59, supra, any specific and individual benefits to members of an organization described in section 501(c)(5) of the Code must be incidental to the objectives of the program as a whole. The benefits provided to your members, in contrast, are a direct result of your primary activity, the growing of crops using biodynamic farming methods, and is not incidental to the objectives of your program as a whole.

Further, the majority of your members, who are not farmers, are receiving specific benefits that no one other than your members may receive. As explained in Rev. Rul. 67-251, supra, even though these benefits to your members are not necessarily considered to be "welfare services," the provision of these benefits constitutes inurement under section 501(c)(5) and precludes exemption.

For these reasons, we conclude that you do not qualify for recognition of exemption from federal income tax under section 501(c)(5) of the Code. You are required to file federal income tax returns.

You have the right to protest this ruling if you believe that it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted within 30 days of the date of this letter and must be signed by one of your officers. You also have a right to a conference in this office after your protest statement is submitted. If you want a conference, you must request it when you file your protest statement. If you are to

[Redacted]

be represented by someone who is not one of your officers, he/she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If we do not hear from you within 30 days, this ruling will become final and copies of it will be forwarded to your key District Director. Thereafter, any questions about your federal income tax status should be addressed to your key District Director.

When sending additional letters with respect to this case to the Internal Revenue Service, you will expedite their receipt by placing the following symbols on the envelope: [Redacted]. These symbols do not refer to your case but rather to its location.

Sincerely yours,

[Redacted Signature]

[Redacted Title]  
Chief, Exempt Organizations  
Rulings Branch 4

cc: DD, Cincinnati  
Attn: EO Group

	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Code	[Redacted]	[Redacted]					
Surname	[Redacted]	[Redacted]					
Date	3-4-94	3-15-94					