

Handwritten: [Redacted] 11/14/83

[Redacted]

[Redacted]

NOV 2 1983

Dear Applicant:

This is in reply to your application for recognition of exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code.

The information submitted in support of your application indicates that you are a nonprofit public benefit corporation for charitable purposes. Your proposed activities include employment training, such as computer typewriting, to disabled individuals in businesses which would become industrial cooperatives, along with a manufacturing facility for prefabricated accessible housing. Your primary purpose and largest proposed activity is the creation of an industrial cooperative for the production of an improved power wheelchair. Each of these will train, employ, and be owned on a cooperative basis by people with disabilities. Another activity is the solicitation of private sector businesses for supplemental funding for transportation for the elderly and disabled to replace the cut in public funding to [Redacted] so that [Redacted] will not have to cut back on its services.

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

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides, in part, that to be exempt, an organization must be both organized and operated exclusively for exempt purposes.

Section 1.501(c)(3)-1(c)(2) of the regulations provides, in part, that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Section 1.501(c)(3)-1(4)(2)(ii) of the regulations states, in part, that an organization is not organized or operated exclusively for one or more exempt purposes unless it can establish that it is not operated for the benefit of private interests.

Revenue Ruling 73-127, 1973-1 C.B. 221 describes an organization, which operates, on a cooperative basis, a retail grocery store to sell food to residents of a poverty area at prices substantially lower than those charged by competing grocery stores, to provide free delivery to those needing it, and to provide job training for hardcore unemployed poverty area residents. The Rev. Rul. held that while providing job training to the hard-core unemployed is both charitable and educational, the purpose of operating a retail grocery store to sell to poverty residents at low prices was not a recognized charitable purpose. The operation of the store was an end in itself, not simply a vehicle for job training. Because the organization had two distinct purposes, and one was not a charitable purpose, the organization was not organized and operated exclusively for exempt purposes and did not qualify for exemption under section 501(c)(3) of the Code.

Your primary objectives are the creation of industrial cooperatives owned by and hiring disabled persons. Thus, your activity and expenses in setting up these businesses would redound to the benefit of private interests, the individuals with the coop interest. Also, the earnings of the coops would go to these individuals rather than to you. These would constitute both the serving of private interests proscribed by section 1.501(c)(3)-1(4)(2)(ii) of the regulations and the inurement of income proscribed by section 1.501(c)(3)-1(c)(2). Either of these alone would be sufficient to preclude exemption under section 501(c)(3) of the Code.

The purposes of creating businesses to produce items to be sold to the needy and/or disabled at the lowest possible cost is similar to the grocery store situation described in Rev. Rul. 73-127. As explained there, the operation of a business does not become a charitable activity merely because the targeted customers are a charitable class. Because your proposed operations would be essentially the same as those in the Rev. Rul., the rationale used there would apply to you and would preclude exemption under section 501(c)(3) of the Code.

Accordingly, we have concluded that you are neither organized nor operated exclusively for one or more exempt purposes and that you do not qualify for recognition of exemption under section 513(c)(1) of the Code.

You are required to file Federal income tax returns. Contributions to you are not deductible under section 170 of the Code.

You have the right to protest this ruling, if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your principal officers, must be submitted in duplicate within 31 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your principal officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices requirements.

If we do not hear from you within 31 days, this ruling will become final and copies of it will be forwarded to the District Director, San Francisco, California. Hereafter, any questions about your federal income tax status or the filing of tax returns should be addressed to that office. In addition, we will notify the appropriate state officials as required by section 514(c) of the Code.

If you do not protest this proposed ruling (which) in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 1452(b)(1), 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 or territory determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

[REDACTED]

When you reply, please use the symbols for symbols in the address. These symbols do not refer to your case, but rather, to its location.

Sincerely yours,

[REDACTED]

[REDACTED]

Chief, Intelligence and Security
Special Organizations
Technical Branch

cc: DD, San Francisco
att: EO Group

cc: [REDACTED]

cc: [REDACTED]

[REDACTED]