

Internal Revenue Service
Regional Commissioner

Department of the Treasury

Date: MAY 30 1991

Employer Identification Number:

Form Number:

1120

Tax Years:

Key District:

Person to Contact:

Contact Telephone Number:

Dear Gentlemen:

This is a final adverse determination as to your exempt status under section 501(c)(3) of the Internal Revenue Code.

Our adverse determination was made for the following reason(s):

The organization is providing a commercially available service to individuals who can afford them by the publication of an investment advisory newsletter. Aiding individuals in their investment planning is not a charitable activity within the meaning of section 501(c)(3) of the Internal Revenue Code and applicable regulations thereunder. Further, your organization has not established that its operation achieves an educational or charitable purpose within the meaning of section 501(c)(3) of the Internal Revenue Code and applicable regulations thereunder.

In addition, your organization has not established that it is not organized and operated for the benefit of private interests as required by section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations.

Contributions to your organization are not deductible under Code section 170.

You are required to file Federal income tax returns on the form indicated above. Based on the financial information you furnished, it appears that returns should be filed for the above years. You should file these returns with your key District Director, EP/EO Division, within 30 days from the date of this letter, unless a request for an extension of time is granted. Processing of income tax returns and assessment of any taxes due will not be delayed because you have filed a petition for declaratory judgment under Code section 7428. You should file returns for later tax years with the appropriate service center shown in the instructions for those returns.

If you decide to contest this determination under the declaratory judgment provisions of Code section 7428, a petition to the United States Tax Court, the United States Court of Claims, or the district court of the United States for the District of Columbia must be filed within 90 days from the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for filing petitions for declaratory judgment.

(over)

Post Office Box 1680, GPO
Brooklyn, NY 11202

Date: APR 06 1989

Person to Contact:

Contact Telephone Number:

Refer Reply to:

CERTIFIED MAIL

Dear Applicant:

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

The evidence presented disclosed that you were incorporated on [REDACTED] in the State of [REDACTED].

The purposes for which the corporation was formed are as follows:

(1) To provide assistance to the poor and less affluent in any and all connections with regard to obtaining the basic necessities of life: food, clothing, shelter, rest medical care, education and employment.

(2) To receive and administer funds for educational and charitable purposes.

The information submitted with your application indicates that your primary activity is to educate the public of the benefits to themselves and society from investing in securities of companies which provide the basic elements of life: food, clothing, shelter, health care and education.

Also, the foundation will assist other organizations in deriving benefits from investment services based upon the [REDACTED] concept.

Also, the foundation has and will be supportive of other organizations which encourage basic human needs.

Information submitted in response to our letter dated December 27, 1988 indicates that your organization will educate the public and tax-exempt organization to invest in the basics of life, such as food and clothing by investing in for-profit entities that sell these basic products. You have created an [REDACTED] Index to monitor the performance of these commercial corporations that will be published monthly.

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, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

In order to qualify under IRC 501(c)(3), an organization must be both "organized" and "operated" exclusively for one or more purposes specified in that section. If the organization fails to meet either the organizational test or the operational test, it is not exempt. (Regs. 1.501(c)(3)-1(a)(1)). The organizational test relates to the rules for governing an organization and the purposes stated in its articles of organization. The operational test relates to the organization's activities.

Section 1.501(c)(3)-1(c)(1) of the Regulations states that if more than an insubstantial part of an organization's activities is not in furtherance of exempt purposes, the organization will not be regarded as exempt.

In Better Business Bureau v. U.S., 326 U.S. 279 (1945), the Supreme Court stated that the presence of even a single, non-exempt purpose, if more than insubstantial in nature, will defeat exemption under Section 501(c)(3) of the Code, regardless of the manner or importance of the truly exempt purposes.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations provides, in part, that an organization is not organized or operated exclusively for one or more of the purposes mentioned in section 501(c)(3) of the Code unless it serves a public rather than a private interest. An organization may not be exempt if it is operated for the benefit of private individuals.

Section 1.501(c)(3)-1(d)(2) of the Regulations provides that the term "charitable" includes relief of the poor and distressed, advancement of education and science and the promotion of social welfare designed to accomplish any of the above purposes.

Section 1.501(c)(3)-1(d)(3) of the Regulations provides, in part, that the term "educational" relates to the instruction of the public on subjects useful to the individual and beneficial to the community. Museums and schools are included in the examples of educational organizations which, if they otherwise meet the requirements of section 501(c)(3) of the Code, may qualify under this section.

Revenue Ruling 69-528, 1969-2 C.B. 127 holds that an organization regularly carrying on an investment service that would be unrelated trade or business if carried on by any of the exempt organizations on whose behalf it operates is not exempt under IRC 501(c)(3).

Like the organization described in Revenue Ruling 68-528, your organization is carrying on an investment service, namely encouraging the public to invest in certain for-profit corporations, which is an unrelated trade or business. Therefore, we have determined that your organization is not operated exclusively for educational or other exempt purposes stated in section 501(c)(3) of the Code.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(3) of the Code and propose to deny your request for exemption under that section.

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

Contributions made to you are not deductible by the donors as charitable contributions as defined in section 170(c) of the Code.


If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time this determination will be considered final and the appropriate State Officials will be notified.

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."

Sincerely yours,



District Director

Enclosure: Publication 892