



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

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Contact Person:

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Telephone Number:

Dear *****:

This is in response to your letter of ***** , 2000. You state therein that you represent a group of people who are interested in starting a legal center/public interest law firm that will qualify for exemption under section 501(c)(3). You are specifically concerned with whether and to what extent such an organization could engage in lobbying activities. Because the organization has not been created yet, we are unable to speculate as to whether it will qualify for exemption. In addition, we are unable to specifically address the myriad of hypothetical situations you have posed. We are however, happy to provide general information that may assist you in planning your future activities.

Your letter indicates that you plan to represent clients in various forums and to serve as an advocate for the general public on issues germane to your outlook on matters pertaining to the environment and good governance. You propose to have a team of lawyers, analysts, community organizers and program coordinators that will represent your interests in court as well as before decision makers in the halls of government. You also indicate that you plan to write letters to government authorities and elected officials, to send out "action alerts" to the media and activists throughout the community and to get the public involved in your issues. You indicate further that you plan to provide free legal advice, assistance and counsel to organizations otherwise financially incapable of obtaining such services in matters relating to environmental and natural resources protection; to supply professional legal assistance to planning and conservation groups; and to engage on a nonprofit basis in research and information dissemination with respect to legal rights in a healthy environment by giving legal advice, appearing before administrative bodies and enforcing environmental laws through court actions.

Section 501(c)(3) of the Code grants exemption to organizations organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

The term "charitable" is used in section 501(c)(3) of the Code in its generally accepted legal sense and includes religious, charitable, educational, and scientific purposes whether or not specifically enumerated in the statute. In this regard, public interest law firms are considered "charitable" within the meaning of section 501(c)(3) of the Code because they provide representation for issues of significant public interest in cases that would not be economically feasible for the traditional private law firms. A public interest law firm must be organized and operated to litigate significant public policy issues. Rev. Proc. 92-59, (copy enclosed), sets forth guidelines such an organization must meet to establish exemption under section 501(c)(3) of the Code. Although one of your proposed activities is to engage in public interest litigation, your purposes appear to be far broader. It seems unlikely that you would be recognized as exempt as a public interest law firm, though your purposes may be considered "charitable" because they are "educational" in nature.

Section 501(c)(3) of Code, however, limits exemption to organizations that do not engage in substantial legislative activities. Such organizations are considered "action" organizations and do not qualify for exemption. An "action" organization is defined in section 1.501(c)(3)-1(c)(3) and includes both organizations that attempt to influence legislation and organizations that intervene in political campaigns. In making a determination as to whether an organization is an "action" organization, both direct and indirect lobbying are considered as attempts to influence legislation. Attempts to influence legislation that are less than a substantial part of the organization's activities will not ordinarily jeopardize exemption. Whether a specific activity constitutes a "substantial" portion of the total activities of an organization is a factual one, and there is no simple rule as to what amount of activities is substantial. All the facts and circumstances must be considered. To establish more precise standards for determining whether a section 501(c)(3) organization's legislative activities would disqualify it from exempt status, Congress enacted section 501(h). Eligible public charities may elect to comply with the test set forth in that section.

Many of the activities you mention in your letter would be considered attempts to influence legislation. One of the primary purposes of your organization, in fact, appears to be advocating for new policies through direct and indirect appeals to legislators through the electorate or general public. Although we are not in a position to examine all of the facts and circumstances, It is likely that an organization engaging in the activities you describe would be considered an "action" organization and would not be recognized as exempt under section 501(c)(3) of the Code.

Section 501(c)(4) of the Internal Revenue Code grants exemption to organizations not organized for profit but operated exclusively for the promotion of social welfare. The regulations describe the promotion of social welfare as promoting in some way the common good and general welfare of the people of the community, such as bringing about civic betterment and social improvements. An organization is considered to be operated for the promotion of social welfare if it primarily engages in social welfare activities which may include attempting to

influence legislation through direct and indirect lobbying. Social welfare activities do not include participating in political campaigns on behalf of or in opposition to any candidate for public office; the operation of a social club for the benefit of its members; or carrying on business with the general public in a manner similar to organizations operated for profit. In considering whether an organization is primarily engaged in social welfare activities, the Internal Revenue Service considers all the facts and circumstances. Although we are unable to state with certainty, your proposed activities may further social welfare within the meaning of section 501(c)(4). You should note that contributions to organizations exempt under section 501(c)(4) are not deductible by donors.

We understand that your primary concern involves lobbying and many issues that may overlap the political arena. Articles that you may find particularly helpful are Topic S. Affiliations Among Political, Lobbying and Educational Organizations, that appeared in the 2000 CPE text; Topic P. Lobbying Issues, that appeared in the 1997 CPE text and Topic J. Lobbying Activities of IRC 501(c)(3) Organizations, that appeared in 1987 CPE text. These texts are prepared yearly as an important tool for maintaining the highest possible level of technical competence among our EO Staff. The articles are advisory only but do offer some guidance as to the Service's interpretation of the relevant laws. We have enclosed copies of these articles for your convenience.

Please be advised that this letter is advisory only and has no binding effect on the Service. The information provided here cannot be relied upon as a ruling on the matters discussed. If you have any further questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

/signed: Gerald V. Sack

Gerald V. Sack
Manager, Exempt Organizations
Technical Group 4

Attachments:
CPE text: 3 articles
Rev. Proc. 92-59