



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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Number: **200841039**
Release Date: 10/10/2008

Date: 7/15/08

UIL: 501.33-00

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

SE:T:ED:RA:T:1

Dear :

This is our final determination that you do not qualify for exemption from Federal income tax as an organization described in Internal Revenue Code section 501(c)(3). Recently, we sent you a letter in response to your application that proposed an adverse determination. The letter explained the facts, law and rationale, and gave you 30 days to file a protest. Since we did not receive a protest within the requisite 30 days, the proposed adverse determination is now final.

Because you do not qualify for exemption as an organization described in Code section 501(c)(3), donors may not deduct contributions to you under Code section 170. You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file. File the returns in accordance with their instructions, and do not send them to this office. Failure to file the returns timely may result in a penalty.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

In accordance with Code section 6104(c), we will notify the appropriate State officials of our determination by sending them a copy of this final letter and the proposed adverse letter. You should contact your State officials if you have any questions about how this determination may affect your State responsibilities and requirements.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at 1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Robert Choi
Director, Exempt Organizations
Rulings & Agreements

Enclosure
Notice 437
Redacted Proposed Adverse Determination Letter
Redacted Final Adverse Determination Letter



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Date: June 2, 2008

501.33-00

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

Dear :

We have considered your application for recognition of exemption from Federal income tax under Internal Revenue Code section 501(a). Based on the information provided, we have concluded that you do not qualify for exemption under Code section 501(c)(3). The basis for our conclusion is set forth below.

FACTS

You were formed as a non-profit corporation and have requested classification as an organization organized and operated exclusively for charitable, educational, or other exempt purposes under sections 501(c)(3) and 509(a)(2) of the Code. Your stated purposes are preserving and promoting the history, traditions, and heritage of a particular family group; to encourage education, the collection and preservation of records, traditions and historical material related to the history of that family group and to conduct related genealogical research.

You are a membership organization and your board of directors is selected by your voting members. Associate memberships are available to anyone, however to have voting rights and be eligible to hold office, a member must demonstrate that they are direct lineal descendants of an individual bearing the surname of your family group or one of its derivative spellings.

Your activities include sending out a newsletter and maintaining a website with information about the family group, as well as organizing meetings of your members. In addition, you maintain a library of various items and books related to the family group. You perform genealogical research for both members and non-members. While some of your research materials are useful to those who are not descendants of the family group, your materials are primarily focused on members of that group. You also refer individuals to a DNA project that helps them identify their genetic relationships to other members of the family group. You also display items related to your family group and speak with the public about the group and its general cultural heritage at various cultural events.

LAW

Section 501(c)(3) of the Code provides for the exemption of organizations organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

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 that accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. However, an organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations states that an organization is not operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. It cannot operate for the benefit of specific individuals, including those who created it.

Section 1.501(c)(3)-1 (d)(1)(iii)(ex.1) of the regulations gives the following example of an organization that serves a private rather than a public purpose:

O is an educational organization the purpose of which is to study history and immigration. O's educational activities include sponsoring lectures and publishing a journal. The focus of O's historical studies is the genealogy of one family, tracing the descent of its present members. O actively solicits for membership only individuals who are members of that one family. O's research is directed toward publishing a history of that family that will document the pedigrees of family members. A major objective of O's research is to identify and locate living descendants of that family to enable those descendants to become acquainted with each other.

O's educational activities primarily serve the private interests of members of a single family rather than a public interest. Therefore, O is operated for the benefit of private interests in violation of the restriction on private benefit in paragraph (d)(1)(ii) of this section. Based on these facts and circumstances, O is not operated exclusively for exempt purposes and, therefore, is not described in section 501(c)(3).

Section 1.501(c)(3)-1(d)(3) of the regulations defines the term educational as including the instruction or training of the individual for the purpose of improving or developing his capabilities, or the instruction of the public on subjects useful to the individual and beneficial to the community.

Rev. Rul. 80-301, 1980-2 C.B. 180, holds that a genealogical society whose membership is open to all persons in a particular area and that provides instruction genealogical research techniques and does not perform genealogical research for its members, is operated

exclusively for educational purposes and qualifies for exemption under section 501(c)(3) of the Code.

Rev. Rul. 80-302, 1980-2 C.B. 182, holds that a genealogical society whose primary activity is the compilation of genealogical data for members of a particular family does not qualify for exemption from federal income tax under section 501(c)(3) of the Code.

In Better Business Bureau of Washington D.C., Inc. v. United States, 326 U.S. 279 (1945), the Supreme Court held that the presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes. The Court found that the trade association had an "underlying commercial motive" that distinguished its educational program from that carried out by a university.

In The Callaway Family Association, Inc. v. Commissioner, 71 T.C. 340 (1978), the court held that a family association formed as a nonprofit organization to study immigration to and migration within the United States by focusing on its own family history and genealogy does not qualify for exemption under section 501(c)(3) of the Code. The association's activities included researching the genealogy of its members for the ultimate purpose of publishing a family history. The court stated that the association's family genealogical activities were not insubstantial and were not in furtherance of an exempt purpose. Rather, they served the private interests of the members. Thus, the association was not operated exclusively for exempt purposes.

In Benjamin Price Genealogical Association, Civil No. 78-2117 (D. D.C. 1979), the U.S. District Court held that an organization formed to disseminate information on, and to preserve documents relating to, the genealogy of Benjamin Price did not qualify for exemption under section 501(c)(3) of the Code because it was created and operated primarily for the benefit of the private interests of its members rather than exclusively for educational purposes.

In Manning Association v. Commissioner, 93 T.C. 596 (1989), an organization was formed to acquire and preserve the ancient Manning homestead and other historic relics and records of the descendants of William Manning and to encourage communication among his descendants. The Tax Court concluded that although the organization did serve some educational purposes, it did not operate exclusively for educational purposes because its nonexempt activities, furthering the private interests of the Manning family, were substantial.

ANALYSIS

Based on our analysis of the information you submitted during the application process and in light of the applicable law, we have determined that you are not organized and operated exclusively for exempt purposes within the meaning of section 501(c)(3) of the Code.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations requires an organization to show that it is not organized or operated for private interests in order to be exempt under section 501(c)(3) of the Code. Organizations that focus on gathering materials and performing genealogical research relating to one family group are operated for the private interests of members of that family group and are not described in section 501(c)(3) of the Code because more than an

insubstantial part of their activities benefits the private interests of members of that family group. Rev. Rul. 80-302, supra; Callaway Family Association, supra; Benjamin Price Genealogical Association, supra. Even if the organization does conduct some educational activities, if its activities in furtherance of the private interests of a particular family group are more than insubstantial, it does not qualify for exemption under section 501(c)(3). Manning Association, supra; see also Better Business Bureau of Washington, D.C.

The items you collect and the genealogical research you conduct is primarily for the benefit of one particular family group. In addition, you limit full membership in your organization to individuals with ties to that family group. While some of your activities may be educational and you perform some research for individuals outside your family group, more than an insubstantial part of your activities are directed towards the benefit of private interests, members of your family group.

CONCLUSION

Based on the information submitted, we conclude that more than an insubstantial part of your activities are in furtherance of private interests. Therefore, you are not operated exclusively for exempt purposes. Accordingly, you do not qualify for exemption as an organization described in section 501(c)(3) of the Code and you must file federal income tax returns.

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter. We will consider your statement and decide if the information affects our determination.

Your protest statement should be accompanied by the following declaration:

Under penalties of perjury, I declare that I have examined this protest statement, including accompanying documents, and, to the best of my knowledge and belief, the statement contains all the relevant facts, and such facts are true, correct, and complete.

You also have a right to request a conference to discuss your protest. This request should be made when you file your protest statement. An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you. If you want representation during the conference procedures, you must file a proper power of attorney, Form 2848, *Power of Attorney and Declaration of Representative*, if you have not already done so. For more information about representation, see Publication 947, *Practice before the IRS and Power of Attorney*. All forms and publications mentioned in this letter can be found at www.irs.gov, Forms and Publications.

If you do not file a protest within 30 days, you will not be able to file a suit for declaratory judgment in court because the Internal Revenue Service (IRS) will consider the failure to protest as a failure to exhaust available administrative remedies. Code section 7428(b)(2) provides, in part, that a declaratory judgment or decree shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for

the District of Columbia determines that the organization involved has exhausted all of the administrative remedies available to it within the IRS.

If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848 and any supporting documents to this address:

Internal Revenue Service
TE/GE (SE:T:EO:RA:T:1)

1111 Constitution Ave, N.W.
Washington, DC 20224

You may also fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Robert Choi
Director, Exempt Organizations
Rulings & Agreements