



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Number: **201204016**
Release Date: 1/27/2012

Date: October 31, 2011

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

Legend:

UIL Index:

6033.01-00

C =
D =
E =
F =
G =

Dear :

We have considered your request for a ruling that you are not required to file annual information returns on Form 990, Return of Organization Exempt From Income Tax, pursuant to Treasury Regulation 1.6033-2(g). Based on the information provided, we have concluded that you do not meet requirements to be excepted from filing Form 990. The basis for our conclusion is set forth below.

Issue:

Do you meet the requirements to be excepted from filing Form 990 as a mission society?

Facts:

Your Articles of Incorporation were filed on D. In E, you submitted Form 1023, Application for Recognition of Exemption Under § 501(c) (3) of the Internal Revenue Code to the IRS. Our letter dated F provided that recognition.

On G, we received your letter which stated you are a mission society which is not required to file Form 990.

Our review of the information you have provided found the following:

1. You are not an organization covered by a Group Ruling.
2. Your Articles of Incorporation contain no provisions requiring that you will be operated, supervised or controlled by a church or convention or association of churches.
3. Article X of your Articles of Incorporation provides, in part, that upon dissolution you will dispose of all assets "exclusively for the purpose of the Corporation in such a manner, or to such organizations ... qualify as an exempt organization or organization under Section 501(c)(3) ..."
4. Your primary activity is providing humanitarian aid to C.
5. You receive your funding from a wide variety of sources including some churches that may dictate which humanitarian aid program they wish to sponsor. Some of your board members sit as representatives of these churches and participate in mission trips.

Law:

Section 6033(a)(1) of the Code generally requires the filing of annual information returns by exempt organizations.

Section 1.6033(a)(2)(g)(i) of the Regulations provides certain mandatory exceptions to filing annual information returns. Qualified mission societies are eligible for this exception.

Section 1.6033-2(g)(1)(iv) states that to be a qualified mission society, an organization must be sponsored by or affiliated with one or more churches or church denominations, and more than one-half of the activities of the society must be conducted in, or directed at persons in foreign countries.

Section 1.6033-2(h)(2) states that an organization is affiliated with a church or a convention or association of churches, for purposes of paragraph (h)(1)(ii) of this section, if--

- (i) The organization is covered by a group exemption letter issued under applicable administrative procedures to a church or a convention or association of churches;
- (ii) The organization is operated, supervised, or controlled by or in connection with (as defined in § 1.509(a)-4) a church or a convention or association of churches; or
- (iii) Relevant facts and circumstances show that it is so affiliated.

Section 1.6033-2(h) (3) states that for purposes of paragraph (h)(2)(iii) of this section, relevant facts and circumstances that indicate an organization is affiliated with a church or a convention or association of churches include the following factors. However, the absence of one or more of the following factors does not necessarily preclude classification of an organization as being affiliated with a church or a convention or association of churches--

- (i) The organization's enabling instrument (corporate charter, trust instrument, articles of association, constitution or similar document) or by-laws affirm that the organization shares common religious doctrines, principles, disciplines, or practices with a church or

a convention or association of churches;

(ii) A church or a convention or association of churches has the authority to appoint or remove, or to control the appointment or removal of, at least one of the organization's officers or directors;

(iii) The corporate name of the organization indicates an institutional relationship with a church or a convention or association of churches;

(iv) The organization reports at least annually on its financial and general operations to a church or a convention or association of churches;

(v) An institutional relationship between the organization and a church or a convention or association of churches is affirmed by the church, or convention or association of churches, or a designee thereof; and

(vi) In the event of dissolution, the organization's assets are required to be distributed to a church or a convention or association of churches, or to an affiliate thereof within the meaning of this paragraph (h).

Application of Law:

Because your primary activity is providing humanitarian aid in C, you have met the foreign activities requirement imposed by Section 1.6033-2(g)(1)(iv). But the Regulation imposes a second requirement. You must also be sponsored by or affiliated with one or more churches or church denominations.

Mission societies who are sponsored by one or more churches must have some institutional relationship with and provide some kind of financial accounting to the churches who are sponsoring them. Section 1.6033-2(h)(2) of the Regulations provides three instances when an organization can be considered to be an affiliate of one or more churches or church denominations. In applying these indicants to you, we found:

- (i) Your organization is not covered by a group exemption letter,
- (ii) You are not operated, supervised, or controlled by a church or convention of churches, and
- (iii) You do not pass the facts and circumstances test detailed in section 1.6033-2(h)(3) of the Regulations because your organization does not meet any of the listed affiliation factors.
 - Your Articles of Incorporation and Bylaws do not show any institutional relationship such as sharing common religious doctrines, principles, practices, common name, or church affirmation.
 - Your governing documents do not mandate common board members with sponsored or affiliated churches.
 - Your name does not imply a connection with any church.
 - No church or church association has the authority to appoint or remove any of your board members.

- You have not shown that any churches or church associations receive annual reports on your financial and general operations. And,
- Your enabling document does not require your assets to be distributed to any sponsored or affiliated churches.

Conclusion:

Based on the factors as detailed above, we deny your request for exception from filing Form 990 as a mission society. We have determined that you are not an integrated auxiliary of a church and do not meet the requirements for classification as a mission society because you are not sponsored by or affiliated with one or more churches or church denominations.

Accordingly, you do not qualify for exception from filing Form 990 as a mission society.

Filing Penalties and Revocation of Tax-Exempt Status:

If a Form 990 or Form 990-EZ is not filed, the IRS may assess penalties on the organization of \$20 per day until it is filed. This penalty also applies when the filer fails to include required information or to show correct information. The penalty for failure to file a return or a complete return may not exceed the lesser of \$10,000 or 5 percent of the organization's gross receipts. For an organization that has gross receipts of over \$1 million for the year, the penalty is \$100 a day up to a maximum of \$50,000. The IRS may impose penalties on organization managers who do not comply with a written demand that the information be filed.

Section 6033(j) of the Code provides that failure to file Form 990, Form 990-EZ, or Form 990-N for 3 consecutive years results in revocation of tax-exempt status as of the filing due date for the third return. An organization whose exemption is revoked under this section must apply for reinstatement by filing a Form 1023 and paying a user fee, whether or not the organization was originally required to file for exemption. Reinstatement of exemption may be retroactive if the organization shows that the failure to file was for reasonable cause. Information with respect to the implementation of Section 6033(i) is available at www.irs.gov/eo.

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

Sincerely,

Lois G. Lerner
Director, Exempt Organizations