

**Internal Revenue Service**  
TEGE Appeals Programs  
300 N. Los Angeles Street  
Los Angeles, CA 90012

**Department of the Treasury**  
**CERTIFIED**

Release Number: **201433019**  
Release Date: 8/15/2014  
Date: May 9, 2014

**A**

**B**

**Taxpayer Identification Number:**

**C**

**Person to Contact:**

\*\*\*\*

Employee ID Number: \*\*\*\*

Tel: (\*\*\*\* Fax: \*\*\*\***Refer Reply to:**  
\*\*\*\*

**In Re: Exempt status**

**Tax Years: 12/31/\*\*\*\*and subsequent  
years**

**UIL Index:**

501.32-00, 501.33-00, 501.35-00

Dear :

This is a final adverse determination as to your application for exempt status under section 501(a) of the Internal Revenue Code as an organization described under section 501(c)(3). Our adverse determination was made for the following reason(s):

Organizations exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code are required to operate exclusively for educational, charitable or other exempt purposes. An organization is not operated for one or more exempt purposes unless it serves a public rather than a private interest. Treas. Reg. § 1.501(c)(3)-1(d)(1)(ii).

You operate for the private interest of your sole director and founder, \*\*\*\*-. Additionally, you have failed to adequately describe your proposed operations despite multiple inquiries from the Internal Revenue Service. You are therefore not eligible for recognition as a tax-exempt organization described in Section 501(c)(3) of the Internal Revenue Code.

Contributions to your organization are not deductible under Code § 170. You are required to file federal Form 1120 for the year(s) shown above.

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 before the 91<sup>st</sup> (ninety-first) day after the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for filing petitions for declaratory judgment. To secure a petition form from the United States Tax Court, write to the United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217.

You also have the right to contact the Office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers. You can call 1-877-777-4778, and ask for Taxpayer Advocate assistance.

Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals procedures, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations, or extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate, can however, see that a tax matter, that may not have been resolved through normal channels, gets prompt and proper handling.

We will notify the appropriate State officials of this final adverse determination of your exempt status, as required by Code section 6104(c).

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

Sincerely,

\*\*\*\* for \*\*\*\*

Acting Appeals Team Manager

cc:



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

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

Date: August 8, 2013

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

**LEGEND:**

B = Founder  
N = For-profit business  
P = State of Incorporation  
R =, Date of Incorporation  
S = Date of Articles of Amendment

**UIL:**

501.32-00  
501.33-00  
501.35-00

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. This letter supersedes our letter dated January 22, 2013.

**Issues**

Do you qualify for exemption under section 501(c)(3) of the Internal Revenue Code?

No, for the reasons stated below.

**Facts**

Prior to your formation, B, your founder and only director created several inventions, which he patented, and has several other ideas that he plans to patent. Presently, all

Letter 4036(C) ((11-2011))  
Catalog Number 47630W

patents are in B's name and his son's name. B has operated N for several years, which has conducted some of the activities you plan to conduct. In previous years, B offered his inventions to several companies but was denied each time. Because B received numerous refusals and rejections, he decided to form you to obtain donations to develop his ideas into inventions and build prototypes of his inventions.

You were incorporated on date R in the State of P. You filed Articles of Amendment with P Secretary of State on S. The Articles of Amendment's purpose section reads as follows: "Said organization is organized exclusively for charitable, religious, educational, and scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code."

Your mission consists of a technology side (20%), software side (10%), and human health side (70%).

The technology side will:

- Patent new ideas – including B's ideas and other's ideas since he plans to instruct would-be inventors as to how to apply for a patent
- Build prototypes of existing inventions – B will use your facility and his expertise to transform ideas into products. B will build his car engine, which runs without polluting the environment. The car engine was recently rejected by two major automobile companies. In addition, B will build his new idea relating to a bicycle, et cetera. You indicated that when the prototypes work, B would not use any more of your money.
- Exhibit B's achievements to the public – including a museum in your facility where he will present his inventions and prototypes

The software side will develop software – including new software ideas to meet the new demands in digital pictures, which will be based on one of B's inventions. N previously was responsible for this.

The human health side consists of:

- Using B's ideas about human health to find the basis of illness and to find the scientific explanation
- Using B's ideas to propose a practical solution to cure illness.
- Using B's ideas with regard to health problems such as autism, cancer,

impotence, depression, pains, aging, et cetera

- Giving grants to students in health to collect information from science books and observations to enrich and expand the scientific idea of letting the immune system fight infection. The results may change the actual practice of bypassing the immune system by medication only.

You indicated all of your activities will be in the public interest as scientific research and will be made available to the public. Moreover, B needs the Internal Revenue Service's help to continue his activities because exempt status will allow you to get money to promote B's ideas and inventions. B's inventions do not get marketing attention. If any of your patents become marketable, and profitable, then you will stop doing this activity. You further stated that if you get interest and money, you might try to have a hospital. Two of B's properties, which are on several acres, may be divided to be used to build a hospital or he may buy existing buildings and use them as hospitals. You showed B's property on your balance sheet as your depreciable asset. B's property is in foreclosure and you wrote that tax exemption would delay the foreclosure process.

Your primary source of financial support will be funds from foundations, companies and private people.

B is your sole CEO/Board member/Director/Founder and is your only director until you have money to hire more directors. You plan to compensate B for the work he performs for you and his proposed salary will be about \$5,000.00/month depending on your financial situation. B will control your financial situation to prevent excessive spending of your funds. You also said B is responsible for your mission more than anybody else is. You will eventually pay employees, including directors, decent salaries.

Your reasons for requesting exemption under section 501(c) (3) of the Code include:

- B will patent any person's ideas.
- N, a related for-profit entity, will not work anymore.
- B's inventions are too advanced.
- B's health ideas and inventions are too dangerous for those making money and prevent the cause of illnesses to be found.
- B's salary from you will be reasonable and agreed upon by donors.
- B's son may continue your endeavors and act as a Director.

- B maintains he has no power to sell his ideas. He believes his ideas are too advanced and can only be developed by you with the objective being to benefit all people.

## Law

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

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that if the organization fails either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(c)(1) of the regulations states an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). 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(c)(2) of the Regulations states that an organization whose net earnings inure to the benefit of private shareholders or individuals or which is operated for the benefit of private interests is not operated exclusively for exempt purposes.

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that an organization is not organized or operated exclusively for an exempt purpose unless it serves a public rather than a private interest. The organization must demonstrate that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled directly or indirectly by such private interests.

Section 1.501(c)(3)-1(d)(5)(iii) of the regulations provides that scientific research will be regarded as in the public interest:

- a) If the results of such research (including any patents, copyrights, processes or formulas) resulting from such research are made available to the public on a nondiscriminatory basis.
- b) If such research is performed for the United States or any of its agencies or instrumentalities or for a state or political subdivision thereof
- c) If such research is directed toward benefiting the public.

In Rev. Rul. 65-1, 1965-1 C.B. 226, the Service considered an organization, which

promotes and fosters the development and design of machinery in connection with a commercial operation, and in connection therewith has the power to sell, assign, and grant licenses with respect to its copyrights, trademarks, trade names, or patent rights. The Service concluded that the organization does not qualify for exemption from federal income tax under section 501(c) (3) of the Internal Revenue Code of 1954 .

Revenue Ruling 69-632, 1969-1 C.B. 120, a nonprofit composed of members of a particular industry to develop new and improved uses of existing products of the industry is not exempt under section 501(c)(3) of the Code. The association's members select research projects in order to increase their sales by creating new uses and markets for their product. The primary purpose of the association's research is to serve the private interests of its creators, rather than the public interest.

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.

In Harding Hospital, Inc. v. United States, 505 F.2d 1068 (1974), the court held that an organization seeking a ruling as to recognition of its exempt status has the burden of proving that it satisfies the requirements of the particular exemption statute. Whether an organization has satisfied, the operational test is a question of fact.

In Church by Mail, Inc. v. Commissioner, 765 F. 2d 1387 (9<sup>th</sup> Cir. 1985), affg. TCM 1984-349, the tax court concluded that the extent of the integration between the operations of a non-profit entity and related for-profit entities controlled by the non-profit directors precluded exemption. Furthermore, the Tax Court found it unnecessary to consider the reasonableness of payments made by the applicant to a business owned by its officers. The 9<sup>th</sup> Circuit Court of Appeals, in affirming the Tax Court's decision, stated: *"The critical inquiry is not whether particular contractual payments to a related for-profit organization are reasonable or excessive, but instead whether the entire enterprise is carried on in such a manner that the for-profit organization benefits substantially from the operation of the Church."*

### **Application of Law**

You are not as described in section 501(c)(3) of the Code because you are not exclusively operated for charitable or educational purposes.

You are not as described in Section 1.501(c)(3)-1(a)(1) of the Regulations because you fail the operational test.

You do not meet the provisions of Section 1.501(c)(3)-1(c)(1) of the Regulations because more than an insubstantial part of your activities is not in furtherance of an exempt purpose. Developing B's ideas into marketable inventions serves a substantial commercial and private purpose.

As described in section 1.501(c)(3)-1(c)(2) of the Regulations, you are not operated exclusively for exempt purposes because your net earnings inure to the benefit of B. For example, you were formed by B to obtain grant money to develop and transform B's ideas into products. Moreover, you plan to build prototypes of existing inventions and exhibit B's achievements to the public – including a museum where he will present his inventions and prototypes. In addition, B plans to use your exemption to delay and/or prevent foreclosure of his properties. Finally, your board consists of one person who controls all aspects of your operations and has a for profit, business, N, who will benefit from your operations.

You are not as defined in Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations because you are operating for the private interests of B and N. You are operating to confer the advantages of tax-exempt status to B as shown by the fact that your tax exemption will enable B to apply for grants to develop his inventions. Moreover, you are serving the private interests of N, because you plan to provide N marketable products that you developed.

You do not meet the provisions of Section 1.501(c)(3)-1(d)(5)(iii) of the Regulations. Any scientific research you are carrying on is not primarily conducted in the public interest. Your activities of developing marketable products serve a commercial purpose and are serving private interests.

You are like the organization in Revenue Ruling 65-1. Your activities of developing B's ideas into products are commercial and they do not constitute "scientific research" within the meaning of section 1.501(c)(3)-1(d)(5) of the regulations. In addition, your purpose of obtaining grant money to develop B's ideas is directed to benefit B and N and any public purpose is incidental.

You are comparable to the organization in Revenue Ruling 69-632 because you were formed to serve the private interests of your creator B. Although your activities may result in new processes that benefit the public, this benefit is incidental to that derived from B and N.

You are like the organization in Better Business Bureau v. Commissioner. Although you have some educational purposes, the presence of the non-exempt purposes of operating for the benefit of B and N as well as for commercial purposes precludes exemption.



Similar to the organization in Harding Hospital, Inc. v. United States, 505 F2d 1068 (1974), you have the burden of proving that you satisfy the requirements for tax exemption. You have failed to prove to us that you are not operating for the benefit of B.

You are comparable to the organization in Church by Mail because you and N are controlled by the same person. Moreover, N benefits substantially from your operations.

### **Applicant's Position**

Your position is that your inventions are deserving of section 501(c) (3) of the Code. You know scientific research is considered to be of public interest and your inventions and patents are proof of scientific research. You maintain that you are operating for scientific and educational purposes within the meaning of Section 501(c) (3) of the Code. You contend that you have demonstrated you are operating in an exempt manner and should be granted exemption under section 501(c) (3) of the Code.

### **Service Response to Applicant's Position**

You failed to provide any additional information from which it can be concluded that your activities exclusively further or advance a purpose described in Section 501(c)(3). Considering all of these factors and the analysis presented above, we must still conclude that you are primarily operating for B and his for profit business N. You also have substantial commercial purposes.

### **Applicant's Protest**

In response to our proposed denial, you said you would remove the following elements from your activities:

- Building prototypes of existing inventions.
- Informing the public of B's achievements.
- The software side.

Your new activities will be as follows:

#### **Part A – Technology Side (10%)**

B will instruct prospective inventors on how to apply for a patent. You will use foundation money to fund this.

#### **Part B – Human Health Side (90%)**

1. Explanation of Human Health Problems - B's ideas will be used to find the mechanism of illnesses and to have a scientific explanation.
2. New Approach for Cure of Illnesses – B's conclusions to propose a practical

solution to cure illnesses. "The observation made by B so far is enough to proof [sic] his ideas beyond a reasonable doubt."

3. Scientific Application of Health Ideas – These new ideas will be used in different health problems such as: Autism, Cancer, MS, Brain Development, Infertility, Impotence, Depression, Pains, Aging and so on.
4. Grants for Research for the new idea to cure illnesses based on the immune system enhancement. You will give grants to students in health, nurses and doctors to collect information from science books and observations to enrich and expand the scientific idea to let the immune system to fight infection. The results may change the actual practice of bypassing the immune system by medication only.

B's idea about human health is a new approach to human health. It is an immune system approach as opposed to the existing substance approach. B's approach will be used by you as a natural way to increase the immune system efficiency, such as food, exercise and body heat preservation. You will work with the FDA to approve a non-medication health care certificate to implement your ideas in human health. Such ideas are for public interest. You disagree with our position because "...the rule 1.501(c)(3)-1(d)(5)(iii) say [sic] that patents are scientific research as a public interest if: available for public, for USA benefit, and public benefit." "All of these are accomplished by my inventions."

You then stated that your main idea is inventing a car engine without pollution. Such a car may be ideal for commuting within the cities, to reduce the city pollution and having a positive contribution to reduce the global warming. The invention side of your mission may allow you to ask for federal money to build such a car engine.

You also said a foundation is not restricted to get income from the publication or other productive activity, such as inventions' licensing, providing that all funds to be declared as foundation money and used as provided by rules. You are referring to those inventions specifically for public use, such as the car engine without pollution.

"As presented before if you disagree with my initial mission and intend to deny the 501c3 status, I will remove the invention side and the above mission will be in effect beginning with the date of this letter."

#### **Our Response to Applicant's Protest:**

You failed to provide any additional information from which it can be concluded that your activities exclusively further or advance a purpose described in Section 501(c)(3).

Although you propose to remove some of your activities, you still do not qualify for exemption. As explained in our analysis, you were formed to further the private

interests of B and your net earnings inure to B's benefit. Furthermore, your scientific research is still serving a non-exempt purpose because your intent is to obtain grant money to serve the private interests of B. This precludes you from exemption under section 501(c)(3) of the Code.

### **Conclusion**

Based on the information submitted, you are not operating exclusively for one or more purposes described in section 501(c)(3) of the Code. Your net earnings inure to the benefit of B. In addition, you are operating for substantial commercial purposes and for the private benefit of N.

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. If your statement does not provide a basis to reconsider our determination, we will forward your case to our Appeals Office. You can find more information about the role of the Appeals Office in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*.

*Types of information that should be included in your appeal can be found on page 2 of Publication 892, under the heading "Regional Office Appeal". The statement of facts (item 4) must be accompanied by the following declaration:*

*"Under penalties of perjury, I declare that I have examined the statement of facts presented in this appeal and in any accompanying schedules and statements and, to the best of my knowledge and belief, they are true, correct, and complete."*

*The declaration must be signed by an officer or trustee of the organization who has personal knowledge of the facts.*

*Your appeal will be considered incomplete without this statement.*

*If an organization's representative submits the appeal, a substitute declaration must be included stating that the representative prepared the appeal and accompanying documents; and whether the representative knows personally that the statements of facts contained in the appeal and accompanying documents are true and correct.*

An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you during the appeal process. If you want representation during the appeal process, you must file a proper power of attorney, Form 2848, *Power of Attorney and Declaration of Representative*, if you have not

already done so. You can find more information about representation in 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](http://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 appeal 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 the applicable address:

**Mail to:**

Internal Revenue Service  
EO Determinations Quality Assurance  
Room 7-008  
P.O. Box 2508  
Cincinnati, OH 45201

**Deliver to:**

Internal Revenue Service  
EO Determinations Quality Assurance  
550 Main Street, Room 7-008  
Cincinnati, OH 45202

You may 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.