



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Number: **200519087**

Release Date: 5/13/2005

SE:T:EO:RA:T:2

Date: July 26, 2004

Contact Person:

UIL Index

501.08-00

Employer Identification Number:

Dear _____ :

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(8). Based on the information submitted, we have concluded that you do not qualify for exemption under that section. The basis for our conclusion is set forth below.

You were organized on May 14, ****, as a fraternal beneficiary corporation under ***** law. According to your agreement of association, you are "constituted for the purpose of paying a death or funeral benefit not exceeding \$***, and disability benefits not exceeding *** dollars per week; membership to be limited to **** or their descendants."

In your application, you describe your activities as follows:

To bring together within a social body all persons who were born in ***** , or in the District of ***** , and their relatives and descendants. To promote among its members cordial and friendly relations, to provide for death benefits, funeral expenses and disability benefits of members, as needed

Article II of your bylaws, dated September 14, ****, describes your "Purpose," and provides, in part: "the Corporation is constituted for the purpose of paying a death benefit not exceeding ***** dollars, and a disability benefit not exceeding ***** dollars per week."

Article III (Membership) of the bylaws provides that "membership in the ***** shall be limited to persons born in the District of ***** , to descendants of persons born in the

District of *****, and to persons married to women who were born in or who are descendants of persons born in the District of *****. All applicants must be males, between the ages of eighteen and fifty years and be residents of the *****."

In your letter of January 22, 2004, you state that you do not operate under a lodge system. You also state that your fraternal activities consist of quarterly membership meetings, visits to sick members, attendance at wakes and funerals of deceased members, annual Christmas visits to elderly members, and an annual memorial mass for deceased members. You state that you do not sponsor or conduct social activities other than a dinner meeting for members only. You state that you do not conduct civic, benevolent, or charitable functions.

You state that you do not provide sick benefits; that you provide a death benefit of \$***** to the beneficiary of a deceased member; and that you pay funeral expenses for a floral wreath and a limousine for the honorary pallbearers (who are members). All members are entitled to receive the same benefits.

Law:

Section 501(a) of the Code exempts from federal income taxation organizations described in section 501(c).

Section 501(c)(8) of the Code describes fraternal beneficiary societies, orders, or associations operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents.

Section 1.501(c)(8)-1 of the Income Tax Regulations provides that a fraternal beneficiary society is exempt from tax only if operated under the "lodge system" or for the exclusive benefit of the members so operating. "Operating under the lodge system" means carrying on its activities under a form of organization that comprises local branches, chartered by a parent organization and largely self governing, called lodges, chapters or the like. In order to be exempt it is also necessary that the society have an established system for the payment to members or their dependents of life, sick, accident, or other benefits.

Rev. Rul. 55-495, 1955-2 C.B. 259, concerns an association organized as a local association for the purpose of assisting its members in time of sickness, distress, and in case of death. It has no parent organization or subordinate branches. The ruling holds that, since the association does not operate under the lodge system, or for the exclusive benefit of the members of an organization so operating, it is not entitled to exemption under section 501(c)(8) of the Code.

Rev. Rul. 63-190, 1963-2 C.B. 212, holds that a nonprofit organization, not operated under the lodge system, which maintains a social club for members and also provides sick and death

benefits for members and their beneficiaries, does not qualify for exemption as a fraternal beneficiary society under section 501(c)(8) of the Code.

Analysis:

To be described under section 501(c)(8) of the Code, an organization must meet the following requirements: (1) it must have a fraternal purpose; (2) it must operate under the lodge system; and (3) it must provide for the payment of life sick, accident, or other benefits. An organization has a fraternal purpose if there is a common tie among members or pursuit of a common object. In addition to a common tie or goal, members must also engage in fraternal activities.

You have a fraternal purpose of providing death and funeral benefits on behalf of your members. Your members have a common tie in that they are required to have been born in the District of *****, or be descendants of persons born in that District. Your members engage in fraternal activities such as membership meetings, visiting sick and elderly members, and attending the wakes and funerals of deceased members.

However, you admit that you do not operate under the lodge system. Nor are you operated for the exclusive benefit of the members of a fraternity itself operating under the lodge system. You are a freestanding society, unaffiliated with any parent organization or other lodge. Therefore, in the same manner as the organizations described in Rev. Rul. 55-495 and Rev. Rul. 63-190, you do not meet the requirement that an organization exempt under section 501(c)(8) of the Code operate under the lodge system.

Conclusion:

Accordingly, you do not qualify for exemption as an organization described in section 501(c)(8) of the Code and you must file federal income tax returns.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views to this office, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the Ohio Tax Exempt and Government Entities (TE/GE) office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 877-829-5500 (a toll free number) or sending correspondence to: Internal Revenue Service, TE/GE Customer Service, P.O. Box 2508, Cincinnati, OH 45201.

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service
TE/GE (SE:T:EO:RA:T:2)

1111 Constitution Ave, N.W.
Washington, D.C. 20224

In the alternative, you may fax correspondence to *****.

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
Rulings & Agreements