



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Date: AUG 1 2008

Number: 200843032
Release Date: 10/24/2008

UIL: 501.00-00, 501.03-00, 501.03-20, 501.03-30
501.32-00, 501.33-00, 501.33-01, 504.50-00

EO

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

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.

Since 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.

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, you should 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.

Letter 4038(CG) (11-2005)
Catalog Number 47632S

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,

Rob Choi
Director, Exempt Organizations
Rulings & Agreements

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

Letter 4038 (CG) (11-2005)
Catalog Number 476328



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Date: JUN 17 2008

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

Uniform Issue List

501.00-00	Exemption From Tax on Corporations, Certain Trusts, etc. (Exempt v. Not Exempt)
501.03-00	Religious, Charitable, etc., Institutions and Community Chest
501.03-20	Religious Organizations
501.03-30	Organizational and Operational Tests
501.32-00	Income Inures v. does Not Inure to Private Individual
501.33-00	Private v. Public Interest Served
501.33-01	Trustees Serve Private Interest
504.50-00	Church, etc.

Legend

A = President
B = Secretary-Treasurer
M = Applicant
N = State
† = Date Form 1023 application filed
u = Date of initial formation
y = Year of bylaws drafted
w = Date bylaws executed
x = Date incorporated
y = Dollar Amount
z = Dollar Amount

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.

Issues:

Has M (hereinafter referred to as the organization) provided an open and candid disclosure of the facts and supplied adequate evidence to demonstrate that the payments to its controlling members are reasonable in light of the potential for abuse created by their absolute and total control of the organization?

Has the organization proven that its net earnings will not inure to the benefit of private individuals, specifically its founding and controlling members?

Does the organization qualify for exemption under section 501(c)(3) of the Code; and, if so, is the organization best described in sections 509(a)(1) and 170(b)(1)(A)(i)?

Facts:

Your organization submitted a Form 1023 Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code on t. According to page one of this application, your organization was formed on y. Unsigned bylaws initially submitted with the application contained only the year of y. Signed bylaws were subsequently submitted with an execution date of w. Incorporation took place in the State of N, on x. Copies of the Articles of Incorporation were provided to us during the processing of your application.

Your stated purpose per your bylaws is:

"to carry the whole Gospel of Jesus Christ to the whole world; to establish an effective organized effort to encourage the conversion of men and women and children to Christianity; to evangelize our communities and the world by every means possible; to produce and maintain a clean, holy, wholesome and Christian fellowship of Saints of God; to generally promote religious, educational and charitable activities and as more completely set forth in the Articles of Incorporation, as amended."

Your organization currently has two officers. These are the organization's Pastor/President, A, and the Secretary/Treasurer, B, the spouse of A. The application indicates that at the current time the officers do not receive a salary. Information submitted with the application and in response to subsequent requests for additional information reflects that the Pastor will receive a housing allowance of \$ y per month.

In your response dated September 6, 2006, it was stated that the Pastor works approximately 20 hours per week on church activities. He also works 40 hours per week as a Financial Planner for an unrelated company. The response also indicated that the Housing Allowance is determined from the Pastor's actual personal living expenses, which includes mortgage payments and utilities. Your organization also reimburses the Pastor for his travel expenses. A copy of the Pastor's employment contract was requested. The "contract" submitted was signed only by the Pastor. At the time the application was initially submitted, the average attendance at meetings and services was indicated to be "12". Subsequent information indicates that attendance is now around "10".

An analysis of the Bylaws reveals the following:

- a. Article Two §4 - The Pastor will review (all resolutions) and decide to present the resolution or decide not to present the resolution to the membership, at his sole discretion and decision.
- b. Article Three §1 - The Senior Pastor shall always be a member of the Board of Trustees. In addition to the Senior Pastor, the organization shall have at least four (4) Trustees. The senior minister may appoint as many ex-officio members as he may desire.
- c. Article Three §2 - The names of the candidates shall be submitted by the senior minister to the membership for election. The Senior Minister/Pastor shall submit one name for each position to be filled and a separate vote for each position shall be taken. In the event any candidate is not elected, then and in that event, the Senior Minister/Pastor will submit another name for election until there is a full board elected by the membership.
- d. Article Three §3 - The term of office of a Trustee shall be for one (1) year. A Trustee may be re-elected as often as the membership desires his service and the Senior Minister/Pastor submits his name as a candidate.
- e. Article Three §5 - The election of Trustees shall be by secret ballot or by open ballot as decided by the Pastor/Senior minister.
- f. Article Three §6 - In the event of vacancy occurring by death, resignation or removal of any Trustee, the remaining Board shall, by a majority vote, appoint a substitute Trustee from candidates submitted by the Senior Minister/Pastor until the next election by the membership.
- g. Article Three §8 - The Trustees shall hold a regular meeting at least one time per year. Special, unscheduled meetings may be called by or at the request of a majority of the Board, one of whom must be the Senior Pastor.
- h. Article Three §9 - The Senior Minister/Pastor may, if he deems it convenient or expedient, establish and appoint a Board of Deacons or Elders. The Board of Deacons or Elders shall have only those powers and authority as shall be given to it by the Board of Trustees.
- i. Article Four, §1.i - A member seeking to go to bible school must first seek the counsel of the pastor before making plans to go. He shall remain a member of this assembly and continue to support the pastor and church with tithes and offerings.
- j. Article Four, §2 - The Pastor decides who becomes a member.
- k. Article V, §2 - The Pastor selects and removes all officers.
- l. Article V, §3 - The Senior Minister/Pastor shall be engaged by contract with the Board of Trustees.
- m. Article V, §6 - The Pastor/President shall:
 - Preside at all meetings of the membership
 - Appoint committees to perform the work designated to be done by the Board of Trustees
 - Sign every membership card or certificate
 - Oversee the general work of the church acting as the general manager and Chief Executive Officer.

- Lead and direct the spiritual direction and evangelistic thrust of the church, including the setting and teaching of doctrine.
- Article Ten, §1 regarding voting of members - These By-Laws may be amended, altered or repealed by a 2/3 majority vote of the members at any regular or special meeting called for the purpose of amendment. At least 14 days notice for the meeting must be provided by two public announcements at regular church services and posting on the church bulletin board, if any. No amendments will be effective during the incapacity, removal or resignation of the Senior Minister/Pastor.

The bylaws provide a procedure for beginning a search for a new pastor and describe how a candidate would be voted on by the membership. There is no reference in the bylaws to the procedure by which a current pastor could be involuntarily removed by either the membership or by an ecclesiastical governing body. It appears that organization has been organized in such a manner as to make the involuntary removal of the pastor from his position, as both pastor and president, an impossibility.

The Form 1023 application makes the following representations:

- a. Persons approving compensation arrangements will follow a conflict of interest policy.
- b. Compensation will be approved prior to payment.
- c. Recordation of date and terms of compensation will be maintained.
- d. Written records will be kept for each individual who decides or votes on compensation arrangements.
- e. Compensation will be based on information obtained for similarly situation taxable or tax-exempt organizations for similar services, current compensation surveys compiled by independent firms or actual written offers from similarly situation organizations.
- f. Information such as that referenced in "e" above will be maintained in written form, on which compensation decisions were made.

A copy of the conflict of interest policy has not been submitted. No evidence has been submitted to demonstrate that compensation (including the amount of any housing allowance) has been determined in the manner indicated above or that any of the required records or other documentation has been maintained. The information submitted to date indicates that the only voting members are the Pastor and his spouse.

Our letter dated July 31, 2006, stated:

"Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations states that an organization which serves private interests rather than public purposes does not qualify for exempt status. To insure that your organization will serve public interests changes should be made to the bylaws whereby control is vested in a Board of Directors consisting of a majority of unrelated persons. Please provide the name, title, address and compensation of each newly appointed governing body member when responding to this letter."

No information has been submitted to demonstrate that there are any trustees other than the Pastor and his spouse. Also, no information has been submitted to demonstrate that control of the organization is not under the absolute control of these two individuals and that they alone determine the amount of any housing allowance to be paid.

Part IX of the Form 1023 application containing financial and budgetary data failed to identify the sources and amounts of each item of income and expense. In response to requests for additional information financial information was submitted for the period of January through December. It reflected total income of \$ z. Of this amount 30% came from certain individuals and churches. The remaining 70% was listed as "Housing Allowance." Financial information supplied for the same time period indicated that the Pastor's mortgage payments and other housing related expenses are being made by the organization. There were also numerous expenditures listed as "Food". Sufficient evidence has yet to be submitted to demonstrate that these expenditures are in furtherance of exempt purposes or that the amount paid as a housing allowance, which is a form of compensation, is reasonable.

Our letter dated October 5, 2006, item 14 stated:

"According to the documentation provided, M is provided a housing allowance of \$ y per month. We find nothing in the application to support eligibility to claim such an allowance. In fact, the documentation provided to date indicates has established the organization with sole authority to do whatever he deems appropriate, absent any oversight. The documentation provided also suggests controls the financial affairs and uses the organization's financial resources for personal purposes, e.g., making mortgage payments."

In your response to the above item, which we received on February 1, 2007, you stated that, "This is partially true due to the fact the church does not have membership that qualifies to fill the position of the necessary officers."

In our letter dated October 5, 2006, we requested that you specify the amount of financial support provided to the organization by the Pastor and persons related to him. Your response, which we received on February 1, 2007, was that the amount supplied by the Pastor and a related person was the amount listed as "Housing Allowance". In our October 5, 2006, letter we also asked for a copy of any records maintained for the hours worked. Your response was that maintaining these records was not currently a requirement.

The organization has some of the characteristics of a church; however, no evidence has been submitted to demonstrate that anyone has achieved the status of becoming a member with voting rights. Although ten to twelve individuals have attended services no evidence has been submitted that anyone other than the Pastor and his spouse are members. Since there is no membership with voting rights other than the Pastor and his spouse, it has not been established that there is a regular congregation of individuals who consider this as their church. There has been no information submitted that demonstrates what efforts have been made to publicize the church or recruit members.

LAW:

Section 501(c)(3) of the Internal Revenue Code provides for the exemption from federal income tax of corporations organized and operated exclusively for charitable or educational purposes, provided no part of the net earnings inures to the benefit of any private shareholder or individual.

Section 508(c)(1)(A) exempts churches, their integrated auxiliaries and associations or conventions of churches from the 508(a) notification requirements.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides for recognition of exemption from Federal Income Tax of organizations which are organized and operated exclusively for, among other things, charitable or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(c)(1) of the regulations provides 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(d)(1)(ii) of the regulations provides an organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (i) of this subparagraph unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish 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(c)(2) of the regulations provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Rev. Rul. 69-266, 1969-1 C.B. 151, finds that an organization that was formed and controlled by a doctor engaged in the practice of medicine in which he transferred assets, including his medical practice, his home, and his automobile, to the organization and who was "hired" to conduct "research programs," which consisted of the doctor examining and treating patients at the prevailing fees, does not qualify for exemption from federal income tax under section 501(c)(3) of the Code because the organization's primary function is to serve the private interest of its creator rather than a public interest.

Rev. Rul. 89-74, 1989-1 C.B. 311 states that "churches" such as those described in Rev. Rul. 78-232, 1978-1 C.B. 69 and Rev. Rul. 81-94, 1981-1 C.B. 330 are "tax shelters" within the meaning of section 6661 of the Internal Revenue Code. In Rev. Rul. 78-232, the taxpayer, claiming to be a duly ordained minister, formed a "church." The original members of the church consisted of the taxpayer, the taxpayer's spouse and two minor children, and a few family friends. The taxpayer was employed full-time by a state government, and continued in this employment after the church was formed. The taxpayer's salary checks were received by the taxpayer and deposited into the church's bank account. The funds from the church bank account, however, were primarily used to furnish the taxpayer with lodging, food, clothing, and other living expenses. In Rev. Rul. 81-94, a professional nurse formed a "church" and became a minister by purchasing a "certificate of ordination" and a church charter from an organization selling such certificates and charters. Pursuant to a vow of poverty, all the nurse's assets, including a house and an automobile, were transferred to the church. In addition, the nurse's wage income was deposited into the church bank account. In return, the church assumed all the nurse's existing liabilities, such as the home mortgage and all outstanding credit card balances. The church also provided the nurse with a full living allowance sufficient to maintain or improve the nurse's standard of living and permitted the nurse to use the house and automobile for personal purposes.

Rev. Proc. 2007-52, 2007-30 I.R.B. 222 states that tax-exempt status for an organization will be recognized by the Service in advance of operations where the entity's proposed activities are described in sufficient detail to permit a conclusion that the organization will clearly meet the pertinent statutory requirements. A mere restatement of purposes or a statement that proposed activities will be in furtherance of the organization's purposes does not satisfy this requirement. An applicant organization must fully describe the activities in which it expects to engage, including the standards, criteria, procedures, or other means adopted or planned for carrying out the activities, the anticipated sources of receipts, and the nature of contemplated expenditures.

In Church of Scientology v. Commissioner, 823 F.2d 1310 (9th Cir. 1987), the court upheld the decision to revoke the organization's tax-exempt status on the ground that a portion of its income inured to the benefit of the church's founder, as well as others.

In Salvation Navy v. Commissioner, T.C.M. 2002-275 (2002), the court found that one of the reasons why the organization did not qualify for exemption from federal income tax was because it could not prove that its net earnings would not inure to the benefit of a private individual, its founder.

In Bubbling Well Church of Universal Love, Inc. v. Commissioner, 670 F.2d 104 (9th Cir. 1981), the court affirmed the tax court's decision that held that the organization supplied no evidence showing that the payments to its controlling members were reasonable and the court also found that the potential for abuse created by the family's control of the organization required an open and candid disclosure of the facts.

Hardin Hospital, Inc. v. United States, 505 F.2d 1068 (6th Cir. 1974), provides that an organization seeking a determination letter or ruling as to the recognition of its tax-exempt status has the burden of proving that it satisfies all of the requirements of the particular tax-exemption category.

In American Guidance Foundation, Inc. v. United States, 490 F.Supp. 304 (U.S. District Court for the District of Columbia), the court addressed the factors that may be relevant in determining whether an organization is a church. One of these factors was that the organization should have a membership not associated with any other church or denomination. In that case the plaintiff made no real effort to extend its membership beyond that of the family members in control of the organization. Another factor is whether the organization has a definite and distinct ecclesiastical government.

APPLICATION OF LAW:

Numerous issues have arisen during the processing of the application. The information and documentation provided to date indicate your organization has operated to serve private interests. Furthermore, your organization is under the control of a single individual, the Pastor and President. This issue has been raised repeatedly in information requests, to no avail. The existing provisions in the Bylaws clearly demonstrate the organization remains securely and in absolute control of one person.

It appears that the Pastor has been transferring funds earned from the salary earned at his job with an unrelated employer into your organization's account for the purposes of paying his housing and other expenses in such a manner as to have such amounts excluded from income. A minister who receives a housing allowance may exclude such an amount if, when considered with all other forms of compensation received, it is not more than reasonable compensation in return for his services provided as a minister. A housing allowance is another form of compensation and total compensation must be reasonable in light of the services provided. The organization has not demonstrated that such compensation is reasonable. The amount of the housing allowance is set solely by the pastor based on his current housing expenses, not based on what would be reasonable in light of the services provided to the organization. By your own admission the only two trustees are the Pastor and his spouse and there is no independent oversight of your organization's activities nor is there an independent process for determining and approving the level of compensation. You have not submitted a signed conflict of interest statement.

Section 501(c)(3) of the Code sets forth two main tests to qualify for exempt status. An organization must be both organized and operated exclusively for purposes described in section 501(c)(3). While your Articles of Incorporation meets the organizational test for Section 501(c)(3) organizations, your organization has not satisfied the operational test.

To satisfy the operational test, you must be operated exclusively for one or more exempt purposes. You will not be "operated exclusively for one or more exempt purposes" as set forth in Treas. Reg. § 1.501(c)(3)-1(e)(1) unless your organization's activities are conducted in furtherance of tax exempt purposes or conduct activities that constitute a commercial trade or business. Also, an organization cannot allow its net earnings to inure to the benefit of private individuals and the organization cannot be organized to benefit private interests. See sections 1.501(c)(3)-1(c)(2) and 1.501(c)(3)-1(d)(1)(ii) of the regulations.

Your organization has not demonstrated it was not organized to serve private interests, as it has not proved that its net earnings will not inure to private individuals. Furthermore, it has not been demonstrated that the compensation provided the organization's president is reasonable.

This organization resembles the one described in Bubbling Well Church of Universal Love, Inc. v. Commissioner, in as with that organization, you have not supplied evidence showing that the payments to your controlling members are reasonable.

Section 501(c)(3) of the Code provides for the exemption from federal income tax of corporations organized and operated exclusively for charitable or educational purposes, provided no part of the net earnings inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides an organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (i) of this subparagraph unless it serves a public rather than a private interest.

As explained elsewhere in this letter, there are numerous questions concerning the financial operations of this organization as well as the flow of funds between the organization and its president. The bank statements suggest the organization's account has been used by the president as a private bank account and as a tax shelter that has some similarities to the facts described in Rev. Rul. 78-232, 1978-1 C.B. 69 and Rev. Rul. 81-94, 1981-1 C.B. 330.

Rev. Rul. 69-266, 1969-1 C.B. 151, finds that an organization that was formed and controlled by a doctor engaged in the practice of medicine in which he transferred assets, including his medical practice, his home, and his automobile, to the organization and who was "hired" to conduct "research programs," which consisted of the doctor examining and treating patients at the prevailing fees, does not qualify for exemption from federal income tax under section 501(c)(3) of the Code because the organization's primary function is to serve the private interest of its creator rather than a public interest.

Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish 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.

Rev. Proc. 2007-52, states that tax-exempt status for an organization will be recognized by the Service in advance of operations where the entity's proposed activities are described in sufficient detail to permit a conclusion that the organization will clearly meet the pertinent statutory requirements. A mere restatement of purposes or a statement that proposed activities will be in furtherance of the organization's purposes does not satisfy this requirement. An applicant organization must fully describe the activities in which it expects to engage, including the standards, criteria, procedures, or other means adopted or planned for carrying out the activities, the anticipated sources of receipts, and the nature of contemplated expenditures.

In Church of Scientology v. Commissioner, 823 F.2d 1310 (9th Cir. 1987), the court upheld the decision to revoke the organization's tax-exempt status on the ground that a portion of its income inured to the benefit of the church's founder, as well as others.

In Salvation Navy v. Commissioner, T.C.M. 2002-275 (2002), the court found that one of the reasons why the organization did not qualify for exemption from federal income tax was because it could not prove that its net earnings would not inure to the benefit of a private individual, its founder.

In Bubbling Well Church of Universal Love, Inc. v. Commissioner, 670 F.2d 104 (9th Cir. 1981), the court affirmed the tax court's decision that held that the organization supplied no evidence showing that the payments to its controlling members were reasonable and the court also found that the potential for abuse created by the family's control of the organization required open and candid disclosure of facts.

Harding Hospital, Inc. v. United States, 505 F.2d 1068 (6th Cir. 1974), provides that an organization seeking a determination letter or ruling as to the recognition of its tax-exempt status has the burden of proving that it satisfies all of the requirements of the particular tax-exemption category.

In American Guidance Foundation, Inc. v. United States, 490 F.Supp. 304 (U.S. District Court for the District of Columbia), the court addressed the factors that may be relevant in determining whether an organization is a church. As in that case your organization has made no real effort to extend its membership beyond that of the family members in control of the organization. To be considered a church an organization must have members other than the Pastor and his spouse. Individuals who attend services from time to time but who have not been granted the full rights of membership cannot be considered members. In the case at hand the organization does not have a definite and distinct ecclesiastical government nor does it have a membership with voting rights. There is no provision in the bylaws where the Pastor can be removed from his position. The Pastor has total control of the organization and does submit to the control of either a voting membership or to an ecclesiastical government.

APPLICANT'S POSITION:

In undated correspondence received on 4/19/07, M advised he would like to "...appeal the decision to close this case." He expressed the belief that more than adequate proof had been submitted, to show the organization qualifies as a tax exempt church to the "...definition given in the IRS Publication 1828."

In the same correspondence M requests that the organization not be discriminated against simply because of it having a small congregation.

SERVICE'S RESPONSE TO APPLICANT'S POSITION:

Your reference to various attributes of a church is noted; however, the issues in this case are the degree of control of the organization by the Pastor, the amounts paid to the pastor as a housing allowance and other unexplained payments and the failure to demonstrate that your organization is not operated to serve the private interests of the Pastor and related parties.

Although some responses to our information requests have been made, much of the information requested has either not been provided, or what has been provided is incomplete and/or unclear. Examples of this include issues surrounding the financial operations, control of the organization, the lack of members with voting power other than the Pastor and his spouse and the provision of a housing allowance in an amount that has not been demonstrated to be reasonable.

Although you indicated that you sometimes have ten to twelve in attendance at church services, it does not appear that any of these individuals are members from the standpoint of their having any voice in the affairs of the organization. Control has, and continues to be, an issue since application was initially filed. Despite repeated requests to expand control, any efforts made in responding to such requests have been superficial and ineffectual.

CONCLUSION:

On the basis of the information contained in the application and supporting documentation provided, as well as the cited precedent, we conclude that your organization does not operate exclusively for the purposes specified in section 501(c)(3) of the Internal Revenue Code. There is impermissible inurement and private benefit to the founders and controlling members of your organization.

You do not qualify for exempt status under section 501(c)(3) of the Internal Revenue Code. Also, your organization does not qualify as an organization described in section 509(a)(1) and 170(b)(1)(A)(i).

You are required to file Federal income tax returns on Form 1120.

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 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 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.

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, 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 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 Chol
Director, Exempt Organizations
Rulings & Agreements

Enclosure, Publication 892