

CERTIFIED

Person to Contact: [REDACTED]

Telephone Number: [REDACTED]

Refer Reply to: [REDACTED]

Date: JAN 11 1991

Dear Applicant:

We have considered your application for recognition of exemption from Federal Income Tax under Section 501(c)(3) of the Internal Revenue Code of 1986.

The information submitted discloses that you were incorporated on [REDACTED] under the nonprofit corporation laws of the State of [REDACTED].

According to your Articles of Incorporation, the purpose of your organization is to promote or encourage any educational, research, or scientific purpose or activity.

The following statements appeared in your Application Form 1023.

The purpose of the organization is to create a school that will serve as a model of effective positive activity. At present we are not sure that we will design a college, a high school or an elementary school. The decision as to the type of school will depend on the amount of money we can raise by [REDACTED]. Should we raise a figure in excess of \$[REDACTED] we will target the development of a college.

We are looking at parcels of land that have buildings that we could rehab for use as a classroom. We're looking at finance experts, marketing (advertising) experts and school administrators to purchase services from.

You plan to solicit funds from the general public, private foundations and the U.S. Government. According to your projected budget, you anticipate expenditures of [REDACTED] over the next four years. See Exhibit 1. A sample solicitation of financial support is attached as Exhibit 2.

[REDACTED] We sent you a letter in which we stated that we did not have enough information to show that you have met all legal requirements under Section 501(c)(3). We stated that you must meet the requirements of Revenue Procedure 75-50 in order to qualify as a school. We asked you to submit the information requested on the attached school questionnaire. See Exhibit 3.

Approver	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
1/2/91	1/2/91	1/2/91	1/4/91	1-10-91	1-10-91

On [REDACTED], you responded to our questionnaire in the following manner.

We, [REDACTED] withdrew from being classified as a school under Subsection 509(a)(1) & 170(b)(1)(A)(ii) and request public charity under Subsection 509(a)(1) & 170(b)(1)(A)(vi) with understanding that once the school is fully operational we will be able to modify our exempt status.

Section 501(c)(3) of the Code provides for the exemption from Federal Income Tax of corporations organized and operated exclusively for religious, charitable, literary, scientific, and educational purposes; no part of the net earnings of which inures to any private shareholder or individual.

Section 1.501(c)(3)-1 of the Tax Regulations relates to the definition of the organization and operation of organizations described in Section 501(c)(3). It is quoted, in part, as follows:

"(a) Organizational and operational tests. (1) In order to be exempt as an organization described in Section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt. (2) The term "exempt purpose or purposes", as used in this section, means any purpose or purposes specified in Section 501(c)(3)..."

"(b) Operational test. (1) Primary activities. 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. (2) Distribution of earnings. 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..."

Section 1.501(c)(3)-1(a) of the Income Tax Regulations provides that in order to be exempt as an organization described in Section 501(c)(3), the organization must be one that is both organized and operated exclusively for one or more of the purposes specified in that section. If an organization fails to meet either organizational or the operational test it is not exempt.

Section 1.501(c)(3)-1(e)(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 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."

A corporation which planned to open a Catholic school but had not yet taken steps in that direction was denied an exemption, having failed to meet the operational test. Plus XII academy, Inc 43 TCM 634.

We call your attention to Revenue Procedure 84-46 1984-1, C.B. 541, which reads in part as follows:

Section 5. Exempt status will be recognized in advance of operations if proposed operations can be described in sufficient detail to permit a conclusion that the organization will clearly meet the particular requirements of the section under which exemption is claimed. A mere restatement of purposes or a statement that proposed activities will be in furtherance of such purposes will not satisfy this requirement. The 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. Where the organization cannot demonstrate to the satisfaction of the Service that its proposed activities will be exempt, a record of actual operations may be required before a ruling or determination letter will be issued. In those cases where an organization is unable to describe fully its purposes and activities, a refusal to issue a ruling or determination letter will be considered an initial adverse determination from which administrative appeal rights will be afforded.

You do not qualify for exempt status under Section 501(c)(3) because you have not described your proposed activities in sufficient detail. Although you have been in existence since [REDACTED], you have been unable to describe the courses offered at your school or the teaching materials used. You have been unable to predict the number of students in attendance, how many faculty will be needed or the tuition charged. You have been unable to tell us when the school will open, where the school will be located or even what grades will be taught. Lastly, you have not established that you have a racially nondiscriminatory policy as to students. Without a response to the attached school questionnaire, we are unable to make a determination as to your qualification as an organization described in Section 501(c)(3). Therefore under the authority of the above mentioned Revenue Procedure, it is held that a record of actual operations will be required before a ruling or determination will be issued.

Accordingly, we have concluded that you are not entitled to recognition of exemption from Federal Income Tax under Section 501(c)(3) of the Code, since you are not organized and operated exclusively for charitable, religious, or other exempt purposes within the meaning of Section 501(c)(3).

You are required to file Federal Income Tax Returns.

Contributions made to you are not deductible by the donors as charitable contributions as defined in Section 170(c) of the Code.

If you do not agree with these conclusions, you may within thirty days from the date of this letter, file a brief of the facts, law and arguments (in duplicate) which clearly sets forth your position. In the event you desire an oral discussion of the issues, you should so indicate in your submission. A conference will be arranged in the Regional Office after you have submitted your brief to the Chicago District Office and we have had an opportunity to consider the brief and it appears that the conclusions reached are still unfavorable to you. Any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the Conference and Practice Requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met. We have enclosed Publication 892, Exempt Organization Appeal Procedures for Adverse Determinations, which explains in detail your rights and procedures.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service".

Please keep this determination letter in your permanent records.

If you agree with this determination, please sign and return the enclosed Form 6018.

If we do not hear from you within 30 days from the date of this letter, this determination will become final. In accordance with Code Section 6104(c), we will notify the appropriate State officials of this action.

[Redacted Signature]
[Redacted Title]
District Director

Enclosures:
Publication 892
Form 6018