

Internal Revenue Service

Department of the Treasury

Southwest Region

Address any reply to Appeals Office

Person to Contact:

Telephone Number:

Refer Reply to:

Date: 4 MAY 1983

CERTIFIED MAIL

Dear Sir or Madam:

This is a final adverse determination with respect to your exempt status under section 501(c)(3) of the Internal Revenue Code.

The adverse determination was made because you are not organized and operated exclusively in furtherance of one or more of the exempt purposes described in I.R.C. section 501(c)(3) and the regulations promulgated thereunder. Nor are your activities exclusively in furtherance of any such exempt purposes. Additionally, net earnings of the organization inure in whole or in part to the benefit of private individuals rather than the public.

Contributions made to your organization are not deductible under section 170 of the Internal Revenue Code.

You are required to file Federal income tax returns with your Key District Director for exempt organization matters for taxable years for which the filing date of the appropriate return has passed. These returns should be filed within 30 days of the date of this letter, unless a request for extension of time is granted. Please send them to the attention of the EP/EO Division, attach a copy of this letter, and address any requests for time extensions to the EP/EO Division. Processing of an income tax return and assessing any taxes due will not be delayed because a petition for a declaratory judgment has been filed under section 7428 of the Internal Revenue Code.

We will notify the appropriate state officials, as required by section 6104(c) of the Code, that based on the information we have available, we are unable to recognize you as an organization described in section 501(c)(3) of the Internal Revenue Code for the period mentioned.

[REDACTED]

If you decide to contest this determination in court, a petition for a declaratory judgment proceeding in the United States Tax Court, the United States Court of Claims, or the United States District Court for the District of Columbia must be filed within 90 days from the date this determination was mailed to you. Contact the Clerk of the appropriate court for rules for filing petitions for declaratory judgment. For more information, please see the declaratory judgment section of the enclosed Publication 892.

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

Thank you for your cooperation.

Sincerely,

[REDACTED]
Associate Chief, Appeals

Enclosure:
Publication 892

10 FEB 1962

Gentlemen:

We have considered your application for exemption from Federal income tax under section 501(c)(3) of the Code.

The information submitted indicates that you were incorporated [REDACTED], under the Non-Profit Corporation Laws of [REDACTED].

Articles of Amendment filed with the Secretary of State on [REDACTED], amended Article II of your Articles of Incorporation to read as follows:

ARTICLE II

"PURPOSE"

This CORPORATION is formed and shall be operated exclusively for the purpose of investigative research, study and testing of man's spiritual nature and it's relationship to the mental, physical, social and pschological needs; to provide recourse data for enrichment of lives of persons through educational means, practice and propogation of the Christian faith and worship of God.

No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to its members, trustees, officers, or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth herein. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office.

Notwithstanding any other provision of these articles, the Corporation shall not carry on any other activities not to be carried on (a) by a Corporation exempt from Federal Income Tax

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[REDACTED]	[REDACTED]					
Date		2-10-62					

under Section 501(c)(3) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law) or (b) by a Corporation contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law).

In a narrative description of your activities, you stated:

"A great part of the work of this ministry is involved with investigative activity to find and assemble data for use in development of [redacted]. This organization is providing the research, testing, and professional engineering expertise for the development and implementation of plans for new style living environment. Provisions for these living units are designed to meet the needs of older persons. Specific attention is given to accessibility of facilities for the aging infirm and handicapped. Housing, healthcare, and life-giving activity is the predominate focus for these community centers. Approximately 80% of the housing facilities are to be designed for persons reaching the retirement phase of life.

Limited preliminary steps are being taken in preparation for a promotion and development methods of raising funds. Land usage commitments have been received and a retirement center model home has been constructed. Ideas are being tested for means of financing entire centers. Additional site locations are being studied for building several units. Expense for accomplishments thus far have come from personal resources.

Other activities of this ministry include speaking engagements, leading worship service, teaching, counseling, and presentations with audio and video techniques. This is accomplished in churches, public gatherings, missions mostly in the [redacted] and [redacted] areas. Limited work has been conducted over the United States. More nationalized work of this ministry is planned for the future.

Work is currently under way to help churches implement an effective ministry to the aging population of their individual congregations. This ministry is currently testing a limited care and service ministry with the aging within the framework of a [redacted] church. The successful achievements of the test will be used to further expand work of this ministry. The underlying motive and basis for all activity of this ministry is evangelism."

In your Statement of Purpose and Goals you stated:

"[REDACTED] is dedicated to the work of finding ingredients and providing facilities to bring a better life style for maturing adults.

We are especially committed to study and search for environmental living conditions affecting the peace, health and hope of persons transitioning into the retiring years.

Our work and search is not confined to geographical boundaries or limitations. We are looking in all directions for living units, type of structures and communities which would stimulate ideas for better living environments. Input ideas and suggestions are welcomed.

Primary intent of this Ministry is to formulate cooperative (community owned and operated) living complexes for those having need or desire. This is to be accomplished by providing:

1. [REDACTED], Cluster-housing and Condominium Complexes with optional central dining, maintenance free, security controlled, self-governing facilities under the care, help and oversight of individual sponsoring churches or other benevolent institutions.
2. A simplified non-delaying method of arranging and handling details of moving for those couples or singles not wishing to live alone, to take immediate advantage of this cooperative system.
3. Free spiritual council, real-estate, legal and financial advise for the individual or family, prior to any covenant agreements for change.
4. Instigate system where the retiring person can receive help to move into the retirement communities without delay, once decision is made, without time-consuming delay of real estate transactions to sell home."

You stated that: "Hopefully, fund raising, evaluation, administration of preliminary plans for a housing project would be a sponsoring agent responsibility. This would include arrangement for architect design, awarding of building contracts and construction oversight. The ministry does not want or plan involvement with this. In this work to ministry plans only service, consulting assistance and guidance."

[REDACTED]

You also indicated that your plan to give assistance to prospective residents in selling their present homes.

Other information indicated that [REDACTED] became a licensed minister [REDACTED], and was fully ordained [REDACTED] by [REDACTED].

You further indicated that [REDACTED] is a professionally licensed engineer. You also indicated that [REDACTED] devotes about 20 hours a week as his part-time personal employment.

You stated that [REDACTED] devotes 20-25 hours per week to [REDACTED] in search, study, contacting and corresponding with people and institutions or organizations having some knowledge on how to provide assistance and help with the elderly. You further stated that his work involves counseling and guidance, visits to hospitals and homes, and directing programs and services in the church to include designing and writing programs.

You indicated that [REDACTED] provides his work as a service in the name of [REDACTED] and that the client church provides support to [REDACTED] in the form of monthly contributions toward its work.

You did not make any distinction between receipts from [REDACTED] personal employment and those received as contributions toward support of [REDACTED].

You indicated that [REDACTED] devotes 5-10 hours per week to essentially the same activities as conducted by [REDACTED].

You further indicated that [REDACTED] works 20 hours per week for the [REDACTED] for which she is paid a bi-weekly salary. You stated that [REDACTED] pays 100% of her paycheck to [REDACTED].

Financial data submitted reveals that all your support for the period [REDACTED], to [REDACTED], has come from the [REDACTED] and [REDACTED]. Of the total receipts of \$ [REDACTED], \$ [REDACTED] or [REDACTED]% came from [REDACTED].

Expenses for the same period is as follows:

Expense Receipts: Start-Up Period [REDACTED] - [REDACTED]

Secretarial Work.....
Supplies and Printing.....
Mailing and Postage.....
Notary.....
Incorporation and Filing Fees.....
Auto Expense.....

Corporation Expenses: [REDACTED] - [REDACTED]

Business Living Expenses

Aut. (Down)
Church contribution
Printing
Auto Expense
Rental Allow.
Telephone
Utilities
Visual Aids
Accounting Asst.
Postage and Supplies
Printing
Corporation Amend-
ment Fee
Auto Pmt.
Auto Expense
Rental Allowance
Telephone
Utilities
Insurance
Visual Aids
Acct. Help
Advertising
Auto Pmt.
Auto Expense
Rental Allow.
Telephone
Utilities
Insurance
Visual Aids
Church Contrib.
Auto Payment

[REDACTED]

You stated that utilities, car and rent expenses are not for personal living expenses and that those expenses are established as a proportionate share of expenses related to or necessitated by the works of [REDACTED], yet you did not show any portion which was allocated to personal use.

In reference to the car expense you indicated that periodic mileage tests are used to determine the percent of usage factor which is used to determine ministry expense versus personal and you stated that the [REDACTED] maintain their own car and that the [REDACTED] do not use the car for other than corporate business. You also stated that the corporation owns the car.

You indicated that both ministerial work and professional engineering work are combined in services provided through functions of the Ministry. You stated that as an educated, functioning and licensed - to - practice minister, expenses are predicated on entitlement under section 107 of the Internal Revenue Code. You further indicated that the rental allowance is to provide for a home for [REDACTED] under section 107 of the Code.

In reply to our request for a list of churches and organizations that you have provided consulting services to as a service of [REDACTED], you indicated that you have provided such services to [REDACTED] and [REDACTED].

In reply to our request for a list of organizations to whom you have provided consulting services as a part of your personal business, you stated that: "no other churches have employed [REDACTED]'s consulting services."

Section 501(c) of the Code describes certain organizations exempt from Federal income tax under section 501(a) and reads, in part, as follows:

"(3) Corporations, *** fund, or foundation, organized and operated exclusively for religious, charitable, scientific, *** literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involved the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), and political campaign on behalf of any candidate for public office."

Section 1.501(c)(3)-1(b)(1)(i) of the Income Tax Regulations provides that an organization is organized exclusively for one or more exempt purposes only if its Articles of Organization -

"(A) Limit the purposes of such organization to one or more exempt purposes; and

(B) Do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes."

Section 1.501(c)(3)-1 of the regulations provides, in part, as follows:

"(b)(1)(i) In meeting the organizational test, the organization's purposes, as stated in its articles, may be as broad as, or more specific than, the purposes stated in section 501(c)(3). ***

"(b)(1)(ii) An organization is not organized exclusively for one or more exempt purposes if its articles expressly empower it to carry on, otherwise than as an insubstantial part of its activities, activities which are not in furtherance of one or more exempt purposes, even though such organization is, by the terms of such articles, created for a purpose that is no broader than the purposes specified in section 501(c)(3). ***

"(b)(1)(iv) In no case shall an organization be considered to be organized exclusively for one or more exempt purposes, if, by the terms of its articles, the purposes for which such organization is created are broader than the purposes specified in section 501(c)(3). The fact that the actual operations of such an organization have been exclusively in furtherance of one or more exempt purposes shall not be sufficient to permit the organization to meet the organizational test. Similarly, such an organization will not meet the organizational test as a result of statements of other evidence that the members thereof intend to operate only in furtherance of one or more exempt purposes."

"(b)(4) Distribution of assets on dissolution. An organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, for example, if, upon dissolution, such assets would, by reason of a provision in the organization's articles or by operation of law, be distributed for one or more exempt purposes, or to the Federal Government, or to a State or local government, for a public purpose, or would be distributed by a court to another organization to be used in such manner as in

the judgment of the court will best accomplish the general purposes for which the dissolved organization was organized. However, an organization does not meet the organizational test if its articles or the law of the State in which it was created provide that its assets would, upon dissolution, be distributed to its members or shareholders."

"(c)(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."

"(d)(1)(ii) 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."

Revenue Ruling 71-529, 1971-2 Cumulative Bulletin 234, states that a nonprofit organization that provides assistance in the management of participating exempt organizations' endowment or investment funds qualifies for exemption under section 501(c)(3) where the charge for the service is substantially below cost, defined in this case as representing less than fifteen percent of the total costs of operation.

Revenue Ruling 72-369, 1972-2 Cumulative Bulletin 245, holds that an organization formed to provide managerial and consulting services at cost to unrelated exempt organizations does not qualify for exemption under section 501(c)(3) because providing such services on a regular basis for a fee based on cost is a trade or business ordinarily carried on for profit and lacks the donative element necessary to establish the activity as charitable.

Revenue Ruling 78-232, 1978-1 C.B. 69, held that an individual who claims to be a minister, organizes a church, deposits salary checks for salary earned from outside employment in the church's bank account, and then uses the funds of the account for lodging, food, clothing, and other living expenses is not entitled to a charitable deduction for the amount of the salary check.

Revenue Ruling 81-94, 1981-1 C.B. 15, held that a "church" that was formed by a professional nurse (who is also the "church's" minister, director and principal officer) and that is used primarily as a vehicle for handling the nurse's personal financial transactions, is not exempt.

In the case of Bubbling Well Church of Universal Love vs Commissioner, 74 TC, 39, the court ruled that the organization did not qualify for exemption under section 501(c)(3) of the Code because they had not established that no part of petitioner's net earnings inured to the benefit of private individuals.

The court further held that the organization did not meet its burden of proof. They noted that the organization had no affiliation with any denomination or other religious body and was not subject to any outside interference or control of the organization's affairs, preparation of its budget and expenditure of its funds, and the organization could operate in this manner indefinitely.

The court indicated that while the domination by the three founders alone may not necessarily disqualify the organization for exemption, it provides an obvious opportunity for abuse of the claimed tax-exempt status. The court noted that such a situation calls for an open and candid disclosure of all facts bearing upon the organization, operation and finances so that the court, should it uphold the claimed exemption, could be assured that it was not sanctioning an abuse of the revenue laws, the court also stated that if disclosure is not made the logical inference is that the facts, if disclosed, would show that the organization fails to meet the requirements of section 501(c)(3).

In the case of The Founding Church of Scientology vs United States 1909-2 U.S.T.C. 9530 (Ct. of Cls. 1969) the court held that a religious organization did not qualify for tax-exempt status under section 501(c)(3) of the Code because part of the organization's net earnings inured to the benefit of private individuals.

In the case of Better Business Bureau vs U.S. (326 U.S. 279 (1945), Ct.D. 1650), it was held that the presence of a single noncharitable or noneducational purpose, if substantial in nature, will preclude exemption under section 501(c)(3) regardless of the number or import of truly charitable or educational purposes. The effect of this ruling applies to religious organizations also.

Based on the above information, we have determined that you are not organized nor operated exclusively for purposes within the meaning of section 501(c)(3) of the Code.

Your purposes are broader than those allowed under section 501(c)(3) of the Code and you have no provision for distribution of assets in the

[REDACTED]

event of dissolution. You are providing professional services in a manner similar to Revenue Ruling 72-369. Even though you have no set fee for your services, you receive regular payments from the organizations that you provide your services to, notwithstanding that these are called contributions.

As in the case of Bubbling Well Church of Universal Love vs Commissioner, you do not meet the burden of proof to show that you are operated exclusively for religious, charitable, educational, and/or scientific purposes, and that no part of the net earnings of [REDACTED] inures to the benefit of private individuals.

Even though you state that expenses are allocated between personal living expenses and those expenses directly related to [REDACTED], you did not show any expenses which were allocated to [REDACTED]. Further, you did not make any distinction between the expenses allocated to [REDACTED] and those allocated to the outside employment of [REDACTED]. In fact, the services performed by [REDACTED] as his personal outside employment appear to be inseparable from the services he performs as part of [REDACTED].

You are also operated in a manner similar to Revenue Rulings 78-232 and 81-94. In the former ruling charitable deductions were not allowed for the amount of the individual's salary check which was deposited in the church's bank account and then was used to pay the individual's living expenses. In the latter ruling exemption was derived because the "church" was used primarily as a vehicle for handling the individual's personal financial transactions.

We also note that, under section 107 of the Code, a ministerial housing allowance is allowed only where the services performed by the minister are in the exercise of his/her ministry. This includes the ministration of sacerdotal functions, the conduct of religious worship, and the control, conduct and maintenance of religious organizations under the authority of a religious body such as a church or church denomination.

Based on the facts enumerated above, we have determined that you do not qualify for exemption under section 501(c)(3) of the Code.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an

oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

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."

If this determination letter becomes a final determination, we will notify the appropriate State Officials, as required by section 6104(c) of the Code, that based on the information we have, we are unable to recognize you as an organization of the type described in Code section 501(c)(3).

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

Sincerely yours,

District Director

Enclosures:
Form 6013
Publication 892
Envelope