

APR 16 1981

Gentlemen:

Your application for exemption from Federal income tax under the provisions of section 501(c)(3) of the Internal Revenue Code has been considered.

The information submitted discloses that you were incorporated [REDACTED], under the nonprofit laws of [REDACTED], to provide transportation of students of [REDACTED] from their homes to the school and return, and the transportation of said students on field trips and similar ventures.

Statements furnished in support of the application show that the corporation was formed by parents of children attending [REDACTED]. The corporation provides transportation as described above. The corporation is expected to generate only enough revenue to offset actual cost.

Funds for the support of your activities are derived solely from charges based on allocated actual cost of service.

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), any political campaign on behalf of any candidate for public office."

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

"(a)(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."

"(4)(1)(ii) An organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (1) 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 interest such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interest."

Revenue Ruling 69-175, 1969-1 Cumulative Bulletin 149, holds that an organization, controlled by parents of transported students, that provides bus transportation for children to and from an exempt private school is serving a private interest and is not qualified for exemption under section 501(c)(3) of the Code.

You are a corporation controlled by the parents of the transported children whose purposes and activities consist of providing bus transportation of such parents' children to and from an exempt private school. Therefore, we must conclude that you serve a private rather than a public interest and 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. You should also file the enclosed Federal income tax return(s) within 30 days with the Chief, Employee Plan/Exempt Organization Division 1100 Commerce, Dallas, Texas 75242.

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.

(3)

[REDACTED]

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).

Sincerely,

[REDACTED]
District Director

Enclosures:
Form 6018
Publication 892