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DISTRICT DIRECTOR
INTERNAL REVENUE SERVICE
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MAY 25 1984

Dear Applicant:

CHIEF, EP & EQ DIVISION
INTERNAL REVENUE SERVICE
DISTRICT

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

The information submitted indicates you were incorporated under the laws of [redacted] on [redacted]. Your Articles of Incorporation state you are a nonprofit public benefit corporation organized and operated exclusively for charitable purposes.

Your Articles of Incorporation state you are formed to establish a resource bank to provide information to lower income residents of the [redacted] area, including youth, elderly and handicapped persons, for the coordination of developmental activities.

You have described the following proposed activities:

1. Workshops to be held on economic resources topics;
2. Informational newsletters;
3. Informational and entertainment radio program;
4. Cooperative resources exchange, which will include text for youth and the elderly in foreign languages, green books, things; etc.
5. Collective fund raising.

[redacted] is a nonprofit corporation, organized under the laws of [redacted] and is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code. The corporation is organized for the purpose of providing information and resources to lower income residents of the [redacted] area, including youth, elderly and handicapped persons, for the coordination of developmental activities. The corporation has no business or commercial purpose and its activities are exclusively for the benefit of the community.

Your largest expenditures will be for the purchase of books, other expenses will be for travel, office supplies, and other miscellaneous items.

[REDACTED]

[REDACTED] will operate a food buying cooperative under the Collective Food Buying Program. Members and nonmembers of [REDACTED] [REDACTED]. A monthly participation fee will be charged. [REDACTED] members receive a reduced rate. Food will be purchased in bulk and sold to participants at a cooperative pricing rate.

[REDACTED] will also operate a farming program for educational purposes, under the Cooperative Resources Exchange, referred to as the [REDACTED] Program [REDACTED]. [REDACTED] farms will grow produce for sale to the food buying cooperative mentioned above. [REDACTED] will sell its produce to the cooperative at wholesale, and any surplus will be sold to the public. The proceeds from the sale of [REDACTED] produce will be distributed [REDACTED] to [REDACTED] participants and [REDACTED] to the program operating fund. Participation in [REDACTED] will be limited to members of [REDACTED].

Together these two programs represent the entirety of the operations of [REDACTED].

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

Section 1.501(c)(3)-1(a)(1)(ii) of the Income Tax Regulations provides that an organization is not exempt unless it serves a public rather than a private interest. Thus, to meet the requirements of such 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 any private interests.

Section 1.501(c)(3)-1(a)(2) of the regulations defines the term "charitable" as used in section 501(c)(3) of the Code as including the relief of the poor and distressed or of the underprivileged and the advancement of education.

Section 1.501(c)(3)-1(a)(3) of the regulations defines the term "educational" as including the instruction or training of the general and for the purpose of increasing or developing his capabilities.

Section 1.501(c)(3)-1(a)(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 any private shareholders or individuals. Section 1.501(c)(3)-1(c) defines private shareholders or individuals as persons having a personal and private interest in the activities of the organization.

Rev. Rul. 71-345, 1971-2 C.B. 20, stated exception to an art gallery operated as a cooperative. It was held that the gallery served the private purposes of its members, even though the exhibition and sale of paintings may be an educational activity in other respects.

Rev. Rul. 73-127, 1973-1 C.B. 211, stated exception to an organization that operated a grocery outlet to sell food to residents of a poverty area at prices substantially lower than those charged by general grocery stores, and to provide job training for unemployed residents. The organization's purpose of selling food to residents of a poverty area at low prices was held to be not recognized as a charitable purpose under the basic common law concept of charity and within the meaning of section 501(c)(3) of the Code and section 1.501(c)(3)-1(d)(2) of the regulations.

The main purpose of the food buying cooperative is the distribution of food at reduced cost to members of low-income groups. Under the rationale of Rev. Rul. 73-127, above, this is not recognized as a charitable purpose. Also, the cooperative structure serves the private interests of its participants under the rationale of Rev. Rul. 71-345, above.

The [redacted] farming operations, while educational in purpose, include activities which are not exempt. The sale of the produce grown in 1967 is not in furtherance of the educational objectives. The sales operations, when viewed in context, are for the benefit of the food cooperative, and for the private benefit of the OSEP participants. The return of proceeds to participants, furthermore, constitutes investment for profit by Code section 511(c)(3).

Accordingly, you do not qualify for exemption under section 501(c)(3) of the Code and are required to file federal income tax returns.

Contributions to you are not deductible under section 170 of the Code.

You have the right to protest this ruling if you believe it is in error. To protest, you must submit a statement of your views, and a full explanation of your reasoning. This statement, signed by one of your principal officers, must be submitted in duplicate (one to the IRS 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 wish one, and you file your protest statement. If you are to be represented by an agent who is not one of your principal officers, that agent will need to file a power of attorney with the IRS. You will qualify under our conference and protest procedures.

[REDACTED]

If we do not hear from you within 11 days, this ruling will become final and copies of it will be forwarded to the District Director, San Francisco. Thereafter, any questions about your federal income tax status or the filing of tax returns should be addressed to that office.

Also, 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 do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7478(b)(2) of the 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."

When sending additional letters with respect to this case to the Internal Revenue Service, you will expedite their receipt by placing the following symbols on the envelope: OF:R:CC:R:5, Room 4137. These symbols do not refer to your case but rather to its location.

Sincerely yours,

[REDACTED]

[REDACTED]

Chief, Exempt Organizations
Colin G. Smith

cc: [REDACTED]

[REDACTED]