

Internal Revenue Service  
Washington, D.C. 20224

Department of the Treasury

Date: MAR 25 1980

Employer Identification Number: [REDACTED]

Form Number: [REDACTED]

1041  
Tax Years:

[REDACTED] inclusive  
Person to Contact: [REDACTED]

Contact Telephone Number: [REDACTED]

KD: 31

Dear Applicant:

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

Our adverse ruling was made for the following reason(s):

You are not organized or operated exclusively for exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code of 1954. You are not organized exclusively for one or more exempt purposes specified in section 501(c)(3), and you are operated for private interests rather than public interests. Also, your net earnings inure to the benefit of private individuals.

Contributions to your organization are not deductible under Code section 170.

You are required to file Federal income tax returns on the above form. Based on the financial information you furnished, it appears that returns should be filed for the years shown above. These returns should be filed with your key District Director for exempt organization matters within 30 days from the date of this letter unless a request for an extension of time is granted. Processing of income tax returns and assessment of any taxes due will not be delayed because a petition for declaratory judgment has been filed under Code section 7428. Returns for subsequent tax years should be filed with the appropriate service center indicated in the instructions for those returns.

If you decide to contest this ruling under the declaratory judgment provisions of section 7428 of the Code, a petition to 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 ruling was mailed to you. Contact the clerk of the appropriate court for rules for filing petitions for declaratory judgment.

In accordance with section 6104(c) of the Code, the appropriate State officials will be notified of this action.

(over)

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 yours,

(Signed) [Redacted]  
[Redacted]  
Chief, Exempt Organizations  
Technical Branch

cc: [Redacted]  
cc: [Redacted]  
cc: [Redacted]

[Redacted]  
3/20/80

**RECEIVED**  
APR 3 1980

DISTRICT DIRECTOR  
INTERNAL REVENUE SERVICE  
CINCINNATI, OHIO

INTERNAL  
REVENUE SERVICE  
CINCINNATI, OHIO

APR 4 1980

RECEIVED  
EP/EO DIV.

INTERNAL REVENUE SERVICE  
CINCINNATI, OHIO

APR 14 1980

RECEIVED  
EP/EO DIV.

[REDACTED]

[REDACTED]

ID : [REDACTED]  
EIN: [REDACTED]

16 AUG 1979

Dear Applicant:

On [REDACTED], we issued a proposed ruling on your application for recognition of exemption from Federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1954. This letter supersedes our earlier proposed denial.

You were created by trust dated [REDACTED], pursuant to Article [REDACTED] of the labor agreement between the [REDACTED] and [REDACTED]. Your purpose is to award scholarships to any employee, spouse of an employee, or child of an employee of an employer-member of the Association or other employer with any employees represented under the collective bargaining agreement under which you were established. You will also operate training programs in safety, equal employment opportunity, and other areas of work-related subjects or programs to improve and advance employee interest.

The program is funded by your employer-members and is administered by [REDACTED] trustees. Two trustees represent the Association and two represent the Union, being appointed to their fiduciary positions by reason of being officials in their respective organizations. You have approximately [REDACTED] contributors and [REDACTED] to [REDACTED] potential grantees. You are not able to state the number of scholarships which will be awarded. When operational, you will give the program publicity so that potential grantees will know of its existence. Grants will be limited to [REDACTED]% of the applicants. Grants will be awarded by a selection committee, independent of the Association and of the Union.

Section 501(c)(3) of the Code provides for the exemption of organizations that are organized and operated exclusively for religious, charitable, educational, scientific, or literary 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) of the Income Tax Regulations provides that in order to be exempt as an organization described in section 501(c)(3) of the Code, an organization must be 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

	REVIEWER	REVIEWER	REVIEWER	REVIEWER
CODE	[REDACTED]	[REDACTED]		
SUR NAME	[REDACTED]	[REDACTED]		
DATE	8/16/79	8/16/79		

Section 1.501(c)(3)-1(b)(1)(i) of the regulations provides that, in general, an organization is organized exclusively for one or more exempt purposes only if its articles of organization limit the purposes of such organization to one or more exempt purposes, and 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(b)(1)(iii) of the regulations provides that 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.

Section 1.501(c)(3)-1(b)(1)(iv) of the regulations provides that 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) of the Code. An organization will not meet the organizational test as a result of statements or other evidence that the members thereof intend to operate only in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(b)(4) of the regulations provides that 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.

Section 1.501(c)(3)-1(c) of the Income Tax Regulations provides that an organization is 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 exempt purposes.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized or operated exclusively for one or more of the purposes 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 interests.

[REDACTED]

On the basis of the information submitted, we have concluded that you are not operating exclusively for one or more exempt purposes as specified in section 501(c)(3).

You were created pursuant to a collective bargaining agreement between [REDACTED] and [REDACTED]. A collective bargaining agreement is a contract negotiated by an employer and the representatives of a labor union by which the wages and working conditions of the employees are established. It is used by employers to recruit employees, induce them to continue their employment, and to otherwise delimit actions by employees under established working conditions. Similarly, the union, on behalf of its members, is able to establish protection for its members and secure favorable working conditions for them.

Although you have proposed to limit your purposes to prohibit inurement and to limit activities to those contemplated under section 501(c)(3) of the Code, you were created for quid pro quo contract rather than eleemosynary purposes under the collective bargaining agreement. Therefore, your purposes clauses, even as you propose to amend them, do not satisfy the organizational test of the regulations. Although you have proposed to add an acceptable dissolution clause to your trust declaration, we note that, as presently constituted, your trust declaration also does not satisfy this requirement of the regulations.

As a collective bargaining agreement is the product of negotiation, certain terms and conditions are included in it in consideration of the exclusion of others. One form of compensation is bargained for inclusion in return for the exclusion of some other consideration. Therefore, the creation of a trust of your type pursuant to a collective bargaining agreement indicates that your grant program was intended to be and is compensatory in nature. The purpose of the program is to provide additional compensation and employment incentives. It is part of an integrated agreement by which a course of action for employees is established. As such, you were created and are now operating to further the private interests of the employers, the union, and the employees covered by the agreement, rather than for an exempt purpose under section 501(c)(3) of the Code.

Accordingly, you do not qualify for recognition of exemption from Federal income tax under section 501(c)(3) of the Code. You are, therefore, required to file Federal income tax returns on Form 1041.

[REDACTED]

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

Additionally, grants awarded pursuant to your scholarship program are not excludable from the gross income of recipients as "scholarships" within the meaning of section 117(a) of the Code.

You have the right to protest this ruling if you believe that it is incorrect. To protest you should submit a statement of your views with a full explanation of your reasoning. This statement must be submitted in duplicate within 21 days of the date of this letter and must be signed by one of your principal officers. You also have a right to a conference in this office after your statement is submitted. If you are to be represented by someone who is not one your principal officers, he must file a proper power of attorney and otherwise qualify under our Conference and Practice requirements.

If we do not hear from you within 21 days, this ruling will become final and copies will be forwarded to the District Director, Cincinnati, Ohio, who is your key District Director for exempt organization matters. Thereafter, any questions about your Federal income tax status or the filing of tax returns should be addressed to that office. Also, the appropriate State officials will be notified of this action in accordance with section 6104(c) of the Code.

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 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 proceedings 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."

Sincerely yours,

cc: [REDACTED]

(Signature) [REDACTED]

[REDACTED]  
Chief, Rulings Section 1  
Exempt Organizations  
Technical Branch

cc: [REDACTED]

cc: [REDACTED]

[REDACTED]