

DEC 15 1980

REGISTERED MAIL

Dear Applicant:

We have considered your application for exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code.

The information submitted indicates you were incorporated [REDACTED] under the laws of the State of [REDACTED]. Article III of your Articles of Incorporation provides that purposes for which you were formed, are, in part:

- (2) "Perform genealogical research to identify and obtain information concerning living and deceased individuals who are biologically related to [REDACTED] who was born [REDACTED] in [REDACTED] [REDACTED] and [REDACTED] who was born [REDACTED] in [REDACTED]."

Membership in your organization is limited to persons (and their spouses) who have ancestors in common with either [REDACTED] or [REDACTED].

Your income will be from contributions, dues and the sale of publications.

Your activities will include gathering information concerning your lineage. This information will be published and distributed to all interested relatives. You also indicated the information would be distributed to genealogical periodicals and libraries. You may support trips to the ancestral homelands to gather more data. You have informal social activities and plan to have annual meetings.

Section 501(c) of the Internal Revenue Code of 1954 describes certain organizations exempt from Federal income tax under section 501(a) and reads in part, as follows:

- "(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international sports competition (but only if no part of its activities involve the provision

[REDACTED]

of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of its activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, (except as otherwise provided in subsection (b)), 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) - The Income Tax 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.

"(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 requirements 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."

Association of American Genealogists v. Internal Revenue Service 79-1 USTC ¶ 9361 held that a genealogical association composed almost exclusively of the descendants of an early American, the lineage of whom was the society's primary concern, was not exempt under section 501(c)(3).

Based on the information submitted your activities serve a private rather than a public interest and therefore, you are not entitled to exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954, or any other section of the Code.

You are required to file Federal income tax returns on Form 1120 with your Local District Director. 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 7429.

[REDACTED]

If you do not agree to our proposed denial, we recommend that you request a conference with a member of the Regional Director of Appeals Staff. Your request for a conference should include a written appeal signed by an authorized officer giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. If you are to be represented by someone who is not one of your authorized officers, he/she will need to file a power of attorney or tax information authorization and be qualified to practice before the Internal Revenue Service as provided in Treasury Department Circular No. 230. The conference may be held at the Regional Office or, if you request, at any mutually convenient District Office.

Section 7428 of the Internal Revenue Code, enacted October 4, 1976, requires you to file a petition for a declaratory judgment in the United States Tax Court, the United States Court of Claims, or the United States District Court for the District of Columbia with respect to this determination. However, section 7428(b)(1) 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 expenditure involved has exhausted administrative remedies available to it within the Internal Revenue Service."

A copy of this letter will be mailed to the Attorney General and State Tax Officer of the state in which you were organized or chartered and the state in which your principal office is located in accordance with section 4184(c) of the Internal Revenue Code.

If we have not received an appeal within 30 days, this will become our final determination letter. Your failure to exercise your appeal rights will be considered by the Internal Revenue Service as a failure to exhaust your available administrative remedies.

Sincerely,

Regional Organization Specialist

Enclosure:
Publication 892