Internal Revenue Service

District
Director

Department of the Treasury

[redacted]

[redacted]

CERTIFIED
[redacted]

Employer Identification Number:
[redacted]
Person to Contact:
[redacted]
Telephone Number:
[redacted]
Refer Reply to:
[redacted]

Date: FEB 10 1995

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986.

The information submitted discloses that you were incorporated on [redacted] under the nonprofit corporation laws of the State of [redacted].

The purposes in your Articles of Incorporation are to:

> Operate exclusively for charitable, educational, scientific, and literary purposes and to promote the education and leadership development of youth through establishment of academies and courses for youth.

Facts

[redacted] was established to bring about a sense of purpose and self-worth to teenagers in underprivileged urban areas using a leadership academy program based on martial arts training. This training will be carried out in an "intensive in-residence 5-day camp" in a rural setting. For this purpose, you have obtained the use of a school in [redacted]. Instruction of youth is generally recognized to be an educational activity within the meaning of Section 501(c)(3) of the Internal Revenue Code.

The camps will primarily be done during 10-12 weeks of summer. Your organization anticipates training [redacted] teenagers per week. Prior to the camp, students must participate in a 1-day workshop to be admitted into the summer camp. Students will be charged $[redacted] for this mini-workshop; you currently charge $[redacted] per attendee.

[redacted]
2-9-95

[redacted] 2/9/95

[redacted]
2-10-95

The only directors of the organization consist of [redacted] and [redacted]. In addition to their duties as directors, they will provide martial arts instruction. [redacted] will also provide an estimated $[redacted] in data processing services for the organization. The remainder of the organization's full-time staff will consist of [redacted] martial arts trainers, and inter-personal skills trainer (psychologist), and energy conservationist, fundraiser, and a facilities manager. Their salaries are as follows:

	[redacted]	[redacted]
Senior Trainers/Directors: [redacted] and [redacted]	*$[redacted]	$[redacted]
Martial Arts Trainers: [redacted]	$[redacted]	$[redacted]
	$[redacted]	$[redacted]
Psychologist: [redacted]	$[redacted]	$[redacted]
Conservationist: [redacted]	$[redacted]	$[redacted]
Fundraiser**	$[redacted]	$[redacted]
Facilities Manager**	$[redacted]	$[redacted]

* Salary = $[redacted] + 1/2 ($[redacted]) Data Processing Costs
** These positions have not been filled yet.

A review of the financial information submitted with your application shows that upwards of [redacted]% of the fixed operating expenses of the organization will benefit the creators or other personnel earning in excess of $[redacted] per year through disbursements for salaries, services and travel expenses. The salaries are set based on private sector earnings.

Currently, [redacted], [redacted] and [redacted] have their own for profit businesses in data processing and the teaching/seminar business. These individuals will retain their for profit businesses but will devote [redacted]% of their time to [redacted]. Per your letter of [redacted], you have positioned the above salaries to reflect the compensation received from your existing practices as your instructors are accustomed to being paid $[redacted] per day.

The trainer's schedule during the summer is [redacted] ([redacted]-hour) days on, [redacted] days off, and [redacted] days assisting in short shifts. The remainder of the year, the full-time instructors are expected to average [redacted] hours per week. This time will be spent with promotional presentations, conducting 1-day workshops and follow-up visits to each of the communities sending teenagers to the summer camp. At this point, you are anticipating [redacted] communities will become involved. The follow-up visits are expected to be one full day per month for a minimum period of one year; therefore, this travel alone would require [redacted] days per month. You have allocated $[redacted] for all types of travel. Information on specific cities and persons or community leaders to be contacted regarding your program has not been provided as requested.

The description of the travel is vague and has not identified any cities which have shown an interest in your program. Consequently, you have not shown that the amount allocated to travel is in furtherance of an exempt purpose.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of corporations organized and operated exclusively for religious, charitable, literary, scientific, and educational purposes; no part of the net earnings of which inures to any private shareholder or individual.

Section 1.501(c)(3)-1 of the Income Tax Regulations relates to the definition of the organization and operation of organizations described in Section 501(c)(3). It is quoted, in part, as follows:
"(a) Organizational and operational tests. (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. (2) The term "exempt purpose or purposes", as used in this section, means any purpose or purposes specified in Section 501(c)(3)...."
"(c) Operational test. (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. (2) Distribution of earnings. 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 private shareholders or individuals..."

Section 1.501(c)(3)-1(a) of the Income Tax Regulations provides that in order to be exempt as an organization described in Section 501(c)(3), the organization must be one that is both organized and operated exclusively for one or more of the purposes specified in that section. If an organization fails to meet either organizational or the operational test it is not exempt.

Section 1.501(c)(3)-1(e)(1) of the Income Tax Regulations provides that "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."

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that an organization is not organized and operated exclusively for exempt purposes unless it serves a public rather than a private interest. Thus, it is necessary for an organization seeking exemption under Section 501(c)(3) 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.

In Revenue Ruling 69-266, 1969-1 C.B. 151, an organization formed and controlled by a doctor of medicine, hired to conduct research programs consisting of treating patients who were charged prevailing fees for services rendered, was not exempt under Section 501(c)(3) because the operation of the organization did not significantly differ from the private practice of medicine for profit. The organization was operated by the creator essentially as an attempt to reduce his personal Federal income tax liability while still enjoying the benefits of his earnings.

In Bill Wildt's Motorsport Advancement Crusade v. Commissioner 56 TCM 1401, the court concluded the organization failed to carry it's burden of showing that it was operated exclusively for exempt purposes because the major pursuit of the organization was to promote the financial well-being of the commercial and competitive motorsport industry. The court further found that the organization failed to prove its net earnings did not inure to the benefit of a private individual, since the organization's president was paid substantial amounts for his services.

In construing the meaning of the phrase "exclusively for educational purposes" in Better Business Bureau .v. U.S.,..326 U.S. 279 (1945) the Supreme Court of the United States said, "This plainly means that the presence of a single non-educational purpose, if substantial in nature will destroy the exemption regardless of the number or importance of truly educational purposes". This statement applies equally to any category of charitable purposes under Section 501(c)(3) of the Code.

Your organization is similar to the one described in the above revenue ruling. A board of directors which includes community representatives is an indication that the organization will serve public rather than private interests. Since your board does not include community involvement, it appears the organization's primary function is to serve the private interests of its creators rather than the public.

As in the Bill Wildt case, you have not shown that you are organized exclusively for exempt purposes; you have not shown the potential for substantial earnings or the potential to have the organization subsidize your involvement in martial arts are merely incidental to your exempt activities. You have not shown that the payments are reasonable under the circumstances and do not violate the prohibition against any part of net earnings inuring to the benefit of a private individual. These non-educational purposes preclude exemption since you are not operating exclusively for educational purposes. In short, you have not shown that you are operating any differently than a for profit entity.

Lastly you have not shown you can carry out your educational purpose since as you say the juvenile court system is harder to infiltrate than anticipated. You have not shown through correspondence or other evidence that there are communities willing to cooperate with your organization to accomplish the stated goals.

We have concluded, based upon the facts and evidence on file, that you are not operated exclusively as a charitable or educational organization described in Section 501(c)(3) of the Code because a substantial amount of your activities and operations are directed towards the improvement and advancement of the professional interest of your members.

Accordingly, we have concluded that you are not entitled to recognition of exemption from Federal Income Tax under Section 501(c)(3) of the Code, since you are not organized and operated exclusively for charitable, religious, or other exempt purposes within the meaning of Section 501(c)(3).

Please keep this determination letter in your permanent records.

If you agree with this determination, please sign and return the enclosed Form 6018.

If we do not hear from you within 30 days from the date of this letter, this determination will become final.

Sincerely yours,

[redacted]

District Director

Enclosures:
Publication 892
Form 6018