

NO POSTTEST REQUIRED
Release copies to District

Date 4-18-83

Surname [REDACTED]

MAR 28 1983

RE: [REDACTED]

NR: [REDACTED]

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 1954. You had also requested classification as other than a private foundation by virtue of being described in section 170(b)(1)(A)(vi) of the Code.

The information submitted indicates that you were incorporated on [REDACTED] under the laws of the State of [REDACTED]. Your primary purpose is "to establish, maintain, and operate educational institutions."

You have stated, "We desire to teach and educate only our own children", and "We have no plans at this time to include any nonfamily learners in our student body in the future."

Your classes are held in the home of your founders and your teachers are not certified by any state authorities. [REDACTED] students are in attendance.

You state "Our expenditures are paid for by the incorporators' income. We have no anticipated receipts for this time period ([REDACTED]) from outside sources."

Section 501(c)(3) of the Code provides, in part, for the exemption from federal income tax of organizations that are organized and operated exclusively for religious, charitable or educational purposes, no part of the net earnings of which inure 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), an organization must be both organized and operated exclusively for one or more exempt purposes. Failure to meet either the organizational test or the operational test will disqualify an organization from exemption under section 501(c)(3).

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized or operated exclusively for exempt purposes unless it serves a public rather than a private interest. Thus, to qualify for exemption 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.

You are operated for the sole purpose of educating your founders' children and other family members. You state "We desire to teach and educate only our own children." Your classes are held in the home of your founders. Since your activities are beneficial only to your creator or his family you are not operated for public purposes.

Based on the above we have concluded that you are not operated exclusively for exempt purposes. Therefore you are not exempt from federal income tax under section 501(c)(3) of the Code. As a result contributions to you are not deductible under section 170 of the Code. You are required to file federal income tax returns on Form 1120.

Furthermore, even if you were exempt you have not shown that you are an organization which usually receives a substantial part of its support from a governmental unit or from direct or indirect contributions from the general public and therefore you are not described in section 170(c)(1)(B)(vi) of the Code. As a result you would never be eligible to elect to be a private foundation under section 170(c)(1)(B)(vi) which was your only claim to non-exempt foundation status.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your principal officers, must be submitted in duplicate within 30 days 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 want one, when you file your protest statement. If you are to be represented by some one who is not one of your principal officers, the letter will need to file a proper power of attorney and otherwise comply with our conference and Franchise requirements.

[REDACTED]

If we do not hear from you within 21 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, 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 7426(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 Claims Court, 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,

(Signed)

[REDACTED]

[REDACTED]
Chief, Rulings Section
Exempt Organizations
Technical Branch

cc: [REDACTED]

cc: [REDACTED]