



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

Number: **200450042**

Release Date: 12/10/04

SIN – 501.25-00

Date: September 14, 2004

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

Legend:

X =

Entity 1 =

Entity 2 =

Entity 3 =

Entity 5 =

A =

B =

C =

D =

M =

d =

y =

Dear _____ :

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3). Based on the information submitted, we have concluded that you do not qualify for exemption under that section. The basis for our conclusion is set forth below.

The information submitted indicates that you were incorporated on d under the General Corporation Law of M. Article IV of your Certificate of Incorporation states the following:

"Said corporation is organized exclusively for charitable, religious, education, and/or scientific purposes, including for such purposes, the distribution to organizations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code of 1954..."

You are one of the five related corporations formed by X. Simultaneously formed with you on d by X were Entity 2, Entity 3 and Entity 5. The submissions refer to them as A, B and D, respectively. You are referred to as C. Four years earlier, X had formed Entity 1.

A, B and D have each filed an application for recognition of exemption under section 501(c)(3) of the Code. Entity 1 is currently exempt under section 501(c)(3).

X is the sole officer holding the position of president of the five corporations (the Related Corporations). You indicated that the recent formation of the four corporations is the expansion of the work for the public good into a cooperative arrangement between all five corporations.

You indicated that in year X gave y dollars to Entity 1 with the intention that it be used as a loan, be invested in a program of high interest return, the interest earned be kept by Entity 1, and the principal be returned to X. However, the person who had control of the fund embezzled the fund. Entity 1 has written off the amount in its books and treated it as a "donation" by X to allow him to deduct the amount on his personal income tax return.

You state the following information relating to the Related Organizations---

"We would like to use A as our 501(c)(3) Charitable Foundation to accept large donations, invest them and distribute specific amounts to B, a non-operating 501(c)(3) foundation, after B has solicited, received, reviewed and approved grant applications that fit the vision and mission of our system.

B will function as our non-operating 501(c)(3) pass-through organization. Grant and service proposals will be directed to this organization from other operating 501(c)(3) non-profit organizations. B will thus handle the year to year distribution of funds as requested and received from A.

D and Entity1 will be two of the many operating 501(c)(3) non-profit organizations that will be eligible to receive grants from B.

C will function as section 501(c)(25)(A) through (G) holding corporation for real assets that can be best purchased by C and then leased to other 501(c)(3) non-profit organizations within the system. This will maximize the use of assets that can be time-shared by grantees, instead of being purchased and then only be used part-time. It will also simplify the change over from one non-profit to the next, if a grantee decides to "close its doors".

Our vision and mission is to provide the following:

1. Workshops and training that teach how to be successful at obtaining B grants, matching funds and/or sponsorships.
2. Workshops that teach how to share one's wealth that is above and beyond immediate needs in a way that benefits others and still protect the future needs of the philanthropist.
3. Workshops and training that teach how to improve one's spiritual, mental, physical, and emotional approaches to life.
4. Workshops on personal, business and relationship development.
5. Workshops on developing talents in any of the fine arts.

In our letter dated June 26, 2003, we requested certain clarification on your activities and your response on this matter was as follows:

"3. Properties held will be limited to real properties.

4. "Time share" was not meant to be interpreted as ownership. The concept of the entire organization is to maximize the use of resources while minimizing the expenses. If a certain grantee needs a van on a half-time basis, then C will see that the a van is available for other grantees for their use also and not have a full-time van tied up with a half-time allocation."

Section 501(c)(25)(A) of the Code provides exemption to any organization or trust which --

(i) has no more than 35 shareholders or beneficiaries

(ii) has only 1 class of stock or beneficial interest, and

(iii) is organized for the exclusive purposes of --

(I) acquiring real property and holding title to, and collecting income from such property, and

(II) remitting the entire amount of income from such property (less expenses) to one or more organizations described in 501(c)(25)(C) which are shareholders of such corporation or beneficiaries of such trust.

Section 501(c)(25)(D) of the Code provides that a corporation or trust shall in no event be treated as described in subparagraph (A) unless such corporation or trust permits its shareholders or beneficiaries--

(i) to dismiss the corporation's or trust's investment adviser, following reasonable notice, upon a vote of the shareholders or beneficiaries holding a majority of interest in the corporation or trust, and

(ii) to terminate their interest in the corporation or trust by either, or both, of the following alternatives, as determined by the corporation or trust:

(I) by selling or exchanging their stock in the corporation or interest in the trust (subject to any Federal or State securities law) to any organization described in subparagraph (C) so long as the sale or exchange does not increase the number of shareholders or beneficiaries in such corporation or trust above 35, or

(II) by having their stock or interest redeemed by the corporation or trust after the shareholder or beneficiary has provided 90 days notice to such corporation or trust.

Section 501(c)(25)(F) of the Code provides that for purposes of subparagraph (A), the term "real property" includes any personal property which is leased under, or in connection with, a lease of real property, but only if the rent attributable to such personal property (determined under the rules of section 856(d)(1)) for the taxable year does not exceed 15 percent of the total rent for the taxable year attributable to both the real and personal property leased under, or in connection with, such lease.

Section 501(c)(25)(G)(i) of the Code provides that an organization shall not be treated as failing to be described in this paragraph merely by reason of the receipt of any otherwise disqualifying income which is incidentally derived from the holding of real property.

Section 1.856-3(d) of the regulations defines the term "real property" to mean land or improvements thereon, such as buildings or other inherently permanent structures thereon (including items which are structural components of such buildings or structures). In addition, the term "real property" includes interest in real property. The term does not include assets accessory to the operation of a business, such as machinery, printing press, transportation equipment which is not a structural component of the building, office equipment, refrigerators, individual air-conditioning units, grocery counters, furnishings of a motel, hotel, or office building, etc., even though such items may be termed fixtures under local law.

The above law provides certain organizational requirements for exemption under section 501(c)(25) of the Code. This particular requirement is met by including in the corporation's Articles or Certificate of Incorporation the provisions of sections 501(c)(25)(A)(i) through (iii), and 501(c)(25)(D)(i) and (ii) of the Code. In our letter dated June 26, 2003, we indicated finding your Certificate of Incorporation do not contain the required provisions of these sections of the Code. However, you indicated willingness to amend the Articles and submitted draft amendments. While the drafted amendments include the required provisions under sections 501(c)(25)(A)(i) through (iii), they failed to include the required provisions of sections 501(c)(25)(D)(i) and (ii) relating to shareholder rights. Therefore, you continue to fail the organizational requirements for exemption under section 501(c)(25).

Moreover, while you acknowledge that a section 501(c)(25) corporation is limited to holding real properties, your letter to us indicates that you plan to hold other properties which are not real properties as such term is defined in section 1.856-3(d) of the regulations.

Accordingly, you do not qualify for exemption as an organization described in section 501(c)(25) of the Code and you must file federal income tax returns.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views to this office, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted 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 someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the Ohio Tax Exempt and Government Entities (TE/GE) office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 877-829-5500 (a toll free number) or sending correspondence to: Internal Revenue Service, TE/GE Customer Service, P.O. Box 2508, Cincinnati, OH 45201.

In the event this ruling becomes final, it will be made available for public inspection under section 6110 of the Code after certain deletions of identifying information are made. For details, see enclosed Notice 437, *Notice of Intention to Disclose*. A copy of this ruling with deletions that we intend to make available for public inspection is attached to Notice 437. If you disagree with our proposed deletions, you should follow the instructions in Notice 437.

If you decide to protest this ruling, your protest statement should be sent to the address shown below. If it is convenient, you may fax your reply using the fax number shown in the heading of this letter.

Internal Revenue Service
TEGE, SE:T:EO:RA:T:3

1111 Constitution Ave, NW
Washington, D.C. 20224

If you do not intend to protest this ruling, and if you agree with our proposed deletions as shown in the letter attached to Notice 437, you do not need to take any further action.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Ronald J. Shoemaker

Lois G. Lerner
Director, Exempt Organizations
Rulings & Agreements

Enclosure
Notice 437