

EO Technical Assistant

MAY 10 1983

Gentlemen:

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

The information submitted discloses that you were incorporated [REDACTED], under the [REDACTED] Non-Profit Corporation Act. Your primary purposes are to further the economic development and social welfare of the counties of [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED], and [REDACTED], and to promote and assist the growth and development of business concerns, in such areas. The principal objectives of the Corporation shall be to benefit the community by fostering increased employment opportunities and expansion of business and industry for citizens of the area.

You state that your primary function is to promote and enhance the economic development of its service area. The company is primarily involved with loan packaging for small business concerns currently located in the area and to those that may move into the area in the future.

Your financial support comes primarily from the Small Business Administration's 503 loan program packaging and monthly servicing fees and a [REDACTED] grant.

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

"(3) Corporations, \*\*\* fund, or foundation, organized and operated exclusively for religious, charitable, scientific, \*\*\* literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involved the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political

Initiated and filed on behalf of any candidate for public office."

Code	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname					
Date					

Section 1.501(c)(3)-1 of the 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."

"(a)(2) The term "exempt purpose or purposes," as used in this section, means any purpose or purposes specified in section 501(c)(3), as defined and elaborated in paragraph (d) of this section."

"(d)(2) Charitable defined. The term "charitable" is used in section 501(c)(3) in its generally accepted legal sense and is, therefore, not to be construed as limited by the separate enumeration in section 501(c)(3) of other tax-exempt purposes which may fall within the broad outlines of "charity" as developed by judicial decisions. Such term includes: Relief of the poor and distressed or of the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments, or works; lessening of the burdens of Government; and promotion of social welfare by organizations designed to accomplish any of the above purposes, or (i) to lessen neighborhood tensions; (ii) to eliminate prejudice and discrimination; (iii) to defend human and civil rights secured by law; or (iv) to combat community deterioration and juvenile delinquency. "

Revenue Ruling 74-587, 1974-2, C.B. 162, concerns a nonprofit organization formed to relieve poverty, eliminate prejudice, reduce neighborhood tensions, and combat community deterioration through a program of financial assistance in the form of low-cost or long-term loans to, or the purchase of equity interests in, various business enterprises in economically depressed areas. The organization devoted its resources to programs designed to stimulate economic development in high density urban areas inhabited mainly by low-income minority or other disadvantaged groups. The organization acted to combat the economically depressed conditions of the areas by providing funds and working capital to individual proprietors or to corporations to enable the recipient to start a new business or to acquire or improve an existing business in the area. Loans and purchases of equity interests in businesses were undertaken for the purposes of advancing the charitable goals of the organization and not for profit in the conventional business sense.

The revenue ruling finds that by its program of financial assistance in an economically depressed area, the organization is devoting its resources to uses that benefit the community in a way that the law regards as charitable. Its actions help relieve poverty, lessen prejudice and discrimination against minority groups, and combat community deterioration. The ruling holds the organization qualifies for recognition of exempt charitable status under section 501(c)(3).

Based on information furnished, we have concluded that you are not organized exclusively for one or more exempt purposes. The purposes as stated in your Articles of Incorporation are not charitable within the meaning of Code section 501(c)(3).

Further, you do not meet the operational test since your activities are not charitable within the meaning of section 501(c)(3) of the Code. Your activities are distinguished from the situation described in Revenue Ruling 74-587 in that you are not formed to relieve poverty, eliminate prejudice, reduce neighborhood tension or combat community deterioration and there is no indication that you operate in economically depressed areas.

Accordingly, we hold that you do not qualify for exemption from Federal income tax under the provisions of section 501(c)(3) of the Internal Revenue Code and are required to file income tax returns on Form 1120.

It follows, therefore, that contributions to you are not deductible by donors under section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to you or for your use are not deductible under sections 2055, 2106, and 2522 of the Code.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you do not protest this proposed determination 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 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 organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If this determination letter becomes a final determination, we will notify the appropriate State Officials, as required by section 6104(c) of the Code, that based on the information we have, we are unable to recognize you as an organization of the type described in Code section 501(c)(3).

[REDACTED]

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible. You should also file the enclosed Federal income tax return(s) within 30 days with the Chief, Employee Plan/Exempt Organization Division 1100 Commerce, Dallas, Texas 75242.

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

Sincerely yours,

[REDACTED]  
District Director

Enclosures  
Publication 892  
Form 6018  
Form 1120