

Internal Revenue Service  
Director, Exempt Organizations

Department of the Treasury  
P.O. Box 2508 - Room 4522  
Cincinnati, Ohio 45201

Date: January 13, 2006

Employer Identification Number:  
20-1721500

Alpha Phi Foundation Of Alpha Kappa Psi Inc  
C/O Damian Perry  
301 SE 17<sup>th</sup> ST  
Ocala, FL 34471

Person to Contact - ID#:

G. Olwine - 31-07252

Contact Telephone Numbers:

513-263-3651 Phone

513-263-3662 FAX

Response Due Date:

February 3, 2006

Dear Sir or Madam:

Before we can determine whether your organization is exempt from Federal income tax, we must have enough information to show that you have met all legal requirements. You did not include the information needed to make that determination on your Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code.

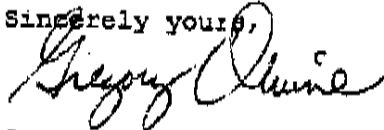
To help us determine whether your organization is exempt from Federal income tax, please send us the requested information by the above date. We can then complete our review of your application.

If we do not hear from you within that time, we will assume you do not want us to consider the matter further and will close your case. In that event, as required by Code section 6104(c), we will notify the appropriate state officials that, based on the information we have, we cannot recognize you as an organization of the kind described in Code section 501(c)(3). As a result, the Internal Revenue Service will treat your organization as a taxable entity. If we receive the information after the response due date, we may ask you to send us a new Form 1023.

In addition, if you do not provide the requested information in a timely manner, we will consider that you have not taken all reasonable steps to secure the determination you requested. Under Code section 7428(b)(2), your not taking all reasonable steps in a timely manner to secure the determination may be considered as failure to exhaust administrative remedies available to you within the Service. Therefore, you may lose your rights to a declaratory judgment under Code section 7428.

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

Sincerely yours,



Gregory Olwine  
Exempt Organizations Specialist

Enclosure

Letter 1312 (DO)



REV-RUL, SECTION 501.--EXEMPTION FROM TAX ON CORPORATIONS, CERTAIN TRUSTS, ETC., Rev. Rul. 64-118, 1964-1 CB 182, (Jan. 01, 1964);

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 Rev. Rul. 64-118, 1964-1 CB 182

SECTION 501.--EXEMPTION FROM TAX ON CORPORATIONS, CERTAIN TRUSTS, ETC.  
 (Also 1.501(c)(7)-1.)

An organization does not qualify for exemption from Federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1954, as an educational organization, where its primary activity is to furnish, on a rental basis, a chapter house to a fraternity which is composed of students. A corporation, fund, or foundation so organized may, however, under proper circumstances, be classified as a club organized and operated exclusively for pleasure, recreation and other nonprofitable purposes and exempt from Federal income tax under the provisions of section 501(c)(7) of the Code.

[Text]

Advice has been requested whether a corporation, fund, or foundation is, under the circumstances described below, entitled to exemption from Federal income tax.

In the instant case, the alumni members of a college fraternity formed a corporation for the purpose of furnishing financial aid and assistance in the education of students affiliated with the fraternity at a local university. Membership is open to all alumni members of the local chapter and to other alumni members of the fraternity interested in the promotion of a high scholastic standard among the members and pledges attending the university. Its primary activity, however, is concerned with the operation and maintenance of a chapter house adjacent to the university which is leased to the members of the local chapter. Receipts are derived from donations, loans, and rental payments. Its principal expenditures are incurred in improving and maintaining the chapter house.

Section 501(c)(3) of the Internal Revenue Code of 1954 describes certain organizations exempt from tax under section 501(a) and provides, in part, as follows:

"Corporations, and any community chest, fund or foundation, organized and operated exclusively for public safety, literary, or educational purposes, 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 the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, 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."

In order to qualify for exemption under the above-cited provision of law, an organization must be both organized and operated exclusively for one or more of the purposes specified therein. An organization may be formed for the purpose of promoting the education of the members of a local chapter of a fraternity or sorority, but, in order to qualify for exemption under section 501(c)(3) of the Code, the purposes and activities must be educational within the contemplation of the statute and must be without any substantial

noneducational purpose or activity. Thus, a trust fund to provide scholarships for the members of a particular fraternity may be exempt under section 501(c)(3) of the Code. See Rev. Rul. 56-403, C.B. 1956-2, 307.

But where the predominant activity is the acquisition, improvement or maintenance of a chapter house, incidental activities concerned with the cultural development of students are not sufficient to bring the trust within the classification of an educational organization described in section 501(c)(3) of the Code. While it is true that the organization in the instant case is associated with education in that it encourages and promotes higher scholastic standards among the members of the fraternity, encourages extracurricular activities, and is instrumental in furnishing them with housing facilities, its actual operations conclusively illustrate that it is not organized and operated exclusively for educational purposes within the intendment of section 501(c)(3) of the Code.

It has long been the position of the Internal Revenue Service that college fraternities and sororities are not exempt educational organizations, G.C.M. 5952, C.B. VIII-1, 172 (1929). *Alfred T. Davison v. Commissioner*, 60 Fed. (2d) 50 (1932). Hence, assisting such an organization to acquire and maintain a chapter house is likewise not an exclusively educational activity. In *R. L. Phinney v. J. Chrys Dougherty et ux.*, 307 Fed. (2d) 357 (1962), the Court, in considering a somewhat similar situation, held that the Fund, there considered, was not a corporation organized and operated exclusively for educational purposes within the meaning of section 170(c)(2) of the Code. The same principles are involved in this case for the purpose of determining whether the instant organization qualifies for exemption under section 501(c)(3) of the Code.

In view of the foregoing, it is held that a corporation, fund, or foundation, organized for the purpose of aiding and assisting in the education of students affiliated with a fraternity at a college or university, whose primary activity is the operation and maintenance of a chapter house, on a rental basis, for the use and benefit of the members of a local chapter of the fraternity, does not qualify for exemption as an educational organization within the meaning of section 501(c)(3) of the Code.

A corporation, fund, or foundation so organized may, however, under proper circumstances, be classified as a club organized and operated exclusively for pleasure, recreational and other non-profitable purposes and exempt from Federal income tax under section 501(c)(7) of the Code.

REV-RUL, Social clubs., Rev. Rul. 69-573 1, 1969-2 CB 125, (Jan. 31, 1969)

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 Rev. Rul. 69-573 1, 1969-2 CB 125

Section 501.--Exemption From Tax on Corporations, Certain Trusts, etc.

26 CFR 1.501(c)(7)-1: Social clubs.

(Also 1.501(c)(3)-1.)

(Also Section 170; 1.170-1.)

A college fraternity that maintains a chapter house for active members who are students of the school is not exempt under section 501(c)(3) of the Code but is exempt under section 501(c)(7); contributions to the fraternity are not deductible; I.T. 1427 and G.C.M. 5952 superseded.

[Text]

The purpose of this Revenue Ruling is to update and restate under the current statute and regulations the positions set forth in I.T. 1427, C.B. I-2, 187 (1922), and G.C.M. 5952, C.B. VIII-1, 172 (1929). The questions presented concern the exemption from Federal income tax under section 501 of the Internal Revenue Code of 1954 of the college fraternity described herein, and the deductibility of contributions to the fraternity under section 170 of the Code.

The fraternity is an organization of students and alumni, with those currently attending school comprising its active membership. New members are chosen in their freshman or sophomore years by the active members. The basis for selection is largely one of companionability, although some academic qualifications also exist. The fraternity owns a chapter house, which was built with the proceeds from contributions from its members, and which contains living rooms, dining rooms, sleeping rooms, study rooms, and a library. The chapter house also serves as a center for the social activities of its members. The fraternity is not operated as an integral part of the college nor does the college exercise any direct control over its membership. The fraternity is organized on a nonprofit basis. All receipts from members are used to pay the expenses of the chapter house and no part of its net income inures to the benefit of private individuals.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of an organization organized and operated exclusively for educational purposes.

Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations provides that the term "charitable" as used in section 501(c)(3) of the Code includes the advancement of education. Section 1.501(c)(3)-1(d)(3) of the Regulations provides that the term "educational" relates to the instruction or training of

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REV-RUL, Social clubs., Rev. Rul. 69-573 1, 1969-2 CB 125, (Jan. 01, 1969)

----- Continued Page 2 -----  
the individual for the purpose of improving or developing his capabilities.

Section 501(c)(7) of the Code provides for the exemption from Federal income tax of clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes. Revenue Ruling 58-589, C.B. 1958-2, 266, describes the characteristics of a social club as personal contacts, fellowship, and a commingling of members.

Although the typical college fraternity does in some degree contribute to the cultural and educational growth of its members during their student years, this is not its primary purpose. *Phinney v. Dougherty*, 307 F. 2d 357 (1962); *Davison v. Commissioner*, 60 F. 2d 50 (1932), and the cases cited therein. Such an organization is primarily a social club in that its major functions are to provide a meeting place for its members, living quarters for many of them, the place where their meals are served, and the headquarters for their entertainment.

Accordingly, it is held that the organization is not exempt from Federal income tax under section 501(c)(3) of the Code but is exempt under section 501(c)(7). In view of the fact that this fraternity is not organized and operated exclusively for any of the purposes described in section 170(c) of the Code, it follows that contributions thereto are not deductible under section 170(a) of the Code.

Even though an organization considers itself within the scope of this Revenue Ruling, it must file an application on Form 1025, Exemption Application, in order to be recognized by the Service as exempt under section 501(c)(7) of the Code. The application should be filed with the District Director of Internal Revenue for the district in which is located the principal place of business or principal office of the organization. See section 1.501(a)-1 of the regulations.

I.T. 1427 and G.C.M. 5552 are superseded since the positions set forth therein are restated under current law in this Revenue Ruling.

----- [Footnotes] -----

1 Prepared pursuant to Rev. Proc. 67-6, C.B. 1967-1, 576.

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