[redacted]

Person to Contact: [redacted]
Telephone Number:
Refer Reply to:
Internal Revenue Service
[redacted]

Date: FEB 28 1989

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 supplied in your application discloses that you were formed as an independent organization by [redacted] on [redacted] in the State of [redacted]. [redacted] is your sole member.

Your purposes, according to your Constitution, are to improve the quality of [redacted] faculty in terms of increased industry awareness, more practical research, and direct services to the business community. [redacted] stands for business computer information systems.

Your activities will include targeting relatively large [redacted] area business organizations (ten will be the maximum for your first year). Each organization will be required to contribute $[redacted] to your organization. You stated that your major objective is to satisfy the business needs of these organizations. You will define the needs of these organizations and address their specific problems relating to computer information systems.

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.

Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	
2/1-9/89	2/2/89	2/27/89	2/28/89	2/27/89	2/27/89	

[redacted]

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

"(b) 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(b)(2) of the Income Tax Regulations provides that the term "articles of organization' or articles" include the trust instrument, the corporate charter, the articles of association, or other written instrument by which an organization is created.

[redacted]

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 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 purpose under Section 501(c)(3) of the Code.

Articles of association cannot be promulgated by the act of one individual who has a coterie of followers who are not really "associates". (Hewitt v. Commissioner, T.C. Memo 1957-112).

Your organization does not qualify for exempt status because you do not meet the organizational test. Specifically, you were formed by one individual. An association cannot be formed by one individual as previously stated in the aforementioned court case.

You also do not meet the operational test because your activities serve the private interests of the business organizations which donate $[redacted] to you. Providing computer services to businesses is outside the scope of Section 501(c)(3).

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).

You are required to file Federal Income Tax Returns.

[redacted]

Contributions made to you are not deductible by the donors as charitable contributions as defined in Section 170(c) of the Code.

If you do not agree with these conclusions, you may within thirty days from the date of this letter, file a brief of the facts, law and arguments (in duplicate) which clearly sets forth your position. In the event you desire an oral discussion of the issues, you should so indicate in your submission. A conference will be arranged in the Regional Office after you have submitted your brief to the Chicago District Office and we have had an opportunity to consider the brief and it appears that the conclusions reached are still unfavorable to you. Any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the Conference and Practice Requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met. We have enclosed Publication 892, Exempt Organization Appeal Procedures for Adverse Determinations, which explains in detail your rights and procedures.

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".

Please keep this determination letter in your permanent records.

[redacted]

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. In accordance with Code Section 6104(c), we will notify the appropriate State officials of this action.

Sincerely yours,

[redacted]

District Director

Enclosures:
Publication 892
Form 6018