

1120 Follow up 5/82

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AUG 25 1981

Dear Sir or Madam:

Your application for exemption from Federal income tax as an organization described in Section 501(c)(7) of the Internal Revenue Code has been given consideration.

The evidence presented disclosed that you were organized [Redacted], and that you operate under the provisions of your Constitution and Bylaws which set forth your purposes and powers.

Your purposes, briefly stated, are to provide a viable and low cost mechanism for the consumption of food and related products, to stimulate the consumption of organically produced food products, and to provide education services to the members of the Co-op and the public.

Your activities are to purchase natural foods in bulk form, bring them to a persons home, and package them in the quantities ordered. You also discuss how to use the foods, exchange recipes and place new orders.

Section 501(a) of the Internal Revenue Code of 1954 provides for the exemption of certain organizations described in subsection 501(c).

Section 501(c)(7) provides for exemption for:

"(7) Clubs organized for pleasure, recreation, and other non-profitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder."

Section 1.501(c)(7)-1 of the Income Tax Regulations states, in part, as follows:

"The exemption provided by Section 501(a) for organizations described in Section 501(c)(7) applies only to clubs which are organized for pleasure, recreation and other non-profitable purposes, but does not apply to any club if any part of its net earnings inures to the benefit of any private shareholder."

In general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues and assessments."

Based upon the information submitted, it appears you are not organized and operated for pleasure and recreation, but that you are primarily operated to purchase natural foods in bulk and to distribute them among your members. Therefore, your activities do not clearly establish that you are operated exclusively for those activities described in Section 501(c)(7).

We also considered your application under Code Section 501(c)(4).

The Income Tax Regulations Section 1.501(c)(4)-1(a) states that a civic league or organization described in Section 501(c)(4) may be exempt if it is not organized or operated for profit and it is operated exclusively for the promotion of social welfare. The Regulations further describe social welfare activities as promoting in some way the common good and general welfare of the people of the community. An organization coming within the purview of this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements.

Revenue Ruling 73-349, 1973-2 Cumulative bulletin, page 179, describes an organization similar to your own. It deals with an organization formed to purchase groceries for its members at the lowest possible prices on a cooperative basis. This organization was not recognized as being exempt under Section 501(c)(4) of the Code.

We also considered your organization under Section 521.

Section 521(b)(1) describes exempt farmers' cooperatives:

"The farmers' cooperatives exempt from taxation to the extent provided in subsection (a) are farmers', fruit growers', or like associations organized and operated on a cooperative basis (A) for the purpose of marketing the products of members or other producers, and turning back to them the proceeds of sales, less the necessary marketing expenses, on the basis of either the quantity or the value of the products furnished by them, or (B) for the purposes of purchasing supplies and equipment for the use of members or other persons, and turning over such supplies and equipment at actual cost, plus necessary expenses."

Section 521(b)(1)(A) requires an exempt farmers' cooperative, organized for marketing the products of members and other producers, to turn back to them the proceeds of sales, less necessary marketing expenses. Section 521(b)(1)(B) requires an exempt farmers' cooperative, organized for purchasing supplies and equipment for the use of members or other persons, to turn over such supplies and equipment to them at actual cost, plus necessary expenses. The principles underlying cooperatives require that any excess, called "earnings", be returned to the patrons at the end of each accounting period in proportion to the amount of business done for each of them, and further, that this be an absolute requisite for tax exemption.

Since your organization does not market member products and does not return "excess earnings" to patrons at the end of the year, you do not meet the qualifications of section either.

Therefore, we have concluded that you do not qualify as an organization described in Sections 501(c) , 501(c)(4) or Section 521 of the Code.

You are required to file Federal income tax returns annually on Form 1120.

If you do not agree with these conclusions, you may, within 30 days from the date of this proposed adverse determination letter, appeal to the Regional Office through this Key District Office. Your appeal should contain the information described under Regional Office Appeal in the enclosed Publication 892, and should be mailed to this office. The Regional Office will let you know what action they take and will set a date and place for any conference to be held.

This is a determination letter.

Sincerely yours,

/s/ [REDACTED]

District Director

Enclosure  
Publication 892