

Internal Revenue Service

Department of the Treasury

Southwest Region

Address any reply to Appeals Office
Room 12B25, 1100 Commerce St.,
Dallas, Texas 75242

Person to Contact:

Telephone Number:

Refer Reply to:

Date: JAN 04 1984

CERTIFIED MAIL

Dear Sir or Madam:

This is a final adverse determination with respect to your exempt status under section 501(c) (3) of the Internal Revenue Code.

Our adverse determination was made for the following reasons:

You are not organized and operating exclusively in furtherance of one or more of the exempt purposes described in I.R.C. section 501(c) (3) and the regulations promulgated thereunder. Specifically, your activities are not exclusively charitable and educational within the meaning of I.R.C. section 501(c) (3) and you provide benefits to members which constitute the inurement prohibited by I.R.C. Section 501(c) (3).

Contributions made to your organization are not deductible under section 170 of the Internal Revenue Code.

You are required to file Federal income tax returns with your Service Center Director for taxable years for which the filing date of the appropriate return has passed. These returns should be filed within 60 days of the date of this letter. Processing of an income tax return and assessing any taxes due will not be delayed because a petition for a declaratory judgment has been filed under section 7428 of the Internal Revenue Code.

We will notify the appropriate state officials, as required by section 6104(c) of the Code, that based on the information we have available, we are unable to recognize you as an organization described in section 501(c) (3) of the Internal Revenue Code.

[REDACTED]

If you decide to contest this determination in court, a petition for a declaratory judgment proceeding in the United States Tax Court, the United States Court of Claims, or the United States District Court for the District of Columbia must be filed within 90 days from the date this determination was mailed to you. Contact the Clerk of the appropriate court for rules for filing petitions for declaratory judgment. For more information, please see the declaratory judgment section of the enclosed Publication 892.

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

Thank you for your cooperation.

Sincerely,

[REDACTED]

Associate Chief, Appeals

Enclosure:
Publication 892

cc: [REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

NOV 3 1982

Dear Applicant:

Your application for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code has been considered.

The information submitted discloses that you were incorporated [REDACTED], under the [REDACTED] Non-Profit Corporation Act. Your primary purpose is described as fostering the appreciation of music, especially [REDACTED] music.

You state that you will accomplish your purposes by presenting public concerts, conducting classes in the history of [REDACTED] music, offering music lessons to area youth, operating a musicians' referral service, and establishing a fund to benefit area musicians who suffer some tragedy. Your activities prior to [REDACTED], have included three lectures on music history, and some music lessons. No information has been made available regarding the number and frequency of concerts, the number and types of referrals, or the number of persons given relief funds.

Financial support is to be from member dues, concert charges, benefit dances, and public contributions. Financial information as of [REDACTED], submitted with the application, shows receipts of \$ [REDACTED] from dues and \$ [REDACTED] from dances. Expenditures shown include cost of dances \$ [REDACTED], donations to needy individuals \$ [REDACTED], and attorney fees and miscellaneous expenses of \$ [REDACTED]. The proposed budget submitted shows anticipated receipts for two years to be dues \$ [REDACTED], dances \$ [REDACTED], and donations of \$ [REDACTED]. Expenditures are expected to be dances \$ [REDACTED], needy individuals \$ [REDACTED], and miscellaneous \$ [REDACTED].

In a letter dated [REDACTED], you explain that benefits to members are listed as the referral service, \$ [REDACTED] emergency loan fund, access to association activities, and group rates for health insurance. The musician referral service is a benefit granted to association members to connect them with

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
			[REDACTED]				
Surname			[REDACTED]				
Date			11-3-82				

members of the general public who need music. Aid is provided to area musicians and their families as their needs require.

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 campaign on behalf of any candidate for public office."

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."

"(b)(1)(i) An organization is organized exclusively for one or more exempt purposes only if its articles of organization (referred to in this section as its "articles") as defined in subparagraph (2) of this paragraph:

(a) Limit the purposes of such organization to one or more exempt purposes; and

(b) Do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes."

"(b)(1)(ii) An organization is not organized exclusively for one or more exempt purposes if its articles expressly empower it to carry on, otherwise than as an insubstantial part of its activities, activities which are not in furtherance of one or more exempt purposes, even though such organization is, by the terms of such articles, created for a purpose that is no broader than the purposes specified in section 501(c)(3). *** "

[REDACTED]

"(c)(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."

"(d)(1)(ii) An organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (1) of this subparagraph unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization 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 vs U.S., (326 U.S. 279(1945)), the Supreme Court of the United States said, "This plainly means that the presence of a single noneducational purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly educational purposes". According to Revenue Ruling 74-553, 1974-2, Cumulative Bulletin 168, this rationale applies equally to any category of charitable purposes under Section 501(c)(3) of the Code.

In Revenue Ruling 61-170, 1961-2 Cumulative Bulletin 112, a nurses association which maintained an employment register primarily for the employment of its members was not entitled to Exemption under section 501(c)(3). Under the particular facts, it was promoting the interests of the individuals members.

Based on information submitted, we have concluded that you are engaged in noneducational, noncharitable activities such as a musicians referral service and insurance and other benefits to members. These activities appear to be substantial in nature and serve a private rather than a public purpose.

Accordingly, it is held that you do not qualify for exemption under the provisions of section 501(c)(3) of the Code.

It follows, therefore, that contributions to you are not deductible by donors under section 170 of the Code.

[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.

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).

Sincerely,

[REDACTED]
District Director

Enclosures: Publ. 892
Form 6018

cc: [REDACTED]