[redacted]

[redacted]

MAR 3 1 1981

[redacted]

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 1954.

The information submitted discloses that you were incorporated under the nonprofit corporation laws of the State of [redacted] on [redacted].

Your purposes, as stated in your Articles of Incorporation, are to operate as a food store that supplies individuals and groups with wholesome and nutritious food at a reasonable price; to act as a focal point for programs designed to impartially investigate, discuss and disseminate information concerning the basic economic and dietary needs of the community; and to organize discussion groups and publish periodic newletters to increase the communitys' knowledge of nutrition and consumer problems.

In addition to operating a food store, you also operate a gasoline station; hold monthly educational and informational programs; provide a recycling center for glass, tin and newspaper; and have provided food at membership prices to tax exempt youth organizations.

For the year ending [redacted], gross sales for the food store were $[redacted] and for the gasoline station, $[redacted]. During the same period you received $[redacted] from memberships, $[redacted] from fundraising events and $[redacted] from contributions.

Section 501(c)(3) of the Code provides for the exemption of organizations which are organized and operated exclusively for religious, charitable, and educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations states that in

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname							
Date							

[redacted]

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 that section. If any organization fails to meet either the organizational or operational test, it is not exempt.

Section 1.501(c)(3)-1(b)(1)(i) of the regulations provides that an organization is organized exclusively for one or more exempt purposes only if its articles of organization limit its purposes to one or more exempt purposes under section 501(c)(3) of the Code.

Section 1.501(c)(3)-1(b)(1) of the regulations provides that an organization is not organized exclusively for one or more exempt purposes if its articles of organization expressly empower it to carry on, other than as an insubstantial part of its activities, activities which are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(b)(4) of the regulations provides that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose.

Section 1.501(c)(3)-1(c)(1) of the regulations states that an organization will be regarded as "operated exclusively" for one or more exempt purposes when it engages primarily in activities which accomplish one or more of the 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.

The presence of even a single non-exempt purpose, if more than insubstantial in nature, will defeat exemption under Code section 501(c)(3), regardless of the number or importance of truly exempt purposes. (See Better Business Bureau v. U.S. 326 U.S. 279 (1945), CT.D. 1650, 1945 CB 375.)

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations provides, in part, that an organization is not organized and operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest.

[redacted]

Revenue Ruling 73-349, 1973-2 C.B. 179, held that an organization formed to purchase groceries for its members at the lowest possible prices on a cooperative basis is not exempt from tax under section 501(c)(4) of the Code. The organization was operated primarily for the private benefit of its members and therefore would not qualify for exemption under either section 501(c)(3) or 501(c)(4).

The language contained in your Articles of Incorporation does not clearly limit your purposes to those described in section 501(c)(3) of the Code, nor does it limit your activities to the pursuit of exclusively exempt purposes. In addition, your Articles of Incorporation do not provide that your assets will be dedicated to exempt purposes within the meaning of section 501(c)(3) upon dissolution of your organization. Therefore, we have determined that you do not meet the organizational requirements of section 1.501(c)(3)-1(b) of the regulations.

Your primary activities are the operation of a cooperative food store and a gasoline station. Neither activity is in furtherance of any purpose set forth in section 501(c)(3) of the Code. These activities benefit your members by providing them with products at reduced prices. Although a minor part of your activities may be classified as educational or charitable, you have substantial noncharitable and noneducational purposes and activities, and are not operated exclusively for exempt purposes within the meaning of section 501(c)(3) of the Code.

Accordingly, it is held that you are not entitled to recognition of exemption from Federal income tax under section 501(c)(3) of the Code. You are required to file Federal income tax returns on Form 1120 for each year you have been in existence.

Contributions to you are not deductible under section 170 of the Code.

If you accept our findings, you do not need to take further action.

If you do not accept our findings, we recommend that you request a conference with the Office of Regional Director of Appeals. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at our Regional office or, if you request, at any mutually convenient District office.

[redacted]

If we do not hear from you within 30 days from the date of this letter, this ruling will become final. If you have any questions, please contact the person whose name and telephone number are shown above.

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."

A copy of this letter is being sent to appropriate State officials in accordance with Internal Revenue Code section 6104(c).

Sincerely yours,

[redacted]
District Director

cc: [redacted]

Enclosure:
Publication 892