

[REDACTED]

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[REDACTED]

[REDACTED]

MAY 19 1983

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(5) of the Internal Revenue Code.

You were formed as a non-profit association in the state of [REDACTED] on [REDACTED]. Your purpose is to buy and distribute fruits, vegetables, cheese, honey and eggs.

Originally, the City of [REDACTED] operated a cooperative food service program open only to low-income individuals. In October of 1981, government funding for the program was discontinued but space in the Human Resources Center remained available to volunteers interested in operating a cooperative.

You began operating a cooperative and offered membership to anyone interested in saving money by taking advantage of the bulk purchasing of produce and other miscellaneous items. There are no income or age requirements for membership. Annual dues are \$[REDACTED].

Your income is primarily from food sales although you received a small amount in membership dues.

Funds are used to purchase food items and cover miscellaneous expenses.

Assets will be distributed to the current members upon dissolution.

Section 501(c)(5) of the Code provides for the exemption from Federal income tax of labor, agricultural, or horticultural organizations.

Section 1.501(c)(5)-1 of the Income Tax Regulations provides that the organizations contemplated by section 501(c)(5) of the Code as entitled to exemption from income taxation are those which have as their objects the betterment of the conditions of those engaged in such pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occupations, and have no net earnings inuring to the benefit of any member.

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
		[REDACTED]					
Surname		[REDACTED]					
Date		05/19/83					

[REDACTED]

Agricultural organizations described in 501(c)(5) are organizations promoting the interests of persons engaged in raising livestock, harvesting crops or aquatic resources, cultivating useful or ornamental plants, or similar pursuits.

Horticultural organizations are those involved in the cultivation of gardens or orchards; the science or art of growing fruits, vegetables and flowers or ornamental plants.

Revenue Ruling 67-252, 1967-2 C.B. 195, held that an institute formed by butter and cheese manufacturers to promote scientific research, disseminate data, and encourage and promote educational training in the production and handling of cream and butter does not qualify for exemption under 501(c)(5). Although these activities have as their ultimate effect and objective the improvement of the grade of products, those who benefit directly from the organization's activities are not "engaged in" agriculture. The organization's primary objective is not to better the conditions of persons "engaged in" agriculture.

Revenue Ruling 81-60, 1981-1 C.B. 335, considers the prohibition of inurement of income to the members of an organization described in section 501(c)(5) as set forth in the regulations. That ruling held that the refund of excess dues to members of an exempt agricultural organization in the same proportion as the dues are paid does not constitute inurement.

You are an association of individuals interested in saving money by taking advantage of bulk purchasing of food items. Membership is open to anyone interested. Like the organization described in Revenue Ruling 67-252, those who benefit from your activities are not "engaged in" agriculture. Your primary purpose is to provide food items for sale to members at the lowest possible cost. This activity does not better the conditions of those engaged in agricultural pursuits, nor does it improve the grade of their products or develop a higher degree of efficiency in their respective occupations.

Section III of your Articles of Organization provides that upon dissolution the assets shall be converted to cash and distributed to the current members. Unlike the organization described in Revenue Ruling 81-60, you will distribute assets to your current members without regard to past members or proportion due each member based on his patronage with you. This would constitute inurement to members.

Since you do not have as your primary purpose the betterment of the conditions of persons engaged in the pursuit of labor, agriculture or horticulture and there is a possibility of net earnings inuring to the benefit of members, we have determined that you are not an organization described in section 501(c)(5) of the Code.

[REDACTED]

We have also considered whether you would qualify for recognition of exemption under section 501(c)(4) of the Internal Revenue Code.

Section 501(c)(4) of the Code provides for the exemption from Federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2) of the Income Tax Regulations states that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization coming within the scope of this section is one that is operated to bring about civic betterments and social improvements.

Revenue Ruling 73-349, 1973-2 C.B. 179, held that an organization formed to purchase groceries for its membership at the lowest possible prices on a cooperative basis is not exempt from tax as a social welfare organization under section 501(c)(4) of the Code.

You were formed to purchase food items in bulk and sell it to your members at the lowest possible cost. Operating as a private self-help enterprise, you provide a direct benefit to your members and only an incidental benefit to the community as a whole.

Accordingly, we hold that you are operated primarily for the private benefit of your members and any benefits to the community are not sufficient to meet the requirements of the regulations that you be operated primarily for the common good and general welfare of the community. You are not a social welfare organization described in section 501(c)(4) of the Code, and are required to file income tax returns on Form 1120.

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 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. You should also file the enclosed Federal income tax return(s) within 30 days with the Chief, Employee Plan/Exempt Organization Division 1100 Commerce, Dallas, Texas 75242.

[REDACTED]

If you have any further questions, please contact the individual whose name and telephone number are shown at the beginning of this letter.

Sincerely yours,

[REDACTED]
District Director

Enclosures
Publication 892
Form 1120
Form 6018
Revenue Rulings 67-252, 81-50
and 73-349