

Internal Revenue Service
District Director

Department of the Treasury

Post Office Box 1680, GFD
Brooklyn, NY 11202

Date: SEP 17 1996

Person to Contact:

Contact Telephone Number:

Refer Reply to:

Employer Identification
Number:

CERTIFIED MAIL

Dear Applicant:

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

The evidence presented disclosed that you were incorporated in the State of [REDACTED] on [REDACTED].

The objects for which the corporation is established are to promote locally raised agricultural products, to provide market capability for growers, and to establish and maintain operating standards so as to inspire public confidence in the markets of the association.

[REDACTED]'s bylaws state that the association has been organized for the following:

Section 1. To provide markets for [REDACTED] area growers to sell their products directly to the consumer, thereby strengthening the local farm economy and the viability of small scale family farms. [REDACTED] growers are defined as those in [REDACTED] County, [REDACTED] and [REDACTED] and [REDACTED] Counties, [REDACTED].

Section 2. To establish and maintain operating standards that will inspire public confidence in the farmer's market concept;

Section 3. To provide the organization with publicity and by other techniques to assist in promoting the sale, at the market, of [REDACTED] members products;

Section 4. To engage in such other mutually beneficial activities as the membership may desire;

Section 5. To carry out educational and promotional activities among [REDACTED] area citizens for the support of local agriculture.

Section 6. To do all that is legal in obtaining its objectives that the Board of Directors in its discretion deems appropriate or consistent with the above stated purposes.

The association is a membership organization. Its membership consists of farmers, prepared food vendors and craft vendors who pay an annual membership fee.

██████████'s primary activity is the operation of ██████ farmers markets. Each Farmers market is operated one day each week in a different city starting in May and ending in November. The purpose of the market is to bring together farmers and small business people to sell their products. Operating the farmers market is the association's way of promoting farm life and agriculture. Members are allowed to sell their fruits, vegetables, eggs, prepared foods (baked goods, jams honey, etc) baskets, sewn items, etc. Each member must pay a stall fee for the space used at the markets. The fee of \$████ is charged during weekdays and a fee of \$████ for the weekends. In addition to the market, the organization publishes a cookbook. Income from the sale of the cookbook is used to establish a scholarship fund for students in the field of agriculture.

The majority of the entity's revenue is from the membership fees and assessments. Some income has also been derived from the sale of T-shirts, tote bags, pins, etc. The majority of the entity's disbursements is associated with the operation of the farmer's market. The entity pays for the market manager, promotional person, advertising and any other expenses incurred for its operations.

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

Agricultural and horticultural organizations are exempt as organizations described in section 501(c)(5) of the Code, if no part of their net earnings inures to the benefit of any members and if their objectives are the betterment of the conditions of members, the improvement of the grade of their products, and the development of higher efficiency.

Section 1.501(c)(5) -1 of the Income Tax Regulations described organizations covered by Code section 501(c)(5) as labor, agricultural, and horticultural organizations that have no net earnings inuring to the benefit of any member and have as their objective the betterment of the conditions of persons engaged in those pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occupations.

Revenue Ruling 66-105, 1966-1 C.B. 145, held that an organization composed of agricultural producers whose principal activity is marketing livestock as an agent for its members does not qualify for exemption. The sale of members' products with the return to them of the sale proceeds is neither an object nor an activity within the ambit of section 501(c)(5) of the Code.

In Revenue Ruling 74-195 1974-1 C.B. 135 a non profit organization formed to manage, graze and sell its members' cattle is providing a direct business service to its members and does not qualify for exemption as an agricultural organization.

Like the organizations described in Revenue Rulings 66-105 and 74-195, your organization regularly promotes and markets of members' products. This is a direct business service of the economic benefits of your members. Your role is a marketing/sales agent which makes all the necessary arrangements for members to present their products for sale to the general public. The association creates an environment - the farmers' market for the sale of members' products. The sale of members' products does not provide the betterment of conditions for the farmers, prepared food vendors and craft's vendors nor improve the grade of their products. Your organization is for the convenience of members and the production of income.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(5) of the Code and propose to deny your request for exemption under that section.

We have also determined that you fail to qualify for exempt status under any other subsection of IRC 501(c).

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time, this determination will become final.

Sincerely yours,


District Director

Enclosure: Publication 892