

INTERNAL REVENUE SERVICE
Director, Exempt Organizations

Department of the Treasury

TE/GE:REVIEW [REDACTED]
2 Cupania Circle
Monterey Park, CA 91755

Date: APR 11 2000

Employer Identification No.:
[REDACTED]

Case Number:
[REDACTED]

Person to Contact:
[REDACTED]

Telephone Number:
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
CERTIFIED MAIL

Dear Applicant:

We have considered your application for exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code.

FACTS:

The information submitted discloses that you were incorporated under [REDACTED]

The organization Articles of Incorporation state that the purpose of the corporation is "To establish and maintain a supervised [REDACTED] for the purpose of creating supervised programs of skating instruction, recreational and competitive figure skating and ice hockey programs."

The initial activities of the organization will be to "facilitate and oversee the construction of an [REDACTED] to serve the general public."

Once built, the organization will operate and maintain the [REDACTED] to offer the following services:

- Youth ice hockey programs (instruction, leagues and tournaments)
- Interscholastic ice hockey and adult hockey league play
- Adult and youth figure skating instruction and related programs
- Ice rentals for hockey and recreational skating
- Public skating
- Rental space for services to the community and general public ([REDACTED], [REDACTED] and [REDACTED])

The organization's sources of financial support are listed as donations, private investment, institutional financing, as well as program fees and rental income.

Projected program schedules for the ice hockey league, the figure skating and the coffee club program for senior seniors have been developed.

INTERNAL REVENUE SERVICE
Director, Exempt Organizations

Department of the Treasury

TE/GE:REVIEW [REDACTED]
2 Cupania Circle
Monterey Park, CA 91755

A consulting firm ([REDACTED]) prepared a report on the organization and its prospective benefits to the community as well as the feasibility of its success.

ISSUE:

Does the organization qualify for exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code?

LAW:

Section 501(c)(3) of the Internal Revenue Code describes certain organizations exempt from income tax under section 501(a) and reads in part as follows:

"(3) Corporations, and any community chest, fund or foundation organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of 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 (or in opposition to) any candidate for public office."

Section 1.501(c)(3)-1(a)(1) of the income tax Regulations provides that 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 sections. If any organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(b)(1)(i) of the income tax Regulations provides that an organization is organized exclusively for one or more exempt purposes only if its Articles of organization (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 an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purpose.

Section 1.501(c)(3)-1(c)(1) of the income tax Regulations provides that 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.

TE/GE:REVIEW: [REDACTED]
2 Cupania Circle
Monterey Park, CA 91755

Revenue Ruling 67-109, 1967-1 CB 136, describes a nonprofit corporation which established and maintained a roller skating rink as a recreational facility in cooperation with a county government. The skating was in a building provided rent free by a county where the rink was open to all the people of a county upon payment of nominal dues and admission charges as needed to defray operating expenses. The organization was deemed to be for social welfare purposes and entitled to IRC 501(c)(4) exemption.

ANALYSIS:

All of the preceding Code sections, Regulation sections and court cases describe the criteria under which an organization may be exempt under section 501(c)(3) of the Internal Revenue Code and when an organization is deemed not to be exempt under section 501(c)(3) of the Internal Revenue Code.

In order to qualify for exemption under section 501(c)(3) an organization must be both organized and operated exclusively for one or more of the purposes specified in that section.

Your organization is similar to, but not identical to the organization described in Revenue Ruling 67-109 in that you are providing a [REDACTED]. However, in the Rev. Rul. the building was owned by the county and the organization used it rent free and maintained it in cooperation with the county. The organization also had members which were entitled to vote for directors and officers. While your organization is similar to being a social welfare organization, it would not be an exclusively charitable organization.

CONCLUSION:

It is the opinion of the Internal Revenue Service, based on the information submitted, that you do not meet the requirements for exemption as an organization described in section 501(c)(3) of the Internal Revenue Code because you are not organized and operated exclusively for purposes within section 501(c)(3).

If you are in agreement with this proposed determination, we request that you sign and return the enclosed agreement, Form 6018 (Consent to Proposed Adverse Action). Please note the instructions for signing on the reverse side of the form.

If you do not agree with this proposed determination, we recommend that you request a hearing with our office of Regional Direction of Appeals. Your request for a hearing 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 hearing. The hearing may be held at the office of Regional Director of Appeals or, if you request, at a mutually convenient District Office. A self-addressed envelope is enclosed.

If we do not hear from you within 30 days from the date of this letter, and you do not protest this proposed determination in a timely manner, it will be considered by the Internal

INTERNAL REVENUE SERVICE
Director, Exempt Organizations

Department of the Treasury

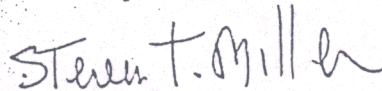
[REDACTED]
2 Cupania Circle
Monterey Park, CA 91755
Revenue Service as a failure to exhaust available administrative remedies and will then become
our final determination.

Section 7428(b)(2) of the Internal Revenue Code provides in part that "declaratory judgement of decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, 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 you fail to exhaust your administrative remedies and this letter becomes the final determination, the appropriate state officials of [REDACTED] will be notified.

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

Sincerely,



Steven T. Miller
Director, EO

Enclosure:
Publication 892
Form 6018
Notice 1214
Envelope