

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 4-8-99 BY [redacted]

Date: [redacted]

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[redacted]

[redacted]
[redacted]
[redacted]

DEC 20 1996

Employer Identification Number:
Key District:

[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.

The information submitted shows that you were incorporated on June 16, 1994, to grant scholarships to women that compete in the [redacted] which is an official preliminary (franchisee) to the [redacted]

You also intend to award an annual performing arts award for excellence in the performing arts.

Pageant scholarships will be awarded solely to participants and finalists in the [redacted]

Categories of scholarships will be based upon the order of finish of the finalists in the contest and certain other talent. Interview and participation awards will also be presented.

Participants in the [redacted] are required to execute a "Contestant's Contract" imposing personal service obligations on participants and finalists. Participants agree to meet the eligibility requirements to compete in the [redacted] through the finals; execute no-competition clauses; certify that, to the best of their knowledge, they can participate without limitation in any [redacted] activities; and grant photo, video, audio and motion picture commercial exploitation rights to the [redacted] or its agents or assignees.

Scholarships are non-forfeitable once awarded, but are not awarded to persons who have not executed the above described agreement.

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for educational purposes as long as, among other conditions, no part of the net earnings inure to the benefit of any private individuals or shareholders.

[REDACTED]

Section 1.501(c)(3)-1(a) of the Income Tax Regulations states, in part, that if an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(b)(4) of the regulations states, in part, that an organization is not organized exclusively for exempt purposes unless its activities are dedicated to exempt purposes.

Section 1.501(c)(3)-1(c)(1) of the regulations states, in part, that an organization is not "operated exclusively" for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Rev. Rul. 68-20, 1968-1 C.B. 55, provides the treatment for federal income and withholding tax purposes of an amount referred to as a scholarship, certain prizes and awards, and other amounts received by the winner of a beauty contest.

Miss Georgia Scholarship Fund v. Comm., 72 TC 267 (1979), held that the petitioner's only activity was awarding so-called scholarships to participants in the Miss Georgia Pageant and such scholarships were awarded in consideration of certain contractual obligations assumed by the participants. Because of this, the scholarships did not qualify as a scholarship grant under section 117 of the Code. Since this was the only activity of the petitioner, the petitioner did not qualify as an exempt organization under section 501(c)(3) of the Code.

Section 117(a) of the Code provides, in relevant part, that gross income does not include any amount received as a qualified scholarship. Section 117(c) imposes a limitation thereon, however, and specifies that the exclusion for "qualified scholarships" shall not apply to that portion of the amount received which represents payment for teaching, research, or other services by the student as a condition for receiving the qualified scholarship. We have determined that the scholarships you will award to finalists in the Miss Derry Pageant are not excludable from the gross incomes of recipients under section 117(a) because such scholarships are described in section 117(c), and represent, in their entirety, additional compensation for services by the recipients required as a condition to receiving such amounts.

A scholarship or fellowship grant that is includible in gross income under section 117(c) of the Code is considered "wages" for purposes of section 3401(a). Additionally, the grantor of such amounts is subject to certain filing and/or

reporting requirements respecting wages. See Notice 87-31, 1987-1 C.B. 475, a copy of which is enclosed.

As your scholarships are awarded only to persons who have executed the "Contestant's Contract", we believe your grants constitute payments for services within the meaning of section 117(c) of the Code. There is no requirement in section 117(c) that the services required by a grant recipient be performed directly for, or as an employee of, the grantor organization. Nor is it of any consequence that awards are non-forfeitable, since section 117(c) is directed at past and present, as well as future, services of a recipient.

Accordingly, since your primary activity of awarding compensatory scholarships to participants in the [REDACTED] do not qualify as scholarship grants under section 117 of the Code, we conclude that you are neither organized or operated exclusively for exempt purposes and are not entitled to exemption under section 501(c)(3) of the Code. See Miss Georgia Scholarship Fund v. Comm., supra.

Contributions to you are not deductible under section 170 of the Code. You are required to file federal income tax returns.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If you do not protest this ruling 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 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 United States Court of Federal 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 we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key district

[REDACTED]

office. Thereafter, any questions about your federal income tax status should be addressed to that office. The appropriate State Officials will be notified of this action in accordance with Code section 6104(c).

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service
Attn: [REDACTED]
1111 Constitution Ave, N.W.
Washington, D.C. 20224

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

Sincerely,

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

12-20-96

[REDACTED]

12-20-96