

## Internal Revenue Service

Department of the Treasury

Internal Revenue Manual

Received by [redacted]

Exempting Authority

Roter Bureau

Date

OCT 27 1988

Dear Sir or Madam:

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 of 1986.

Information submitted indicates that the organization was formed as an association [redacted], the date your by-laws were signed by at least two authorized officers of the organization. Your organization's name is [redacted]. The organization is sponsored by wives of officers and enlisted men of [redacted]. Your purpose is to provide an outlet for displaying the creative talents of military families, and to distribute monies accrued through sales to non-profit organizations, i.e., [redacted], and the [redacted].

Your primary activity is that of operating a consignment shop. Active duty and retired military personnel and their dependents and civilians with Department of Defense identification cards can display and sell their art and craftwork on consignment.

A consignor sets his or her own price on each item. Consigned articles may not exceed \$[redacted]. Consignors receive [redacted]% of sales while the organization retains [redacted]% of the set price of each item sold. There is no purchased, donated, or manufactured merchandise. The shop is operated by volunteers.

Profits accrued through sales after minimal operating expenses are distributed to community non-profit organizations to promote in some way the common good and general welfare of the people of the community. Distributions have been made to [redacted], [redacted], [redacted], and for [redacted] sponsorship.

Section 501(c)(3) of the Code provides, in part, for the exemption from federal income tax of corporations, and any community chest, fund or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Code	Initiator	Reviewer	Reviewer	Reviewer D	Reviewer	Reviewer	Reviewer
Surname	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Date	10-18-88	10-20-88	10-21-88				

Treasury Regulation 1., 5019(c)(3)-1(c)(2) states:

"An organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or part to the benefit of private shareholders or individuals."

Treasury Regulation 1.501(a)-1(c) states:

"The words 'private shareholders or individuals' in section 501 refer to persons having a personal and private interest in the activities of the organization."

In Revenue Ruling 68-167, 1968-1 C.B. 225, an organization created to market the cooking and needlework of needy women was held exempt under 501(c)(3). The organization charged a small sales commission for its services and was dependent on public support. The organization was organized and operated exclusively for charitable purposes because section 1.501(c)(3)1-(d)(2) of the Income Tax Regulations states that the term "charitable" includes relief of the poor and distressed. The organization relieved the poor and distressed by providing a necessary service, giving them a market for their products and a source of income.

In Industrial Aid for the Blind V. Commissioner, 73 T.C. 96 (1979), acq. C.B. 198-2, 1, an organization that marketed products made by the blind was held exempt under 501(c)(3) even though it distributed the net profits from sales to the blind workers. A small profit was incidental to the purpose of providing employment opportunity for the blind and even that portion of the profits was distributed to advance its exempt purpose. The organization's principal purpose was to provide employment for the blind individuals, alleviating the hardships those handicapped individuals experience in securing and holding employment.

Revenue Ruling 68-167 and Industrial Aid for the Blind V. Commissioner allowed for exemption because it was formed for charitable and educational purposes, the net earnings of which were not considered to inure to the private shareholders or individuals. In the above examples, the poor and distressed were relieved and employment was provided to handicapped individuals.

████████████████████

Although the intent of your organization is to operate for charitable purposes by distribution of █% of net profits to charitable organizations, information submitted indicates that part of the net earnings inure to the benefit of private shareholders or individuals. Facts also indicate that the organization is conducting a regular trade or business in a commercial manner in which the private shareholders or individuals expect to receive a monetary return.

An organization is not organized or operated exclusively for one or more of the purposes specified in section 501(c)(3) unless it serves a public rather than a private interest. To meet this requirement, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests.

We have concluded that you are not entitled to exemption from Federal income tax as an organization described in section 501(c)(3) of the Code, inasmuch as you are not organized and operated exclusively for one or more of the exempt purposes specified in that section.

As provided by section 6104(c) of the Internal Revenue Code of 1986 and the applicable regulations, the appropriate State officials are being notified of our determination.

Until such time as you establish your exempt status for Federal income tax purposes, contributions made to you are not deductible by the donors on their individual tax returns.

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

If you are not in agreement with this proposed determination, we recommend that you request a hearing with our office of Regional Director 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.

[REDACTED]

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 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 "A declaratory judgment or 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."

Sincerely yours,

District Director

Enclosures:  
Publication 892  
Form 6018

Form **6018**  
(Rev. August 1983)

Department of the Treasury-Internal Revenue Service  
**Consent to Proposed Adverse Action**  
(All references are to the Internal Revenue Code)

Prepare In  
Duplicate

Case Number [REDACTED]	Date of Latest Determination Letter
Employer Identification Number [REDACTED]	Date of Proposed Adverse Action Letter <b>October 27, 1988</b>
Name and Address of Organization [REDACTED]	

I consent to the proposed adverse action relative to the above organization as shown by the box(es) checked below. I understand that if Section 7428, Declaratory Judgments Relating to Status and Classification of Organizations under Section 501(c)(3), etc. applies, I have the right to protest the proposed adverse action.

**NATURE OF ADVERSE ACTION**

- ☒ Denial of exemption
- ☐ Revocation of exemption, effective
- ☐ Modification of exempt status from section 501(c)( ) to 501(c)( ), effective
- ☐ Classification as a private foundation (section 509(a)), effective
- ☐ Classification as a non-operating foundation (section 4942(j)(3)), effective
- ☐ Classification as an organization described in section 509(a)( ), effective
- ☐ Classification as an organization described in section 170(b)(1)(A)( ), effective

If you agree to the adverse action shown above, please sign and return this consent. You should keep a copy for your records.

If you sign this consent before you have exhausted your administrative appeal rights, you may lose your rights to a declaratory judgment under section 7428.

(Signature instructions are on the back of this form.)

Name of Organization [REDACTED]	
Signature and Title [REDACTED]	Date <b>11/17/88</b>
Signature and Title [REDACTED]	Date