

Internal Revenue Service

Department of the Treasury

District
Director

31 Hopkins Plaza, Baltimore, MD 21201

Person to Contact:

Telephone Number:

Refer Reply to:

Date:

JUL 30 1992

CERTIFIED MAIL

Dear Applicant:

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

The information provided indicates you were formed [REDACTED]

Your stated purposes are:

1. Promoting USGF competitive gymnastics.
2. Providing moral support for gymnasts.
3. Providing financial support via various fund raising activities.
4. Mediate conflicts between gymnasts, parents and coaches when necessary.
5. Perpetuate the [REDACTED] program and Parents' Association.

The association is operated and controlled by the parents/guardians of the team members of [REDACTED], a for-profit business owned and operated by [REDACTED].

Section 501(c)(3) of the Internal Revenue Code provides for the exemption from Federal income tax of organizations which are 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.

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 section. If an organization fails to meet either the organizational or the operational test, it is not exempt.

Section 1.501(c)(3)-1(b) of the Regulations provides that an organization is organized exclusively for exempt purposes only if its creating documents limits its purposes and powers to those which are within the scope of section 501(c)(3).

Section 1.501(c)(3)-1(c)(2) of the Regulations provides, in part, that an organization is not organized or 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.

Section 1.501(c)(3)-1(d)(iii) of the regulations provides that 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. Thus, to meet the requirements of section 501(c)(3), it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals.

Section 1.501(c)(3)-1(b)(4) of the Regulations further provides that an organization is not organized exclusively for 501(c)(3) purposes unless its assets are dedicated to an exempt 501(c)(3) exempt purpose. To meet this requirement, and organization's creating document must provide that, in event of dissolution, assets will be distributed for one or more 501(c)(3) purposes, or to the Federal government or a State or local government, for public purposes.

The association does not meet the organizational test of section 501(c)(3) because its purposes are not exclusively within the intendment of section 501(c)(3). Your charter does not contain a dissolution clause as required by Regs. 1.501(c)(3)-1(b)(4).

Section 1.501(c)(3)-1(d)(ii) of the regulations provides that 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. Thus, to meet the requirements of section 501(c)(3), it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family or shareholders of the organization.

It has been held that the presence of a single noncharitable or noneducational purpose, if substantial in nature, will preclude exemption under section 501(c)(3) regardless of truly charitable or educational purposes. *Better Business Bureau v. U.S.*, 326 U.S. 279 (1945), Ct. D 1650 C.B. 1945, page 375.

In Revenue Ruling 69-175 published in Cumulative Bulletin 1969-1 on page 149, the Service denied exemption under section 501(c)(3) to a non-profit organization, formed by parents of pupils attending a private school, that provides school bus transportation for its members' children. The organization enables the participating parents to fulfill their individual responsibility of transporting their children to school. Thus the organization serves a private rather than public interest.

[REDACTED]

You stated that the [REDACTED] main purpose is to provide financial assistance to our gymnasts and their parents, in the form of entry fees, league fees, travel, lodging, judge fees, and "warm-up".

In addition you help defray the expenses of [REDACTED] (a for-profit entity) by paying coaching fees including mileage and hotel fees, and purchasing equipment for the gym.

Since preference is given to children of [REDACTED] parents by defraying the individual expenses of each parent and helping to defray the operational expenses of the [REDACTED], the organization serves a private rather than public interest.

Based upon the information you submitted, it has been determined that you do not qualify as an organization described in section 501(c)(3) because you are operated primarily for the private benefit of your members, and are supporting a taxable entity.

Contributions to your organization are not deductible under Code section 170.

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference 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 conference. The conference may be held at the Regional Office, or if you request, at any mutually convenient District Office. If we do not hear from you within 30 days from the date of this letter this determination will become final.

A copy of this letter will be sent to the appropriate state officials in accordance with Section 6104(c) of the Internal Revenue Code.

If you do not protest this proposed determination in a timely manner, it will be considered as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determined that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

[REDACTED]

District Director

Enclosure: Publication 892

cc: State Attorney General. [REDACTED]