



DEC 7 1981

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 of 1954.

The information submitted discloses that you were incorporated under the nonprofit corporation laws of the State of [redacted] on [redacted].

Your purposes as stated in your amended Articles of Incorporation, are to provide positive, uplifting, educational, entertaining and constructive communications products that will provide a practical professional guidance for those individuals seeking artistic expression, growth and development in the creative fields but who apparently lack an opportunity to so develop.

In furtherance of these purposes, you maintain a substantial inventory of copyrights, recordings, books and art work. These items were obtained from members of the organization and others involved in the arts who will receive future royalties generated from sales and airplay of the products.

Your activities consist of the following:

1. The [redacted], a traveling performing group which has performed for various community organizations.
2. The "[redacted]" program: recording artists and songwriters gain experience in song recording and concerts. Recordings are published by any publishing company desiring to participate in the program, and are distributed via regular commercial channels by record distributors on a state and national level. Revenue from the sale of a record is collected by the distributor, who pays the record company. The record company pays the publisher and the recording artist. Ten percent of the publishers profits are donated to a charitable organization of the recording artist's choice.

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3. The "[REDACTED]" program: This program is operated in a manner similar to the "[REDACTED]" program. The book publisher donates a minimum of ten percent of profits to a charitable organization of the author's choice.

4. Cultural Park: The cultural park will be utilized for educational and experiential learning for local children. It will include learn-by doing projects such as carpentry, agriculture, environmental planning, filmmaking, music recording, theatrical training and development, food growing and preparation, land management and landscaping, and the graphic arts. Individual businesses will lease space in the Cultural Park. You will receive ten to 50 percent of the proceeds of the sale of products produced by these businesses, and the entirety of this income is donated to charitable organizations.

5. Your organization acts as a booking agent in securing singing and performing engagements for artists and in facilitating the sale of their products. Your fee for this service is ten percent of the artists receipts.

Section 501(c)(3) of the Code provides for the exemption of organizations which are organized and operated exclusively for religious, charitable, and 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(c)(1) of the regulations states that an organization will be regarded as "operated exclusively" for one or more exempt purposes when it engages primarily in activities which accomplish one or more of the 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.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations provides, in part, that an organization is not organized and operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest.

Section 1.501(c)(3)-1(d)(3) of the regulations provides that the term "educational" relates to the instruction of the public on subjects useful to the individual and beneficial to the community.

Revenue Ruling 76-152, 1976-1 C.B. 151, holds that an organization which was formed by art patrons to promote community understanding of modern art trends by selecting for exhibit, exhibiting and selling art works of local artists was serving the private interests of artists whose work was sold and thus did not qualify for exemption under section 501(c)(3) of the Internal Revenue Code.

[REDACTED]

In Revenue Ruling 67-392, 1967-2 C.B. 191 an organization which conducted weekly workshops, sponsored public concerts, and secured paid engagements for the artists qualified for exemption under Internal Revenue Code 501(c)(3). There was no charge for securing the engagements.

In contrast to Revenue Ruling 67-392, you charge a [REDACTED] percent fee for securing paid engagements for artists and for facilitating the sale of their works. This activity is operated in a manner indistinguishable from ordinary commercial booking agencies. In addition, the publishing, sale, and distribution of recordings and books is conducted in a regular commercial manner.

As in Revenue Ruling 76-152, the artists in this case are being directly benefitted by the opportunity provided them to record songs, sell books and obtain performing engagements. The organization's efforts enable the artists to increase their revenues and improve their professional standing, with the result that a major activity of the organization is serving the private interests of the artists.

Furthermore, the payment of royalties to members of the organization and others who have provided copyrighted and patented items to the organization constitutes inurement to those individuals.

Accordingly, the organization is not operated exclusively for educational purposes and thus does not qualify for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code. You are required to file Federal income tax returns on Form 1120 for each year you have been in existence.

If you accept our findings, you do not need to take further action.

If you do not accept our findings, we recommend that you request a conference with the Office of Regional Director 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 our 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 ruling will become final. If you have any questions, please contact the person whose name and telephone number are shown above.

[REDACTED]

If 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. 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 Court of 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."

Sincerely yours,

[REDACTED]
District Director

Enclosure: Publication 892