



OCT 28 1988

Dear Sir or Madam:

I have considered your application for recognition of exemption from general income tax under section 501(c)(3) of the Internal Revenue Code.

Information submitted with your application indicates that you were incorporated in the State of [redacted] on [redacted], [redacted]. An amendment was filed [redacted] [redacted]. Your purposes as stated in that amendment state in part: the corporation is organized and shall be operated only for charitable, scientific, literary and educational purposes, as defined in Section 501(c)(3) of the Internal Revenue Code of 1954 as amended; and in this connection follows:

A. To assemble owners and users of computers for the purpose of education, training and development in the use and application of computers.

B. To design, plan, create, educate, and sponsor clinics, activities, competitions, training facilities and materials, and to produce programs, and enhance the individual competency of users of computers.

C. To receive and maintain funds and apply the income and principal thereof to promote the use and understanding of computers throughout the state of [redacted] and the United States, and to that end, to establish and maintain charitable, and other agencies and institutions similarly organized."

All activities were described in part:

Meetings of the group will be held twice monthly to discuss new hardware and software available. At each meeting various members or guests will lead special interest groups to teach hands on applications of the new software or deflations of old software. New computer hardware will also be demonstrated. In addition, group members will demonstrate to schools and civic groups the uses of various items of hardware and the application of certain software. Membership is open to everyone.

Officer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
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In the past an unincorporated association known as [REDACTED] performed a similar function with less educational activities. Past activities of the [REDACTED] including donating a computer teach board to handicapped students, demonstrating computers and software at the [REDACTED] demonstrating computer applications to various public and private schools. These educational activities as well as others will continue.

You provided a copy of your computer news magazine called [REDACTED]. Articles in that magazine were substantially devoted to products of [REDACTED] and to products compatible with [REDACTED]. An advertisement for a computer class for children indicated that children or their parents must be paid members of [REDACTED], the computer group of [REDACTED] for users of [REDACTED] computers.

You intended to have a booth at the [REDACTED] Information submitted indicated that the booth would feature [REDACTED] computers featuring popular software, membership information, "live" demonstrations of computer applications by sales representatives, and general information about computing from [REDACTED] volunteers.

Your membership application in the magazine [REDACTED] lists a place for the potential member to check a type of computer. The list includes [REDACTED], [REDACTED] and [REDACTED]. You estimate that [REDACTED] percent of your members use [REDACTED] compatible computers. [REDACTED] of your members are known to be employees of authorized [REDACTED] dealers.

Statements in your magazine include in part:

"...and enable the officers and members to work towards the common goal of establishing our user's group as a first-rate organization, one that excels in providing a forum for members to gather and learn how to get the most benefit from their computers..." Your magazine indicates that admission at meetings is free and guests are welcome. The magazine lists as benefit of membership the exchanging of knowledge with fellow [REDACTED] members about any number of hardware and software solutions, and offering a great way to make new friends and business contacts. Your magazine also advertises special discounts for members only.

You maintain a public domain software library that is made available for borrowing at your regular meetings.

You indicate that scholarships are granted in the form of annual memberships given to visitors at your semi-monthly meetings. Visitors are chosen on a random basis to receive annual memberships as door prizes for attending.

You indicate that the public is made aware of your programs through newsletters and mailings to members. Also, copies of newsletters and mailings are provided to retailers of computer software and hardware for distribution in their outlets.

Section 501(c)(3) of the Code provides exemption for:

"Corporations...are used and operated exclusively for religious, charitable,...or educational purposes,...no part of the net earnings of which inure to the benefit of any private shareholder or individual..."

Section 1.501(c)(3)-1 of the regulations provides, in part, as follows:

"(d)(1)(ii) An organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (1) of this subparagraph unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, 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, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests."

In the court case Christian Acheson National Ministry, Inc. v. United States, 47 F. 2d 849, 857 (10th Cir. 1972), it was indicated that the burden of proof in qualifying for exemption under section 501(c)(3) is up to the organization applying for exemption. It stated in part, "...exemption is a privilege, a matter of grace rather than right..."

Revenue Ruling 74-116, 1974-1 C.B. 127 denied exemption to an organization whose membership is limited to organizations that own, rent, or use a specific type of computer and whose activities are designed to keep members informed of current scientific and technical data of special interest to their owners of a computer.

You indicate that you are different from the organization in Revenue Ruling 74-116 because your organization and meetings are open to anyone, there are no restrictions on the make of computers which are being used or the information being disseminated at a meeting, and no one actually needs to own a computer to attend. You further state that although certain manufacturers and distributors will be donating hardware and software for the use of the members and organization as well as the general public, it is not anticipated that there will be a continuing dialogue between employees of a specific manufacturer and the membership.

Although you indicated that membership in your organization is not required in order to attend your meetings and programs, advertising gives the impression that your programs are for members only. Further, it appears that most of your literature and methods of promoting the organization emphasizes membership in the organization. Your method of soliciting attendance at meetings through mailers would appear to attract only computer owners and users. You have representatives of computer dealers as members and as presenters of programs. Your programs and newsletter are substantially devoted to [redacted] computer-related products and [redacted] compatible computers.

Therefore, it appears you have not sufficiently distinguished in substance that your organization is significantly different from the organization denied exemp-

As stated in Revenue Ruling 74-116, and, as indicated in the court case Christian Science National Ministry, Inc. v. United States, you have not met the burden of proof to qualify for exemption under section 501(c)(3) of the Code.

It appears your organization could possibly qualify for exemption under section 501(c)(7) as a computer hobby club. If you wish consideration under section 501(c)(7), you need to complete the enclosed Application Form 1024 and return it to this office.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

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."

If this determination letter becomes a final determination, we will notify the appropriate State Officials, as required by section 6104(c) of the Code, that we are unable to recognize you as an organization of the type described in Code section 501(c)(3).

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

Sincerely,

  
District Director

Enclosures:  
Form 6018  
Publication 892  
Form 1024