

Post Office Box 1680, GPO  
Brooklyn, NY 11202

Date JUL 10 1989

Person to Contact:

Contact Telephone Number:

Refer Reply to:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for tax-exempt status under section 501(c)(3) of the Internal Revenue Code.

The evidence presented disclosed that you were incorporated in the State of [REDACTED] on [REDACTED].

The purposes for which the corporation was formed are as follows:

To provide scholarships for young women to further their education through the establishment of a competitive pageant awarding scholarships and other prizes to contestants who are 17 years of age to 26 years of age; to raise funds for such purpose through various methods; to enter into leases and contracts for theaters to hold such pageants and other legal instruments required incidental to the establishment and conduct of such pageant shows and other meetings necessary for those purposes.

To enter into contracts and other agreements with the [REDACTED] Pageant and carry on the duties of such affiliation.

The information submitted with your Form 1023 application indicates that participants in the Pageant are required as a condition for qualifying for scholarships to enter into a contract which would obligate them in the event they were selected to participate in the [REDACTED] Pageant, and to abide by the regulations and rules of the pageants, including participation in public appearances and the like, under the sponsorship of the [REDACTED] Pageant. These scholarships were not available to those contestants who failed to execute the contestant contract.

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

In order to qualify under IRC 501(c)(3), an organization must be both "organized" and "operated" exclusively for one or more purposes specified in that section. If the organization fails to meet either the organizational test or the operational test, it is not exempt. (Regs. 1.501(c)(3)-1(a)(1)). The organizational test relates to the rules for governing an organization and the purposes stated in its articles of organization. The operational test relates to the organization's activities.

Section 1.501(c)(3)-1(c)(1) of the Regulations states that if more than an insubstantial part of an organization's activities is not in furtherance of exempt purposes, the organization will not be regarded as exempt.

In Better Business Bureau v. U.S., 326 U.S. 279 (1945), the Supreme Court stated that the presence of even a single, non-exempt purpose, if more than insubstantial in nature, will defeat exemption under Section 501(c)(3) of the Code, regardless of the manner or importance of the truly exempt purposes.

The Miss Georgia Scholarship Fund, Inc. v Commissioner of Internal Revenue, 72 T.C. 267 (1979), case involved an organization formed for the purpose of giving scholarships to contestants in the Miss Georgia Pageant. Such scholarships were awarded in consideration of certain contractual obligations assumed by the participants. The Tax Court held that the "scholarship" grant was compensatory in nature, i.e., payment for the contestants' agreement to perform the requirements of the contestant contract, and not a scholarship within the meaning of section 117. Therefore, the organization was not exempt under section 501(c)(3).

In both your organization and the above mentioned organization, refusing to sign the contestant contract would mean forfeiting the right to a scholarship. Further, it could be reasoned that the scholarships are compensation for signing the contract and for performing services in accordance with it, and, as such not scholarships within the meaning of section 117.

Should your organization successfully appeal this proposed adverse determination then the effective date of your tax exempt status would be March 27, 1989, the date your organization submitted a completed application for recognition of exemption. Exemption would not be granted to inception since you did not file within the time prescribed by section 508(a) of the Internal Revenue Code.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(3) of the Code and propose to deny your request for exemption under that section.

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

Contributions made to you are not deductible by the donors as charitable contributions as defined in section 170(c) of the Code.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time this determination will be considered final and the appropriate State Officials will be notified.

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 Claims Court, or the District Court of United States for District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

A solid black rectangular box redacting the signature of the District Director.

District Director

Enclosure: Publication 892