

[Redacted]

[Redacted]

DEC 9 1983

Dear Sirs:

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 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 Articles of Incorporation, are to conduct and sponsor workshops, classes and training in watercolor, painting and other fine arts for members of the corporation and its invitees, and to conduct and sponsor fairs for the sale of paintings and other fine arts by members and invitees.

Membership in your organization is open to persons interested in watercolor painting. New members are generally recruited by current members.

The organization conducts art workshops for the instruction of its members and other students. Classes generally meet once weekly for five to eight weeks and are taught by professional watercolorists.

The organization also sponsors an annual watercolor sale. The organization publicizes the sale, handles arrangements and coordinates sales. Participating painters, who may or may not be members, are paid [Redacted]% of the proceeds from their paintings. The organization retains [Redacted]% as a commission.

Your income is from tuition for art workshops and classes, and from art sale commissions. You expect art sale commissions to account for more than [Redacted]% of your total income. Your expenses are those connected with your art classes and your art sale. The organization retains sufficient funds to cover mailing, rent and other anticipated expenses, and donates the balance to the [Redacted], or other recognized charitable organizations.

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
Surname	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
Date	12/14/83	12/5/83	12/28/83	12-28-83	12-28-83		

Section 501(c) of the Internal Revenue Code of 1954 describes certain organizations exempt from income tax under section 511(a) and reads, in part, as follows:

"(3) Corporations, and any community chest, fund or foundation organized and operated exclusively for religious charitable, scientific, testing for public safety, literary or educational purposes...no part of the net earnings of which inures to the benefit of any private shareholder or individual..."

The income tax regulations applicable to section 501(c)(3) of the Code provide that an organization must be both organized and operated exclusively for one or more of the purposes specified in that section. If it fails to meet either the organizational or the operational test, it is not within the purview of the statutes.

In order to comply with the requirements of the organizational test, the organization's purposes as set forth in its creating document cannot be broader than the purposes set forth in section 501(c)(3) of the Code.

The regulations further provide that an organization is not organized exclusively for one or more exempt purposes if its articles expressly empower it to carry on, or otherwise than as an insubstantial part of its activities, activities which are not in furtherance of one or more exempt purposes.

Your articles do not limit your purposes exclusively to those set forth in section 501(c)(3), and do expressly empower beyond the scope of 501(c)(3).

Accordingly, we have concluded that you do not meet the first statutory test, that an organization to be exempt under section 501(c)(3) of the Code must be "organized exclusively for one or more of the stated purposes."

In order to pass the operational test set forth in the Regulations under section 501(c)(3), an organization must serve a public rather than a private purpose.

Revenue Rulings 71-27 and 71-11 have described organizations that exhibited and offered works of art for sale on a commission basis. In both cases, the IRS concluded that the sales activities served mainly to promote a private purpose, namely the careers of the artists involved.

Based on these rulings, we are satisfied that you do not meet the second statutory test. You are not operated exclusively for 501(c)(3) purposes.

Since you are not an organization operated exclusively for 501(c)(3) purposes, you are not entitled to exemption from Federal income tax as an organization described in section 501(c)(3). You are not eligible for any qualification under any other paragraph of section 501(c).

[REDACTED]

You are required to file Federal income tax returns, using Form 1120. Contributions made to you are not deductible by donors on their individual income tax returns.

As provided by section 514(c) of the Internal Revenue Code of 1954 and the applicable regulations, the appropriate State officials are being notified of our determination.

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 992. 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.

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 745(b)(1) 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

Reference:
Publication 992
Form 1120