Internal Revenue Service
Regional Commissioner

Department of the Treasury

Date: 05 DEC 1983

CERTIFIED MAIL

Employer Identification Number:
EIN [redacted]
Form Number:
1023
Tax Years:

Key District:
[redacted]
Person to Contact:
[redacted]
Contact Telephone Number:
[redacted]

[redacted]

Gentlemen:

This is a final adverse determination as to your exempt status under section 501(c)(3) of the Internal Revenue Code.

Our adverse determination was made for the following reason(s):

Your auction activities serve the private interest of your members.

You are involved with a substantial amount of social and recreational activities in connection with your members'. hobby of collection of philately materials.

You are not operating primarily for educational purposes.

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

You are required to file Federal income tax returns on the form indicated above. Based on the financial information you furnished, it appears that returns should be filed for the above years. You should file these returns with your key District Director, EP/EO Division, within 30 days from the date of this letter, unless a request for an extension of time is granted. Processing of income tax returns and assessment of any taxes due will not be delayed because you have filed a petition for declaratory judgment under Code section 7428. You should file returns for later tax years with the appropriate service center shown in the instructions for those returns.

If you decide to contest this determination under the declaratory judgment provisions of Code section 7428, a petition to the United States Tax Court, the United States Court of Claims, or the district court of the United States for the District of Columbia must be filed within 90 days from the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for filing petitions for declaratory judgment.

(over)

We will notify the appropriate State officials of this action, as required by Code section 6104(c).

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

[redacted]

Chief, Appeals Office

cc: [redacted]

[redacted]

Gentlemen:

We have considered your application for exemption from Federal income tax as an organization described in section 501(c)(7) 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].

You state that your purposes are to promote the study of philately, the collection of postage stamps and other philatelic material, the closer association of those interested in the subject, and to sponsor and maintain educational, cultural, civic and historic programs, lectures and exhibitions related to philately.

Your activities include the sale of a variety of philatelic materials including stamps and envelopes bearing art work known as "covers" which are produced by your own organization. These materials are sold at both your [redacted] auctions conducted every six weeks as a part of your regular meetings and at a Bourse conducted as an integral part of your annual exhibition. The [redacted] auction is intended to allow members to dispose of duplicate stamps or to add to their own collections.

Your largest source of receipts is the commission income retained by you for your services in selling members' philatelic articles. You indicate that a ten percent commission is retained by you to cover the costs of conducting sales and finance future activities. During years [redacted], [redacted], [redacted], and [redacted], not less that 90 percent of total gross receipts were received from the sale of philatelic articles while outlays in connection with the production of those receipts were not less than 75 percent of total outlays. Also, after [redacted], between 16 and 18 percent of total gross receipts was received from nonmembers.

The exemption provided by section 501(a) for organizations described in section 501(c)(7) applies only to clubs which are organized for pleasure, recreation, and other similar nonprofitable purposes and substantially all of its activities are for these purposes, but does not apply if any part of its net earnings inures to the benefit of any private shareholder.

[redacted]

The terms "Private shareholder or individual" are defined by section 1.501(a)-1(c) of the Income Tax Regulations to mean persons having a personal and private interest in the activities of the organization.

Revenue Ruling 76-152, 1976-1 C.B. 152 examined an organization formed to promote community understanding of modern art trends. This organization's primary activity was the selection of modern art works of local artists for exhibit at its gallery and sales of members' art. The organization retained a ten percent commission and returned 90 percent of the sales price to members. This ruling held that such member benefits could not be considered incidental to its other purposes and activities.

Effective for taxable years beginning after October 20, 1976, P.L. 94-568 amends the requirements for tax exemption for social clubs and similar organizations. One of the changes is that "substantially all" of such an organization's activities must be for pleasure, recreation, and other nonprofitable purposes. This change, permits an organization to earn income from nonmember sources to a limited extent and to have a limited amount of investment income (both types of income being subject to tax) without losing its general exemption from Federal income tax. An exempt social club is permitted to receive up to 35 percent of its gross receipts from a combination of investment income and receipts from nonmembers so long as the latter do not represent more than 15 percent of total receipts.

Revenue Ruling 66-149, C.B. 1966-1, page 147 states, in part: "The statute contemplates that clubs falling within the ambit of section 501(c)(7) of the Code are designed primarily to provide for the pleasure and recreation of members. The activities may be supported by funds obtained from members, such as dues, assessment and payment for the use of club facilities. However, to the extent that income is derived from nonmember sources, it inures to the benefit of the members. If such activities are other than incidental, trivial, or nonrecurrent, it is considered that they are intended to produce income and are reflective of a purpose inconsistent with exemption under section 501(c)(7) of the Code.

Your organization's sales of members' philatelic articles can not be considered incidental to social or recreational purposes which are intended by section 501(c)(7) of the Code. As in the case of the organization described in Revenue Ruling 76-152, your auction and/or other sales services do contribute to the private interest benefit of your members. Moreover, such activities are neither exempt nor reflect an exempt social and recreational purpose intended by section 501(c)(7) of the Internal Revenue Code. Also, your gross receipts received from nonmembers exceeds the permitted 15 percent limitation referred to by Public Law 94-568 and such receipts result in inurement to members.

[redacted]

Accordingly, because your sales activities in behalf of members relects a substantial non-exempt purpose and receipts from nonmembers results in inurement to members, we hold that you are not entitled to exemption from Federal income tax as an organization described in section 501(c)(7) of the Code. You are required to file income tax returns annually with your district director.

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 892. 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.

Sincerely yours,

[redacted]

District Director

Enclosures:
Publication 892
Form 6018

[redacted]