

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition
of
ASSOCIATION OF RESEARCH DIRECTORS
for Redetermination of Exempt Organization
Status under Articles 28 and 29 of the Tax Law. :

DECISION

Petitioner, Association of Research Directors, c/o NL Chemicals, Inc., P.O. Box 700, Hightstown, New Jersey 08520, filed a petition for redetermination of exempt organization status under Articles 28 and 29 of the Tax Law (File No. 41782).

A formal hearing was held before Frank A. Landers, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on December 15, 1983 at 1:15 P.M., with all briefs to be submitted by January 16, 1984. Petitioner appeared by Dr. Michael A. DeSesa, Secretary-Treasurer. The Audit Division appeared by John P. Dugan, Esq. (Paul A. Lefebvre, Esq., of counsel).

ISSUE

Whether the Audit Division's denial of the application of the Association of Research Directors for exempt organization status was proper.

FINDINGS OF FACT

1. On October 11, 1982, petitioner, Association of Research Directors, submitted to the Audit Division an Application for an Exempt Organization Certificate for the purpose of obtaining an exemption from sales and use taxes under section 1116(a)(4) of the Tax Law. Petitioner included, in support of its application, the association's Constitution and By-Laws, a statement of

activities, a 1982-1983 meeting schedule, and a statement of receipts and expenditures for the fiscal year ended June 30, 1982.

2. By letter of November 8, 1982, petitioner was informed that its application for exempt organization status had been denied. The letter of denial stated, in pertinent part, that:

"The information presented discloses that, although some of your association's activities may be for exempt purposes, (the association) is primarily organized and operated for the advancement of the profession and members. Such purposes are not among those specified in the statute for which sales tax exemption may be afforded."

3. The Association of Research Directors is a membership organization that conducts monthly meetings from October through May at which its membership discusses the problems confronting them in the management of industrial or scientific research. Typically, a meeting consists of a social hour, dinner and a guest speaker.

4. The membership of the Association of Research Directors is comprised of regular members and associate members. In accordance with the Constitution and By-Laws of the association, regular membership is restricted to persons either active in directing research in industrial research organizations or active in the direction of scientific research in institutes representing industries. Associate membership is limited to those persons who, earlier in their careers, directed research in an industrial research organization or who occupy a significant management position in an organization concerned with industrial research.

5. The objectives of the Association of Research Directors, stated in the association's Constitution and By-Laws, are as follows:

- "1. To provide the opportunity for the discussion of problems associated with the direction of fundamental and applied industrial research.

2. To engender and foster a spirit of professionalism among Directors of Research and a recognition of the professional status of research directors.
3. To foster a spirit of mutual helpfulness among research directors.
4. To advance science in industry.
5. To promote the public weal.
6. To cooperate with other professional groups having similar or common objectives."

6. During 1982-1983, the Association of Research Directors scheduled seven meetings in New York City, usually at The Chemist's Club at 52 East 41st Street. The subject matter or topics of these membership meetings were as follows:

<u>Date</u>	<u>Program</u>	<u>Speaker</u>
September 30, 1982	"Science, Technology, Innovation, and the New Industrial Revolution"	Dr. Frank Press, Pres. National Academy of Sciences
November 4, 1982	"An American Role in an International Enterprise"	M. Angus, CEO Lever Brothers
December 2, 1982	"Executive Outplacement"	Donald Sweet, V.P. Costello, Erdlen and Company
January 6, 1983	(unknown)	
February 3, 1983	"Japanese Technology - How They Do It"	John Hendricksen, Mgr., Sales and Marketing, Davey-McKee
March 3, 1983	"Future Change in the Regulatory Climate"	Dr. Myron Weinberg, Booz-Allen & Hamilton, Inc.
April 7, 1983	"Creativity and Innovation"	Sydney Shore
May 6, 1983	Social Meeting	

7. According to the statement of receipts and expenditures for the fiscal year ended June 30, 1982, the Association of Research Directors received \$10,862.00 from its membership for dues (\$3,465.00) and dinner charges (\$7,397.00).

The association paid out \$12,734.90 which included \$11,600.79 for dinners, \$1,040.28 for mailing expenses and \$93.83 for miscellaneous expenses.

8. By letter of December 22, 1982, Dr. Michael A. DeSesa, petitioner's representative, in discussing the benefits of belonging to the association indicated that, "(t)he main benefit is a chance to socialize with people who have similar interests and to learn something about the current state of affairs in a particular topic of general interest to members."

9. The Constitution and By-Laws of the Association of Research Directors does not contain a dissolution clause dedicating the assets of the association to exempt purposes.

10. The Association of Research Directors has received exemption from Federal income tax under section 501(c)(6) of the Internal Revenue Code.

CONCLUSIONS OF LAW

A. That section 1116(a)(4) of the Tax Law exempts from the sales and use taxes "(a)ny corporation, association, trust, or community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes..."

B. That an organization must prove that it is both organized and operated for one or more of the enumerated exempt purposes. Whether an organization is organized exclusively for one or more exempt purposes is dependent on the provisions of the organizing documents. Whether an organization operates exclusively for one or more exempt purposes rests on the organization's activities [20 NYCRR 529.7(b)(2), 529.7(c) and 529.7(d)].

C. That petitioner's Constitution and By-Laws and its primary activity, its monthly meeting, indicate that petitioner was neither organized nor operated for one or more of the exempt purposes specified in section 1116(a)(4) of the

Tax Law. The association is more akin to a business league which is not afforded exemption from sales and use taxes.

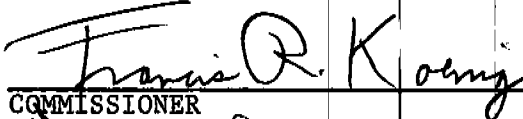
D. That the petition of the Association of Research Directors is denied.

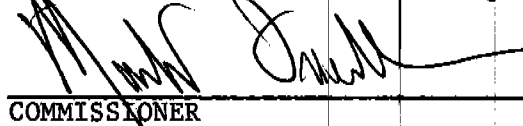
DATED: Albany, New York

STATE TAX COMMISSION

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