

STATE OF NEW YORK
STATE TAX COMMISSION
ALBANY, NEW YORK 12227

September 21, 1984

Association of Research Directors
c/o NL Chemicals, Inc.
P.O. Box 700
Highstown, NJ 08520

Gentlemen:

Please take notice of the Decision of the State Tax Commission enclosed herewith.

You have now exhausted your right of review at the administrative level. Pursuant to section(s) 1138 of the Tax Law, a proceeding in court to review an adverse decision by the State Tax Commission may be instituted only under Article 78 of the Civil Practice Law and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within 4 months from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to:

NYS Dept. Taxation and Finance
Law Bureau - Litigation Unit
Building #9, State Campus
Albany, New York 12227
Phone # (518) 457-2070

Very truly yours,

STATE TAX COMMISSION

cc: Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Association of Research Directors :
for Redetermination of Exempt Organization Status : AFFIDAVIT OF MAILING
under Articles 28 & 29 of the Tax Law. :
:

State of New York }

ss.:

County of Albany }

David Parchuck, being duly sworn, deposes and says that he is an employee of the State Tax Commission, that he is over 18 years of age, and that on the 21st day of September, 1984, he served the within notice of Decision by certified mail upon Association of Research Directors, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Association of Research Directors
c/o NL Chemicals, Inc.
P.O. Box 700
Highstown, NJ 08520

and by depositing same enclosed in a postpaid properly addressed wrapper in a post office under the exclusive care and custody of the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
21st day of September, 1984.

David Parchuck

James A. Haggard
Authorized to administer oaths
pursuant to Tax Law section 174

STATE OF NEW YORK

STATE TAX COMMISSION

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

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.

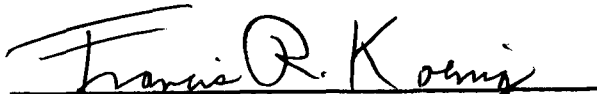
D. That the petition of the Association of Research Directors is denied.

DATED: Albany, New York

STATE TAX COMMISSION

SEP 21 1984


PRESIDENT


COMMISSIONER


COMMISSIONER

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RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL

(See Reverse)

PS Form 3800, Feb. 1982	Sent to	F. H. of Research Sta	
	Street and No.	Directors	
	P.O., State and ZIP Code	10 NL Chemicals, Inc.	
	Postage	\$	
	Certified Fee		
	Special Delivery Fee		
	Restricted Delivery Fee		
	Return Receipt Showing to whom and Date Delivered		
	Return receipt showing to whom, Date, and Address of Delivery		
	TOTAL Postage and Fees	\$	
Postmark or Date			