

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

May 25, 1984

Mary-Jo L. Pierpont  
Welcome Wagon Club of Camillus  
115 Emann Dr.  
Camilus, NY 13031

Dear Ms. Pierpont:

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	:	
Mary-Jo L. Pierpont	:	
Welcome Wagon Club of Camillus	:	AFFIDAVIT OF MAILING
for Redetermination of Exempt Organization Status	:	
under Articles 28 and 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 25th day of May, 1984, he served the within notice of Decision by certified mail upon Mary-Jo L. Pierpont, Welcome Wagon Club of Camillus, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Mary-Jo L. Pierpont  
Welcome Wagon Club of Camillus  
115 Emann Dr.  
Camillus, NY 13031

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  
25th day of May, 1984.

David Parchuck

Authorized to administer oaths  
pursuant to Tax Law section 174

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
	:	
of	:	
	:	
MARY-JO L. PIERPONT	:	DECISION
WELCOME WAGON CLUB OF CAMILLUS	:	
	:	
for Redetermination of Exempt Organization	:	
Status under Articles 28 and 29 of the Tax Law.	:	

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Petitioner, Mary-Jo L. Pierpont, Welcome Wagon Club of Camillus, 115 Emann Drive, Camillus, New York 13031, filed a petition for redetermination of exempt organization status under Articles 28 and 29 of the Tax Law (File No. 42741).

On January 5, 1984, petitioner waived a formal hearing before the State Tax Commission and requested the Commission to render its decision, based on the Department of Taxation and Finance file as presently constituted.

ISSUE

Whether the Audit Division's denial of the application of Welcome Wagon Club of Camillus for exempt organization status was proper.

FINDINGS OF FACT

1. On January 12, 1983, petitioner, Mary-Jo L. Pierpont, president of Welcome Wagon Club of Camillus ("Camillus Welcome Wagon"), submitted to the Audit Division an Application for an Exempt Organization Certificate, seeking exemption from sales and use taxes for the club under Tax Law section 1116(a)(4). Petitioner stated in the application that the club had not received an exemption from federal income tax. She also forwarded the following documents in support of the application: Constitution and By-Laws for Welcome Wagon Clubs; a narrative statement of the club's purposes and activities; the club's receipts

and expenditures for the fiscal year ended August 31, 1982; and a statement of the club's assets and liabilities as of August 1, 1982.

2. By letter dated February 3, 1983, the Audit Division informed petitioner that Camillus Welcome Wagon failed to qualify for exemption from sales and use taxes; the letter states, in pertinent part:

"The information presented discloses that, although some of your organization's activities may be for exempt purposes, it is primarily organized and operated for civic and social purposes. Such purposes are not among those specified in the statute for which sales tax exemption may be afforded."

3. Welcome Wagon International, Inc. ("International") is a corporation organized and operated as a profit-making entity. The only connection between International and Welcome Wagon Clubs, including Camillus Welcome Wagon, is the privilege extended to the clubs to use the name "Welcome Wagon", provided they operate in accordance with prescribed provisions of the national by-laws. No part of club funds are received by International, nor does International supply funds to any club.

4. According to the Constitution and By-Laws of Camillus Welcome Wagon, the club is organized for the following purposes:

"1. To take an active interest in the civil, social, and spiritual welfare of the community.

2. To promote and encourage good citizenship, as well as good government.

3. To aid our country and community through the gift of our time and energy for worthy purposes.

4. To undertake and promote charitable and humanitarian projects within the community.

5. To do any and all things necessary or incidental to the carrying out or promotion of the purposes of the Welcome Wagon Club."

5. For the fiscal year ended August 31, 1982, Camillus Welcome Wagon consisted of 67 members, each of whom paid dues of \$5.00. Meetings were

conducted on a monthly schedule, except for July and August during which the club was inactive. The executive board of officers, comprised of the president, first and second vice presidents, secretary and treasurer, also convened monthly to plan the club's activities and to determine the extent to which further fund-raising efforts were necessary to meet operating expenses.

6. The subject matter or topic of the monthly membership meetings during fiscal year 1982 was as follows:

- September: Mary Kay make-up and skin care demonstration
- October: French cooking demonstration
- November: annual auction (principal fundraiser)
- December: Christmas potluck dinner
- January: local history - Erie Canal project
- February: defensive driving
- March: "Over-the-Counter Drugs - Be an Informed Consumer"
- April: landscaping
- May: installation of new officers
- June: (unknown)
- July and August: (inactive)

In addition, there were monthly meetings of ladies' day bridge, ladies' night bridge, couples' bridge, the gourmet dinner club and the book club.

7. With respect to the club's community service activities, the members regularly volunteered their services to the Van Duyn Nursing Home in Syracuse. Also, at Christmas, 1981, the club furnished food, clothing and toys to a local needy family. At year's end, the club contributes any surplus funds to community charitable organizations. At the end of fiscal 1982, Camillus Welcome Wagon planned to make donations to the Syracuse Ronald McDonald House, which provides reasonably priced accommodations to critically ill children and their families, and to the pediatric unit of the Crouse Irving Memorial Hospital. It is unknown whether these donations were in fact made; they are not reflected in the club's statement of receipts and expenditures.

Petitioner's statement of expenditures for the period September 1, 1981 to August 31, 1982 showed the following:

<u>Expenditure</u>	<u>Amount</u>
Administrative (stamps, paper, printing)	\$306.59
Rent	107.50
Speaker fees	110.00
Refreshments	179.22
Donation to family	15.00
Other (gifts for outgoing officers, annual luncheon fees)	89.42
	<u>\$807.73</u>

8. There is no evidence that: (a) the club ever distributed its property to members; (b) any part of the club's earnings inure to the benefit of any individual; (c) the club ever engaged in carrying on propaganda, or advocated or opposed pending or proposed legislation; or (d) the club participated in or intervened in any political campaign on behalf of any candidate for public office.

#### CONCLUSIONS OF LAW

A. That Tax Law section 1116(a)(4) provides an exemption from the sales and compensating use taxes imposed under Article 28 to "[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...". In ascertaining whether an organization is organized exclusively for one or more of the enumerated exempt purposes, the focus is on the provisions of the organizing documents (20 NYCRR 529.7[c][1]). On the other hand, in determining whether the organization is operated exclusively for one or more exempt purposes, the focus is on the organization's activities:

"An organization will be regarded as 'operated exclusively' for one or more exempt purposes only if almost all of its activities accomplish one or more exempt purposes specified in section 1116(a)(4) of the Tax Law... An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose." 20 NYCRR 529.7(d)(2).

B. That having due regard for the commendable humanitarian endeavors of Camillus Welcome Wagon, it is nonetheless clear from the subject matter of its monthly meetings (Finding of Fact "6") that its nonexempt social activities constitute more than "an insubstantial part" of its overall activities. Further, only approximately two percent of its expenditures during fiscal year 1982 was allocated to charitable purposes (\$15.00/\$807.73). The following remarks of the Tax Court, in Polish American Club, Inc. (33 T.C.M. 925), have particular relevance to the matter at hand:


"It is clear from the record that Polish American Club was conceived and operated primarily as a social club and not as an organization operated primarily for bringing about civic betterments and social improvements. It is obvious that the members of the club are concerned with civic improvement and have promoted patriotic participation in the affairs of their community... These are laudable activities but they are not the primary activities of the club." Id. at 931.

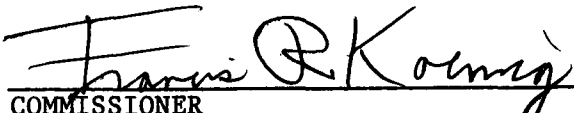
C. That the petition of Mary-Jo L. Pierpont, Welcome Wagon Club of Camillus is hereby denied.


DATED: Albany, New York

STATE TAX COMMISSION

MAY 25 1984

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER

P 440 976 974

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED—  
NOT FOR INTERNATIONAL MAIL

(See Reverse)

Sent to	
Mary Jo L. Pierpont	
Street and No.	
115 Marx Dr.	
P.O., State and ZIP Code	
Camillus, NY 13031	
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	

PS Form 3800, Feb. 1982