

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
Supreme Anchor Club of America, Inc.	:	
N.Y. Post Office Anchor Club #4	:	AFFIDAVIT OF MAILING
	:	
for Redetermination of Exempt Organization Status	:	
under Articles 28 & 29 of the Tax Law.	:	

State of New York }
County of Albany } ss.:

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 Supreme Anchor Club of America, Inc., N.Y. Post Office Anchor Club #4, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Supreme Anchor Club of America, Inc.
N.Y. Post Office Anchor Club #4
Box 25, Fordham Station
Bronx, NY 10458

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. Hagedorn
Authorized to administer oaths
pursuant to Tax Law section 174

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

September 21, 1984

Supreme Anchor Club of America, Inc.
N.Y. Post Office Anchor Club #4
Box 25, Fordham Station
Bronx, NY 10458

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 :
SUPREME ANCHOR CLUB OF AMERICA, INC., : DECISION
NEW YORK POST OFFICE ANCHOR CLUB, BRANCH NO. 4 :
for Redetermination of Exempt Organization :
Status under Articles 28 and 29 of the Tax Law. :

Petitioner, Supreme Anchor Club of America, Inc., New York Post Office Anchor Club, Branch No. 4, Box 25, Fordham Station, Bronx, New York 10458, filed a petition for redetermination of exempt organization status under Articles 28 and 29 of the Tax Law (File No. 39914).

A formal hearing was held before Arthur Bray, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York on November 3, 1983 at 10:00 a.m., with all briefs to be submitted on or before January 5, 1984. Petitioner appeared by Louis A. Darensbourg, Secretary. The Audit Division appeared by John P. Dugan, Esq. (Anna Colello, Esq., of counsel).

ISSUE

Whether the Audit Division properly denied petitioner's application for an exempt organization certificate.

FINDINGS OF FACT

1. Petitioner, New York Post Office Anchor Club, Branch No. 4, is a branch of the Supreme Anchor Club of America, Inc.
2. On August 26, 1982, petitioner, by its secretary, filed an Application For An Exempt Organization Certificate.
3. On October 8, 1982, the Audit Division advised petitioner that it did not qualify for an exemption from sales tax since it was not organized and

operated exclusively for one or more of the purposes specified in section 1116(a)(4) of the Tax Law.

4. The Supreme Anchor Club of America, Inc. was incorporated in New York State on April 12, 1926. The first paragraph of the Certificate of Incorporation states that it was formed for the following purposes:

"To cultivate and foster social intercourse among its members; to purchase, lease or otherwise (sic) such real property or personal property as may be necessary or proper to carry out its corporate purposes; to locate and establish subordinate branches or Clubs of said corporation in this or any other State of the United States of America, which said subordinate branches or clubs shall be governed and managed by such laws, by-laws, rules and regulations as said corporation shall determine, provided however that said corporation shall perform no act or enact any rule, regulation or by-law or perform any act which shall be in conflict or inconsistent with provisions of the Membership Corporations Law of the State of New York or of any law of the State of New York." (Emphasis in original)

5. The Laws and Rules of petitioner's parent organization currently provide in section 142:

"Section 142. Branches May Make By-Laws, etc.

Subordinate Branches may promulgate for their own government such by-laws, rules and regulations as they may find necessary for the proper conduct of their affairs, provided that no by-laws, rules or regulations shall be enacted which shall conflict with or be in opposition to or in any way impair the enforcement of the Constitution, Rules and Regulations made or enacted or which may be made and enacted by the Supreme Club. Such by-laws shall not become operative until approved by the Supreme Advocate from whose decision an appeal may be taken to the Supreme Board of Directors."

6. Petitioner does not have a certificate of incorporation, constitution, or by-laws separate from that of the parent organization.

7. All of petitioner's members are members of the Knights of Columbus, of the Third Degree, in good standing. Most of petitioner's members are retired and living on fixed incomes.

8. Petitioner had two sources of funds during the period January 1, 1980 to January 8, 1981. It received three dollars from each of its members as dues. It also received voluntary contributions from employees of the United States Postal Service. In the past, petitioner also received funds from the sale of raffle tickets for the Franciscan Missions Guild. This money was used to satisfy petitioner's expenses or was placed in a bank account.

9. Petitioner's members have dedicated themselves to helping disadvantaged and handicapped children. Its activities include sponsoring a Christmas party at an orphanage, taking children from low income areas to the circus, and taking handicapped children on a boat ride. Petitioner also makes contributions to other organizations that help underprivileged or handicapped children.

10. Once a year petitioner has a Memorial Mass that is followed by a breakfast in memory of its deceased members.

11. Petitioner holds its meetings on the last Friday of each month except July and August. At the meetings, petitioner's members discuss the activities they are going to support and discuss communications received from various organizations. Petitioner does not own the buildings where the meetings are held.

12. Petitioner helps defray the expense of sending six of its members to a national convention each year. At the convention individuals participate in the election of officers and act on proposals to amend the parent organization's constitution and by-laws.

13. The only affair of petitioner's parent is a Holy Hour and Mass for the religious feast of Our Lady of Fatima. The delegates at the convention have supper in a group after the Mass.

14. None of petitioner's officers are paid for their services to petitioner.

15. Petitioner has been granted an exemption under section 501(c)(7) of the Internal Revenue Code as a club organized for nonprofit purposes and no part of the net earnings of which inures to the benefit of any private shareholder. In addition, the United States Postal Service permits petitioner, as a fraternal organization, to mail at the special bulk third-class rate of postage.

CONCLUSIONS OF LAW

A. That Tax Law §1116 (a)(4) provides:

"§1116. Exempt organizations

(a) Except as otherwise provided in this section, any sale or amusement charge by or to any of the following or any use or occupancy by any of the following shall not be subject to the sales and compensating use taxes imposed under this article:

* * *

(4) Any 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, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, (except as otherwise provided in subsection (h) of section five hundred one of the United States internal revenue code of nineteen hundred fifty-four¹, as amended), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office;"

¹ 26 U.S.C.A. §501(h).

B. That 20 NYCRR 529.7(c)(1)(i)(a) provides that an organization is organized exclusively for one or more exempt purposes only if its organizing document limits "...the purposes of such organization to one or more exempt purposes...".

C. That although petitioner's activities are commendable, petitioner's Certificate of Incorporation, noted in Find of Fact "4", clearly does not limit petitioner's activities to one or more exempt purposes. Accordingly, the Audit Division properly concluded that petitioner is not entitled to a certificate of exemption from sales tax.

D. That the petition of Supreme Anchor Club of America, Inc., New York Post Office Anchor Club, Branch No. 4 is denied.

DATED: Albany, New York

STATE TAX COMMISSION

SEP 21 1984

Richard W. Chu
PRESIDENT

Francis R. Koenig
COMMISSIONER

Mark J. Smith
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	Supreme Anchor Club
Street and No.	1st America, INC.
P.O., State and ZIP Code	NY Post Office Anchor Club #4
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	

Box 25, Fordham Station
Bronx, NY 10458