

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
Alpha Kappa Alpha Sorority	:	
Theta Iota Omega Chapter	:	AFFIDAVIT OF MAILING
	:	
for Redetermination of a Deficiency or Revision	:	
of a Determination or Refund of Sales & Use Tax	:	
under Article 28 & 29 of the Tax Law.	:	

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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 18th day of January, 1985, he served the within notice of Decision by certified mail upon Alpha Kappa Alpha Sorority, Theta Iota Omega Chapter, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Alpha Kappa Alpha Sorority  
Theta Iota Omega Chapter  
200 East Pennywood Ave.  
Roosevelt, NY 11575

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  
18th day of January, 1985.

David Parchuck

James W. Adams  
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	:	
Alpha Kappa Alpha Sorority	:	
Theta Iota Omega Chapter	:	AFFIDAVIT OF MAILING
	:	
for Redetermination of a Deficiency or Revision	:	
of a Determination or Refund of Sales & Use Tax	:	
under Article 28 & 29 of the Tax Law.	:	

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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 18th day of January, 1985, he served the within notice of Decision by certified mail upon Robert Stewart, the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Robert Stewart  
Mitchell, Titus Co.  
2 Park Avenue  
New York, NY 10016

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 representative of the petitioner herein and that the address set forth on said wrapper is the last known address of the representative of the petitioner.

Sworn to before me this  
18th day of January, 1985.

David Parchuck

James A. H. H. H.

Authorized to administer oaths  
pursuant to Tax Law section 174

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

January 18, 1985

Alpha Kappa Alpha Sorority  
Theta Iota Omega Chapter  
200 East Pennywood Ave.  
Roosevelt, NY 11575

Ladies:

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: Petitioner's Representative  
Robert Stewart  
Mitchell, Titus Co.  
2 Park Avenue  
New York, NY 10016  
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
	:	
of	:	
	:	
ALPHA KAPPA ALPHA SORORITY,	:	DECISION
THETA IOTA OMEGA CHAPTER	:	
	:	
for Redetermination of Exempt Organization	:	
Status under Articles 28 and 29 of the Tax	:	
Law.	:	

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Petitioner, Alpha Kappa Alpha Sorority, Theta Iota Omega Chapter, 200 East Pennywood Avenue, Roosevelt, New York 11575, filed a petition for redetermination of exempt organization status under Articles 28 and 29 of the Tax Law (File No. 47565).

A formal hearing was held before Daniel J. Ranalli, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on September 17, 1984, at 2:45 P.M. Petitioner appeared by Mitchell, Titus Company (Robert Stewart, C.P.A.). The Audit Division appeared by John P. Dugan, Esq. (Angelo A. Scopellito, Esq., of counsel).

#### ISSUE

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

#### FINDINGS OF FACT

1. On October 27, 1982 petitioner, Alpha Kappa Alpha Sorority, Theta Iota Omega Chapter, filed an Application For An Exempt Organization Certificate. On July 26, 1983, 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.

2. Alpha Kappa Alpha Sorority, the national organization of which petitioner is a local chapter, was incorporated in the District of Columbia on January 30, 1913. The Constitution and By-Laws of Alpha Kappa Alpha Sorority sets forth the purpose of the organization as follows:

"The purpose of the Alpha Kappa Alpha Sorority is to cultivate and encourage high scholastic and ethical standards, to promote unity and friendship among college women, to study and help alleviate problems concerning girls and women in order to improve the social stature, to maintain a progressive interest in college life, and to be of service to all mankind."

With respect to local chapters, the Alpha Kappa Alpha Sorority By-Laws state that "[e]ach chapter shall have the power to make its own by-laws. These by-laws must not conflict with the Constitution or By-Laws of Alpha Kappa Alpha Sorority."

3. Petitioner's Constitution and By-Laws sets forth its purpose as follows:

"The purpose of this Chapter is to foster the aims, ideals and program of the Alpha Kappa Alpha Sorority, Inc. by adapting its national program to the needs of the local communities, to cultivate and encourage high scholastic and ethical standards, to promote sisterliness and friendship toward each soror, and to maintain a deep concern for the alleviation of problems affecting our communities."

4. Petitioner participates in charitable and educational activities on Long Island as well as nationwide and worldwide. All of the members provide their services on a voluntary basis. Petitioner's members participate in the Children's Workshop which is an after-school reading and math tutorial program for children in grades four, five and six. Petitioner also worked with the National Health Screening Council in sponsoring health fairs which provided free basic medical screening services as well as health education at various locations on Long Island.

5. Petitioner also maintains a college scholarship program under which it awards scholarships ranging from \$250.00 to \$2,000.00 each year to minority high school students in Nassau or Suffolk County who expect to be fulltime

college students in September of the current year. Students are selected based on their high school transcript, a written essay and an interview. Petitioner also awards performing arts scholarships to talented students.

6. Petitioner also contributes money to various charitable and educational organizations throughout the United States and the world. Among the groups to which petitioner has contributed are: the Roosevelt Public Library, the Nassau County Children's Shelter, the National Association for the Advancement of Colored People, the New York Public Library, the Dorothy K. Robin Child Care Center, and the United Negro College Fund.

7. Petitioner obtains funds from dues, donations and fund raising events such as banquets, luncheons and dances. The latter events were held exclusively to raise funds and have been the chief source of income for petitioner.

8. Petitioner's members hold monthly meetings to plan activities for raising funds and to decide which educational or charitable events to participate in. The only event of a social nature in which the members participate is an annual Founders Day luncheon. This event is sponsored by several of the Alpha Kappa Alpha local chapters and is held to recognize the original members who organized the sorority. Petitioner does not participate in any local government affairs and does not attempt to influence legislation in any way.

9. Petitioner was granted an exemption under section 101(9) of the Internal Revenue Code of 1939 [section 501(c)(7) of the Internal Revenue Code of 1954] as a club organized for nonprofit purposes and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

#### 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-four, 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;"

B. That petitioner meets the operational requirements of section 1116(a)(4) of the Tax Law in that all of its activities, other than its Founders Day luncheon, are confined exclusively to educational and charitable purposes or activities designed to raise funds to achieve these purposes. Unfortunately, petitioner's constitution, as well as the constitution of Alpha Kappa Alpha, does not limit petitioner's activities to one or more exempt purposes. Regulation section 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...". The constitution of Alpha Kappa Alpha states one of its purposes to be "to promote unity and friendship among college women..." and petitioner's constitution states one of its purposes to be "to promote sisterliness and friendship toward each soror...".

Such purposes are more social in nature than the exempt purposes provided for in section 1116(a)(4) and, although petitioner participates only in exempt activities, the aforesaid language causes petitioner to fail the organizational test of section 1116(a)(4). Accordingly, the Audit Division properly concluded that petitioner is not entitled to a certificate of exemption from sales tax.

D. That the petition of Alpha Kappa Alpha Sorority, Theta Iota Omega Chapter is denied.

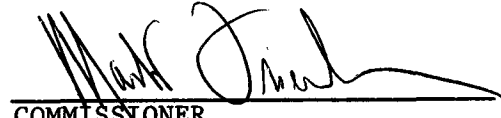
DATED: Albany, New York

STATE TAX COMMISSION

JAN 18 1985

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER

P 470 316 439  
**RECEIPT FOR CERTIFIED MAIL**

NO INSURANCE COVERAGE PROVIDED—  
 NOT FOR INTERNATIONAL MAIL

(See Reverse)

Sent to <i>Robert Stewart</i>	
Street and No. <i>Mitchell Titus Co.</i>	
P.O., State and ZIP Code <i>2 Park Ave.</i>	
Postage <i>Postmark, 824 1046</i>	
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	
<b>TOTAL Postage and Fees</b>	<b>\$</b>
Postmark or Date	

PS Form 3800, Feb. 1982

P 470 316 438  
**RECEIPT FOR CERTIFIED MAIL**

NO INSURANCE COVERAGE PROVIDED—  
 NOT FOR INTERNATIONAL MAIL

(See Reverse)

Sent to <i>Alpha Lambda Alpha Society</i>	
Street and No. <i>Theta State Omega Chapter</i>	
P.O., State and ZIP Code <i>100 E. Pennsylvania Ave.</i>	
Postage <i>Postmark, 124 11375</i>	
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	
<b>TOTAL Postage and Fees</b>	<b>\$</b>
Postmark or Date	

PS Form 3800, Feb. 1982