

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Long Island Chapter of the National :
Association of Media Women, Inc. : 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 13th day of September, 1985, he served the within notice of Decision by certified mail upon Long Island Chapter of the National Association of Media Women, Inc., the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Long Island Chapter of the National Association
of Media Women, Inc.
22 Ingraham St.
Hempstead, NY 11550

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
13th day of September, 1985.

David Parchuck

Annunzio A. DiGiuseppe

Authorized to administer oaths
pursuant to Tax Law section 174

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

September 13, 1985

Long Island Chapter of the National Association
of Media Women, Inc.
22 Ingraham St.
Hempstead, NY 11550

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: Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
LONG ISLAND CHAPTER OF THE NATIONAL	:	DECISION
ASSOCIATION OF MEDIA WOMEN, INC.	:	
for Redetermination of Exempt Organization	:	
Status under Articles 28 and 29 of the Tax Law.	:	

Petitioner, Long Island Chapter of the National Association of Media Women, Inc., 22 Ingraham Street, Hempstead, New York 11550, filed a petition for redetermination of exempt organization status under Articles 28 and 29 of the Tax Law (File No. 39964).

On April 1, 1985, petitioner waived a 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 plus additional documentary evidence and briefs to be submitted by June 15, 1985.

ISSUE

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

FINDINGS OF FACT

1. On or about November 30, 1981, Patricia Harmon, as treasurer of the Long Island Chapter of the National Association of Media Women, Inc., submitted to the Audit Division an Application for an Exempt Organization Certificate, seeking exemption from sales and use taxes under Tax Law section 1116(a)(4).

2. By letter dated June 23, 1982, the Audit Division denied petitioner's application, stating the basis for such action as follows:

"Your chapter does not meet the organizational test for exemption because the purposes stated in Article II of its By-Laws are substantially professional rather than exclusively charitable within the... definition of that term. Professional purposes are not among those specified in the statute for which sales tax exemption may be granted. Also, we note that your By-Laws lack the required non-inurement, restrictive legislation and dissolution provisions.

* * *

"Your chapter does not meet the operational test for exemption. The information presented discloses that, although some of your chapter's activities are charitable, it is substantially operated for professional purposes. Your annual communications dinner primarily serves social and professional purposes rather than charitable purposes. The net income you obtain from that function for use in awarding scholarships is nominal. Further, the awarding of plaques to your peers is professional in nature. Also, you are subsidizing a non-exempt organization through the payment of assessment dues."

3. Petitioner is a member chapter of the National Association of Media Women, Inc. The objectives of the national organization are set forth in Article II of its Constitution.

"The objectives of this Association shall be the enrichment of the lives of its members through cooperation, exchange of ideas and experiences, through discussions geared to the solution of mutual problems; the establishment of a program designed to increase opportunities for women in mass communication and operate to increase opportunities for advancement; to influence young women to seek careers in many areas of mass communication; to promote a program of scholarship counsel and financial aid for this purpose."

Petitioner's purposes, as stated in Article II of its By-Laws (as amended in October, 1984), are:

"The purpose of this organization is to create a medium of contact for women in the media and to provide a basis for continued constructive and educational progress in the field of communications. Our main objectives are in keeping with ARTICLE II OF THE NATIONAL CONSTITUTION."

4. Petitioner's By-Laws provide for the election of six officers (president, first vice-president, second vice-president, recording secretary, treasurer and financial secretary) and establish five standing committees (budget, fund raising, community service, nominating and by-laws). The Budget Committee is

responsible for, among other things, the fixing of initiation fees and annual dues which amounts must be approved by the membership. The last article of the By-Laws, entitled "Dissolution Clause," provides that in the event of petitioner's dissolution, its officers and members "shall designate another [Internal Revenue Code section] 501(c)(3) organization to accept the assets and/or liabilities of the Long Island Chapter of Media Women organization."

5. Petitioner's sources of support are the dues and initiation fees paid by members and fund-raising activities held. For the past several years, fund raising activities have consisted of dinner-dances, at which prominent media communicators are honored, and raffles. A statement of petitioner's receipts for the calendar year 1981 follows.

RECEIPTS	
Dues	\$ 450.00
Contributions	250.00
Fund-raising activities	
Dinner-dance tickets	7,140.00
Raffle	<u>210.00</u>
Total	\$8,050.00

6. At monthly meetings held September through June, petitioner's members discuss the status of ongoing projects and entertain suggestions for community activities in furtherance of the organization's goals. A brief summary of petitioner's community service activities is presented below.

a) February, 1979 -- Workshops and seminars were conducted for community organizations regarding use of the media.

b) April, 1979 -- Petitioner's members escorted local high school students on a tour of a television station.

c) March, 1980 -- A founders' day luncheon honored the president of the New York State Conference of the N.A.A.C.P.

d) October, 1981 -- Petitioner's members offered presentations at St. John's University on careers in communications.

7. Petitioner maintains a scholarship fund for the purpose of encouraging minority high school students to enter the fields of journalism, television and other forms of media communication. Petitioner's scholarship committee reviews autobiographies submitted by applicants and reports to the membership its recommendation for the annual award. In June, 1981, a scholarship was awarded to one Susan Giles, to help defray her tuition and expenses at the State University at Buffalo.

8. Petitioner's expenditures during the calendar year 1981 are summarized below.

EXPENDITURES

Dinner-dance	
band	\$ 725.00
advertising	415.10
food	5,700.75
raffle prizes	175.00
choreography	235.00
singer	25.00
Printing for seminar	98.43
Scholarship award	250.00
National organization assessment dues	335.00
Bank charges	47.00
Total	<u>\$8,006.28</u>

9. The Internal Revenue Service granted petitioner an exemption from federal corporation income tax, but the record does not disclose the paragraph of Internal Revenue Code section 501(c) pursuant to which the organization is so exempt.

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. The documents must limit the purposes of the organization to one or more exempt purposes and cannot expressly empower the organization to participate, other than as an insubstantial part of its activities, in activities which are not in furtherance of one or more exempt purposes (20 NYCRR 529.7[c][1][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. Nearly all of its activities must accomplish one or more exempt purposes; or stated in a different way, an organization will not be regarded as exempt if more than an insubstantial part of its activities is not in furtherance of an exempt purposes (20 NYCRR 529.7[d][2]).

B. That a substantial part of petitioner's activities (especially during 1981, a year for which the categories of its receipts and expenditures are available) is not in furtherance of charitable purposes. (See 20 NYCRR 529.7[e][1][ii] for a definition of the term "charitable.") The presentation to students of seminars on careers in communication and the award of a scholarship may serve the advancement of education, but expenditures therefor represent less than 5 percent of petitioner's total expenditures during 1981 (\$348.43/\$8,006.28); in contrast, expenditures for the annual dinner-dance, serving primarily social and professional purposes, represent in excess of 90 percent of petitioner's expenditures.

It must further be noted that petitioner's By-Laws lack a prohibition against devoting more than an insubstantial part of its activities to attempting


to influence legislation, and a prohibition against directly or indirectly participating in or intervening in any political campaign (20 NYCRR 529.7[c][2]).


C. That the petition of the Long Island Chapter of the National Association of Media Women, Inc. is hereby denied.

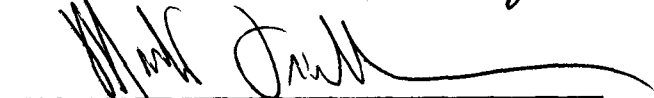
DATED: Albany, New York

STATE TAX COMMISSION

SEP 13 1985


PRESIDENT


COMMISSIONER


COMMISSIONER

P 153 387 539

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL

(See Reverse)

* U.S.G.P.O. 1984-446-014

PS Form 3800, Feb. 1982

Sent to	<i>King Island Chapter</i>	
Street and No.	<i>10001 Ave. Miller Way</i>	
P.O., State and ZIP Code	<i>33 Cape Fear NC</i>	
Postage	<i>\$1.15</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		
TOTAL Postage and Fees		\$
Postmark or Date		