

National Arts Club: Should Their 501(c)(3) Status be Revoked?

The National Arts Club is a non-profit organization ostensibly established to "stimulate, foster, and promote public interest in the arts and to educate the American people in the fine arts."¹ This purpose is "educational", which on its face makes it a 501(c)(3) tax-exempt charitable organization.² But the club is also characterized by exclusive private membership, highly paid staff, and limited access to the public.³ So, is it disingenuous to call the purpose of the organization "educational"?

The Club's operations are characterized by expensive memberships that include private restaurants, leasing of apartments to rich patrons, and exclusive rights to view exhibits for members. In 2010, the club raised over \$1,674,766 in membership fees and only spent \$27,300 on educational services for the public.⁴ They also spent little money on advertising their public art exhibits.⁵ They spent \$516,403, however, on salaries and staff reimbursements.⁶

When we think of 501(c)(3) organizations, we imagine retired lunch ladies serving healthy food to starving babies. The club stands in contrast to that--serving a minimal public purpose (and spending a minimal amount of revenue for that purpose), while mostly serving the lavish desires of the few who can afford memberships.

¹ <http://www.nationalartsclub.org/>

² IRS Website, [http://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/Exemption-Requirements-Section-501\(c\)\(3\)-Organizations](http://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/Exemption-Requirements-Section-501(c)(3)-Organizations), updated 08/09/2013.

³ Real Estate Weekly, <http://www.rew-online.com/2012/10/03/gramercy-club-apartments-open-for-rent-to-members-only/>, 10/03/2012.

⁴ National Art Club's 990 form, 2010, https://bulk.resource.org/irs.gov/eo/2011_06_EO/13-5265900_990_201006.pdf .

⁵ *Id.*

⁶ *Id.*

The National Arts Club should not be considered worthy of being a tax-exempt educational organization. Congress exempted 501(c)(3) nonprofits from taxes in the hope that these organizations advance a public good.⁷ It would seem contrary to the purpose of 501(c)(3) to exempt organizations that spend a minimal percentage of revenue for a minimal public purpose, but spend more of their revenue, resources, and time on serving a few rich patrons.

An organization with a stated purpose that appears educational may be denied 501(c)(3) status if it does not primarily engage in activities that further that purpose. A tax-exempt organization must engage primarily in activities “that accomplish exempt purposes specified in section 501(c)(3).”⁸ An “educational” purpose is defined as (1) the training of individuals to improve or develop their capabilities, or (2) the instruction of the public on subjects useful to individuals and beneficial to the community.⁹ The private membership program is a very substantial part of the organization’s activities, and no educational purpose is served through restaurants, fancy apartments, and exclusive rights to exhibits.

In spite of this, The National Arts Club maintains its tax exemption. This fact is partly attributable to a lack of enforcement and investigation.¹⁰ The National Arts Club example shows how powerful language is--by stating that the purpose of the organization is to educate the public, the organization creates a smokescreen to engage in activities not for that purpose. We—and the IRS—should be concerned more with substance than with language. Tax exemption

⁷ *Bob Jones University v. United States*, 461 U.S. 574, 585-592 (1983)

⁸ IRS Website, [http://www.irs.gov/Charities-&Non-Profits/Charitable-Organizations/Operational-Test-Internal-Revenue-Code-Section-501\(c\)\(3\)](http://www.irs.gov/Charities-&Non-Profits/Charitable-Organizations/Operational-Test-Internal-Revenue-Code-Section-501(c)(3)), updated 01/04/2013

⁹ Treasury Regulation § 1.501(c)(3)-1(d)(3).

¹⁰ Caroline Tehrany, *Art Clubs with a Mission, but is Anyone Checking?*, <http://www.thepalette.us/arts-club-with-a-mission-but-is-anybody-checking/>

should carry responsibility--and should carry with it an assurance that the organization serves the public good.

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