

M e m o r a n d u m**390.0940**

To: Compliance Planning and
Evaluation Unit (DAS)

Date: August 1, 1978

From: Les Sorensen

Subject: Interpretation of Revenue and Taxation Code Section 6370

This is written in response to your June 12, 1978 memorandum concerning the above entitled subject matter. You were particularly interested in our opinion as to how the phrase in Section 6370, "equivalent organizations performing the same type of service," should be construed. You also requested our opinion with respect to the following three questions:

1. Are specialized groups, such as athletic booster clubs, band mothers, drama societies included if the funds are used for the entire school?
2. Would such groups still be included if they only gave funds for special projects, i.e., band mothers for purchase of instruments or uniforms?
3. Would fund raising events by students themselves be included?

Revenue and Taxation Code Section 6370 provides in pertinent part:

- (a) This section applies to nonprofit parent-teacher associations chartered by the California Congress of P.T.A., Incorporated, and equivalent organizations performing the same type of service for public or private schools and authorized to operate within the school by the governing authority of the school.
- (b) An organization described in subdivision (a) is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to, tangible personal property which it sells; provided, the profits are used exclusively in furtherance of the purposes of the organization.
- (c) This section shall not be applicable to the state or any of its political subdivisions.

In order to determine whether a particular organization is equivalent to the PTA and provides the same type of service for the school it is helpful to compare the objectives and services offered by that organization to the objectives and services offered by the PTA. In this regard, I have included pertinent excerpts from the California PTA's By-Laws. Article II Section 1 lists the objects of the PTA as follows:

- a. To promote the welfare of children and youth in home, school, community, and place of worship.
- b. To raise the standards of home life.
- c. To secure adequate laws for the care and protection of children and youth.
- d. To bring into closer relation the home and the school, that parents and teachers may cooperate intelligently in the education of children and youth.
- e. To develop between educators and the general public such united efforts as will secure for all children and youth the highest advantages in physical, mental, social, and spiritual education.

Article II Section 2 indicates how the objects will be promoted as follows:

The objects of the National PTA and the California State PTA are promoted through an educational program directed towards parents, teachers, and the general public; are developed through conferences, committees, projects and programs; and are governed and qualified by the basic policies set forth in Article III.

Insofar as is pertinent here, Article III provides:

- a. The organization shall be noncommercial, nonsectarian, and nonpartisan.
- d. The organization shall work with the schools to provide quality education for all children and youth and shall seek to participate in the decision-making process establishing school policy, recognizing that legal responsibility to make decisions has been delegated by the people to boards of education.

In our view, while it may not be necessary that a particular organization have identical objectives and provide all of the services outlined above in order to be "equivalent" to the PTA, at the very least it should be a nonprofit organization which includes parents and whose objectives include enhancing the welfare of all students in the school and developing better

communication between parents and school authorities. Of course, the other requirements of Section 6370 would also have to be met in order to qualify an organization as a consumer, i.e., it would have to be authorized to operate in the school by the school's governing authority and the profits of its sales of tangible personal property would have to be used exclusively to further the organization's purposes.

Turning now to the three specific questions posed in your memorandum. It would appear that the answer to each of these questions would be "no."

As to the first and second questions, specialized groups such as athletic booster clubs, band mothers, and drama societies would most probably not be concerned with the welfare of all the students but rather with a limited few. Hence, as discussed above, these organizations would not be "equivalent organizations" regardless of how the funds they raise are used.

With respect to question number three, funds raised by the students through the sale of tangible personal property would not qualify them for treatment as consumers under Section 6370 since an organization not including parents would not, as discussed above, be "equivalent" to a PTA.

LS:po

cc: T. P. Putnam.