

[REDACTED]

[REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code.

You were incorporated [REDACTED] under the laws of the state of [REDACTED]. Your purposes, as stated in your articles of incorporation, are exclusively charitable, religious, educational, and scientific.

Your sole activity is the operation of a [REDACTED] over the Internet. Specifically, you code and administer a text-based virtual environment which is based in a mythical fantasy setting based on historical cultures. The environment consists of six "planets," each of which represents a different culture. You have stated that, through their interaction in this fantasy environment, users learn to cooperate to achieve their goals as well as experience the mythological histories of cultures.

You pay for rent, utilities, and access so that the virtual environment can maintain its existence. You solicit donations from participants, but you do not charge for access. Your virtual environment is open to any member of the interested public who has access to the necessary computer equipment. You can accommodate approximately [REDACTED] users at any one time.

Section 501(c)(3) of the Code provides, in relevant part, for the exemption from federal income tax of corporations organized and operated exclusively for charitable, scientific or educational purposes, provided no part of the corporation's net earnings inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization

will not be so regarded if more than an insubstantial part of its activities are not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(3) of the regulations defines the term educational as the instruction or training of the individual for the purpose of improving his capabilities; or the instruction of the public on subjects useful to the individual and beneficial to the public.

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279, the Supreme Court held that the presence of a single non-exempt purpose, if substantial in nature, will destroy a claim for exemption regardless of the number or importance of truly exempt purposes.

Rev. Rul. 66-179, 1966-1 C.B. 139, holds that, depending upon its form of organization and method of operation an organization commonly referred to as a "garden club" may qualify for exemption from Federal income tax as a charitable or educational organization described in section 501(c)(3) of the Code, a civic organization described in section 501(c)(4), a horticultural organization described in section 501(c)(5), or a social club described in section 501(c)(7) of the Code. Situation 1 describes a club qualifying under section 501(c)(3) of the Code. The organization (1) maintains and operates a free library of materials on horticulture and allied subjects, (2) instructs the public on correct gardening procedures and conservation of trees and plants by means of radio, television, and lecture programs, (3) holds public flower shows of a noncommercial nature at which new varieties of plants and flowers are exhibited, (4) makes awards to children for achievements in gardening, (5) encourages roadside beautification and civic planting, and (6) makes awards for civic achievement in conservation and horticulture. An organization whose activities consist of presenting public discussion groups, forums, panels, lectures, or other similar programs, may be an educational organization. This organization is organized and, in carrying out its purposes in the manner described above, is operated exclusively for charitable and educational purposes. Accordingly, the organization qualifies for exemption under section 501(c)(3) of the Code.

Rev. Rul. 67-139, 1967-1 C.B. 129, holds that, depending upon its form of organization and method of operation, a gem and mineral club may qualify for exemption from Federal income tax as an educational organization under section 501(c)(3) of the Code or as a social club under section 501(c)(7) of the Code.

[REDACTED]

Situation 1 describes a club qualifying under section 501(c)(3) of the Code. In that case, the club (1) holds monthly lectures at which qualified experts discuss topics pertaining to gems and minerals and give instruction on lapidary techniques; (2) sponsors field trips to collect and study various kinds of rocks and minerals; (3) issues a bulletin containing educational material pertaining to rocks and minerals; (4) maintains a library of reference materials on geological, mineralogical, and lapidary subjects; (5) assists the local museum in its display of gems and minerals through specimens provided from members' collections; and (6) annually conducts a show for the general public at which members and nonmembers demonstrate lapidary techniques and display collections of gems and minerals. The lectures, discussions, field trips, and shows conducted by the club, to which the general public is invited, are recognized educational methods. These activities are educational within the meaning of the regulations even though they serve recreational interests.

Both the gardening club described in Rev. Rul. 66-179 and the gem and mineral club described in Rev. Rul. 67-139 provide structured educational programs. Although the educational activities serve recreational interests, the structured activities are themselves educational. In contrast, you provide no structured educational program. Rather, you provide an environment for participants who wish to play a complex game. Such an activity serves primarily recreational or social purposes. The existence of a substantial recreational or social purpose precludes exemption under section 501(c)(3) of the Code; see Better Business Bureau v. U.S.

Accordingly, based on all the facts and circumstances, we conclude that you do not qualify for recognition of exemption under section 501(c)(3) of the Code. Contributions to you are not deductible under section 170 and you are required to file federal income tax returns.

You have the right to protest this ruling if you believe that it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted within 30 days of the date of this letter and must be signed by one of your officers. You also have a right to a conference in this office after your statement is submitted. If you want a conference, you must request it when you file your protest statement. If you are to be represented by someone who is not one of your officers, he/she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

[REDACTED]

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director. Thereafter, any questions about your federal income tax status should be addressed to that office. The appropriate State officials will be notified of this action in accordance with section 6104(c) of the Code.

You will expedite our receipt of your reply by using the following address on the envelope:

[REDACTED]

[REDACTED]

[REDACTED]