



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Number: **200851040**
Release Date: 12/19/2008
Date: September 26, 2008

Contact Person:
Identification Number:
Contact Number:
Employer Identification Number:
Form Required To Be Filed:
Tax Years:

SE:T:EO:RA:T:3

Uniform Issue List:
501.03-20

Dear :

This is our final determination that you do not qualify for exemption from Federal income tax as an organization described in Internal Revenue Code section 501(c)(3). Recently, we sent you a letter in response to your application that proposed an adverse determination. The letter explained the facts, law and rationale, and gave you 30 days to file a protest. Since we did not receive a protest within the requisite 30 days, the proposed adverse determination is now final.

Because you do not qualify for exemption as an organization described in Code section 501(c)(3), donors may not deduct contributions to you under Code section 170. You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file. File the returns in accordance with their instructions, and do not send them to this office. Failure to file the returns timely may result in a penalty.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

In accordance with Code section 6104(c), we will notify the appropriate State officials of our determination by sending them a copy of this final letter and the proposed adverse letter. You should contact your State officials if you have any questions about how this determination may affect your State responsibilities and requirements.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at 1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Robert Choi
Director, Exempt Organizations
Rulings & Agreements

Enclosure
Notice 437
Redacted Proposed Adverse Determination Letter
Redacted Final Adverse Determination Letter



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: May 7, 2008

XXXXX
XXXXX
XXXXX

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:
XXXXX

Uniform Issue List:
501.03-20

Legend:

M = XXX
N = XXX

o = XXX
p = XXX
q = XXX
r = XXX
s = XXX
t = XXX
u = XXX
v = XXX

Dear :

We have considered your application for recognition of exemption from Federal income tax under Internal Revenue Code section 501(a). Based on the information provided, we have concluded that you do not qualify for exemption under Code section 501(c)(3). The basis for our conclusion is set forth below.

You are a nonprofit organization incorporated in the State of M. Your Articles of Incorporation state that your purpose is to spread the gospel of Jesus Christ through professionally run fishing tournaments.

You have a three person Board of Directors. None of the directors are compensated. None of the directors are related through family or business.

In order to accomplish your stated purpose, you run a tournament fishing trail that consists of four to five events in various places within the State of N. Tournament participation is limited to your membership. Full membership costs \$o and family membership costs \$p. Participants must also pay an entry fee before being allowed to compete in the tournament. The entry fee is

\$g per boat per tournament. Each boat may have one two-person team. Teams may declare their intention to participate in all tournament trail events. Teams that so declare must pay \$r to guarantee their spot in every tournament event and to cover their first two entry fees. All of the membership dues go to fund your expenses. \$s of every \$g entry fee goes into a pool of funds for that respective tournament. 100% of that pool is paid out to the event winner. The remaining \$s goes into a pool for the championship event. If no fish are caught in a tournament event, the \$t portion of the entry fee is refunded to each team.

The winning team from each event receives u points for purposes of the championship event. Points are distributed to the rest of the teams in five point increments based on the team's finishing position relative to the winning team. Teams fishing in a tournament event, but catching no fish will receive t points. Teams paying an entry fee for a tournament event, but not actually showing up to fish will receive v points. Attendance at two out of four of your pre-tournament meetings will earn a team an additional u points.

To qualify for the championship event, a team must participate in at least two out of the four pre-championship tournament events and catch at least one legal fish in one of the four pre-championship tournament events. The ten teams meeting the above qualifications with the most points advance to compete in the championship event. The winner of the championship event is entitled to full payout of the money in the championship pool and any additional prize money or prizes obtained from sponsors.

Each of the four tournament events spans two days, a Friday evening and a Saturday. Every Friday evening event consists of a pre-tournament meeting. The meetings run approximately two and one-half hours. Of that time, slightly more than one half hour is spent presenting the Gospel of Jesus Christ to your participants. The rest of the time is spent eating dinner, socializing, and reviewing tournament rules. Attendance at the pre-tournament meeting is not a mandatory prerequisite for participation in the next day's tournament activities. The Saturday tournament activities span approximately 10 hours. You lead a quick prayer of about 20 to 30 seconds directly before the tournament launch. The rest of the 10 hours is spent fishing and attending an awards ceremony.

Section 501(a) of the Code provides, in part, that organizations described in section 501(c) are exempt from federal income tax. Section 501(c)(3) provides, in pertinent part, that an organization must be organized and operated exclusively for religious, charitable, or educational purposes and that no part of its net earnings may inure to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations ("Regulations") provides that in order for an organization to be exempt under section 501(c)(3) of the Code it must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational or operational test, it is not exempt.

Section 1.501(c)(3)-1(a)(1)(i)(a) of the Regulations provides that an organization is organized exclusively for one or more exempt purposes only if its articles of organization limit the purposes of such organization to one or more exempt purposes.

Section 1.501(c)(3)-1(b)(4) of the Regulations provides that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an

exempt purpose. Further, it provides that an organization does not meet the organizational test if its articles or the law of the State in which it was created provide that its assets would, upon dissolution, be distributed to its members or shareholders.

Section 1.501(c)(3)-1(c)(1) of the 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 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 is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(c)(2) of the Regulations provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals. Section 1.501(a)-1(c) defines the words "private shareholder or individual" in section 501 to refer to persons having a personal and private interest in the activities of the organization.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations provides that an organization must be organized and operated to serve a public rather than a private interest and specifically that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled directly or indirectly, by such private interests.

Better Business Bureau of Washington D.C., Inc. v. U.S., 326 U.S. 279 (1945), holds that the presence of a single non-exempt purpose, if substantial in nature, will preclude exemption, regardless of the number or importance of statutorily exempt purposes.

Rev. Rul. 77-366, 1977-2 C.B. 192, provides an example of a non-exempt religious travel tour organization. The organization arranged and conducted winter-time oceans cruises. The organization's stated purpose was to provide a continuing education program in an atmosphere conducive to spiritual renewal. However, its only activities consisted of the regular arranging and conducting of fourteen-day winter-time cruises on chartered ships. In addition to the usual cruise activities, the organization provided activities that furthered religious and educational purposes. The programs conducted on each cruise included a schedule of lectures, discussion groups, and special interest workshops on religious topics, at which attendance was not required. For approximately four hours on each of the nine days the ship was at sea, theologians and religiously-oriented psychologists led lectures, discussions, and workshops. The remainder of the time was available for meals, recreational activities, and social functions. Certain activities of the organization, specifically the lectures, discussions, workshops, and some of the activities on shore, furthered charitable purposes. However, the substantial amount of time, energy, and other resources regularly devoted to the conduct of extensive social and recreational activities demonstrated that the organization's conduct of such social and recreational activities served substantial independent purposes of a non-charitable nature.

In Rev. Rul. 77-430, 1977-2 C.B. 194, an organization which operated a religious retreat where recreational facilities were available was recognized as exempt. The organization's activities were conducted at a rural lakeshore site donated to it by its founder. Although no fees were charged for the retreats, participants were encouraged to contribute to the organization to whatever extent possible. Activities of a religious nature were scheduled on an hourly basis throughout the day. Although no recreational activities were scheduled, there was a limited

amount of free time in which the participants could relax and enjoy the facilities. The revenue ruling determined that the use of these facilities under these circumstances were incidental to the organization's purpose of advancing religion.

Although you conduct some religious activity, you are operated to promote substantial nonexempt purposes. Your activities are similar to those of the organization described in Rev. Rul. 77-366. That organization offered religiously-oriented lectures for four hours per day for nine out of fourteen days on each of the cruises that it offered. Attendance at the religiously-oriented activities was not required and the remainder of the time was available for social and recreational activities. On each of your tournament weekends, you offer a little over one half hour of religiously-oriented activity. Attendance at that religiously-oriented activity is not required of tournament participants. The remaining 12 hours of the tournament weekend are spent on social and recreational activity. Thus, like the organization in Rev. Rul. 77-366, you devote a substantial amount of time, energy, and resources to social and recreational activities. Therefore, your social and recreational activities serve substantial non-charitable purposes.

Additionally, unlike the organization described in Rev. Rul. 77-430, you charge fees for participation in your activities. You also have substantial amounts of recreational activity scheduled and only a limited amount of time scheduled for religious activities. As a result, your tournament activities are not incidental to the exempt purpose of advancing religion.

You also award 100% of your tournament fees to tournament winners. Tournament winners, in and of themselves, do not constitute a charitable class. Therefore, a major part of your assets are being distributed for the private benefit of individuals. Such private benefit is prohibited by section 1.501(c)(3)-1(c)(2) of the Regulations.

Accordingly, you do not qualify for exemption as an organization described in section 501(c)(3) of the Code and you must file federal income tax returns.

Contributions to you are not deductible under section 170 of the Code.

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter. We will consider your statement and decide if the information affects our determination.

Your protest statement should be accompanied by the following declaration:

Under penalties of perjury, I declare that I have examined this protest statement, including accompanying documents, and, to the best of my knowledge and belief, the statement contains all the relevant facts, and such facts are true, correct, and complete.

You also have a right to request a conference to discuss your protest. This request should be made when you file your protest statement. An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you. If you want representation during the conference procedures, you must file a proper power of attorney, Form 2848, *Power of Attorney and Declaration of Representative*, if you have not already done so. For more information about representation, see Publication 947, *Practice before the IRS*

and Power of Attorney. All forms and publications mentioned in this letter can be found at www.irs.gov, Forms and Publications.

If you do not file a protest within 30 days, you will not be able to file a suit for declaratory judgment in court because the Internal Revenue Service (IRS) will consider the failure to protest as a failure to exhaust available administrative remedies. Code section 7428(b)(2) provides, in part, that a declaratory judgment or decree shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted all of the administrative remedies available to it within the IRS.

If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848 and any supporting documents to this address:

You may also fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Robert Choi
Director, Exempt Organizations
Rulings & Agreements