

Internal Revenue Service
District Director

Department of the Treasury

Post Office Box 1680, GPO
Brooklyn, NY 11202

Date: JAN 31 1987

Person to Contact:

Contact Telephone Number:

Refer Reply to:

Employer Identification
Number:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for tax-exempt status under section 501(c)(3) of the Internal Revenue Code.

The evidence presented disclosed that you were formed as an unincorporated association on [REDACTED]

[REDACTED] ([REDACTED]) is a group of people that share common interests and periodically meet to discuss topics in connection concerning the mini-cups. The entity has two goals: (1) To have a good times, while playing it safe and (2) To get to know one another and become good friends. The entity will race and distribute any money from the tracks evenly amongst the member/drivers. [REDACTED] is to receive 10% as a fee before track winnings are distributed to the drivers.

[REDACTED] will provide its members the opportunity to race at different tracks and be compensated for their participation. The entity intends to have members share the proceeds from the track equally. The organization will also conduct various fundraisers to help future and upcoming drivers to purchase car parts, bodies and other items needed. [REDACTED] also hopes to donate some of the money raised to a charitable organization. The association usually conducts its meetings at the tracks where members race before practice.

The organization will received income from driver dues, track proceeds and gross receipts. The organization conducts such fundraisers as photo sales, bake sales, walk-a-thons, etc.

[REDACTED] will disperse its funds for outstanding bills (telephone office supplies, engine seals, etc.), gifts (to track owners, assistants and drivers) and contribution to a charitable organization.

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, religious, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

In order to qualify under IRC 501(c)(3), an organization must be both "organized" and "operated" exclusively for one or more purposes specified in that section. If the organization fails to meet either the organizational test or the operational test, it is not exempt. (Regs. 1.501(c)(3)-1(a)(1)). The organizational test relates to the rules for governing an organization and the purposes stated in its articles of organization. The operational test relates to the organization's activities.

Section 1.501(c)(3)-1(b)(4) of the Regulations states that "an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, for example, if upon dissolution, such assets would, by reason of a provision in the organization's articles or by operation of law, be distributed for one or more exempt purposes, or to the Federal government, or to a State or local government, for a public purpose, or would be distributed by a court to another organization to be used in such manner as in the judgment of the court will best accomplish the general purposes for which the dissolved organization was organized. However, 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 states that if more than an insubstantial part of an organization's activities is not in furtherance of exempt purposes, the organization will not be regarded as exempt.

An organization's articles of association does not limit its purpose to those within the purview of section 501(c)(3) of the Code. In addition the articles of association did not contain a dissolution provision which dedicates your assets to an exempt purpose. Therefore, the articles of association of the [REDACTED] fails to meet the organization test requirements of section 1.501(c)(3) - 1(b) of the Regulations.

Your primary activity is to promote and engage in the sport of car racing. Your entity will divide all track proceeds among its members (drivers) after the entity itself receives [REDACTED] % of the income as fee. Such activity is considered to be a commercial activity. An entity which engages in such activity fails to meet the operational test requirements of section 1.501(c)(3) - 1(c) of the Regulations.

In lights of the above, we hold that you are not entitled to exemption under section 501(c)(3) of the Code because you are not organized or operated exclusively for charitable purposes.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(3) of the Code and propose to deny your request for exemption under that section.

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

Contributions made to you are not deductible by the donors as charitable contributions as defined in section 170(c) of the Code.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time this determination will be considered final and the appropriate State Officials will be notified.

If you do not protest this proposed determination 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 Internal Revenue Code provides in part that "A declaratory judgment 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."

Sincerely yours

Harold J. Diff
District Director

Enclosure: Publication 892