

Internal Revenue Service  
Director, Exempt Organizations

Department of the Treasury  
P.O. Box 2508 - EP/EO  
Cincinnati, OH 45201

Date: **MAR 01 2000**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Employer Identification Number:

Person to Contact - I.D. Number:

Contact Telephone Numbers:

[REDACTED] Phone  
[REDACTED] FAX

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(3) of the Internal Revenue Code of 1986 and its applicable Income Tax Regulations. Based on the available information, we have determined that you do not qualify for the reasons set forth on Enclosure I.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1041 if you are a Trust, or Form 1120 if you are a corporation or an unincorporated association. Contributions to you are not deductible under section 170 of the Code.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892, "Exempt Organizations Appeal Procedures for Unagreed Issues." The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

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.

We have sent a copy of this letter to your representative as indicated in your power of attorney.

If we do not hear from you within the time specified, this will become our final determination. In that event, appropriate State officials will be notified of this action in accordance with the provisions of section 6104(L) of the Code.

Sincerely,

Steven T. Miller

Director, Exempt Organizations

Enclosures: 3

Enclosure I  
Reasons for Proposed Denial of Exempt Status

[REDACTED]  
[REDACTED]  
Facts:

You were formed by [REDACTED]  
[REDACTED]

According to that document, your stated purpose was "to foster national and international rugby competition in [REDACTED] [REDACTED] to provide instruction and training for individuals to develop and improve their rugby football skills: to provide financial assistance to the underprivileged, poor and distressed to enable them to participate in rugby football; to sponsor education and activities that foster a better understanding of the history and development of the sport of rugby and the people associated with it; to initiate favorable publicity of the physical and mental benefits from participating in sports in general and rugby in particular; to provide lectures, clinics, exhibitions, contests, games and other productions to develop and promote the advancement of amateur American rugby football; to provide financial assistance to rugby clubs in [REDACTED] area, including [REDACTED] for traveling expenses in national and in national and international rugby football competition; to acquire land and/or buildings that would provide an official rugby facility for [REDACTED] and other rugby clubs in [REDACTED]; to produce and distribute films, literature, newsletters, circulars or other means of distributing information concerning rugby and athletics; to provide education and training in athletics, physical fitness and physical development of the person; to provide a recreational outlet for the general public; to provide sportsmanlike competition; to eliminate prejudice and discrimination in athletics due to race, color or creed; to promote the ideals of the United States in foreign countries through athletic competition and to procure donations and other funding to carry out the purposes described above."

You are closely associated with [REDACTED], [REDACTED], an organization who has been recognized as a social club that is exempt under 501(c)(7) of the Code.

On page 2 of your application you stated that your activities will be to "investigate opportunities to purchase or lease land to be used as playing fields for rugby football in [REDACTED]... make the site suitable for use as a rugby playing facility... coordinate regular maintenance and additional improvements..." and "coordinate the scheduling of the facility for use by local rugby

[REDACTED]  
clubs." You also stated that the facility may be made available to non rugby organizations on a space available basis.

According to your letter dated [REDACTED], you intend to foster national and international amateur rugby competition by sponsoring coaches and player clinics and rugby clubs.

In your letter dated [REDACTED], you state that your primary purpose is to foster national and international amateur rugby football competition in [REDACTED]. You stated that you will conduct players' and coaches' clinics, present educational lectures and distribute educational literature, and sponsor a facility for use by rugby clubs. You stated that the age of the athletes who will use the playing field will be from [REDACTED] to [REDACTED] and only organizations exempt under Section 501 would be allowed to use your facilities.

In your letter dated [REDACTED], you stated that you do not intend to devote your services to a small group of outstanding athletes, but rather to athletes of all ages.

Law:

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). 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(d)(3) of the Income Tax Regulations defines the term "educational" as including the instruction or training of the individual for the purpose of improving or developing his capabilities, or the instruction of the public on subjects useful to the individual and beneficial to the community.

Section 501(j)

Special Rules for Certain Amateur Sports Organizations --

(1) In general. -- In the case of a qualified amateur sports organization --

(A) the requirement of subdivision (c)(3) that no part of its activities involve the provision of athletic facilities or equipment shall not apply, and

(B) such organization shall not fail to meet the requirements of subsection (c)(3) merely because its membership is local or regional in nature.

[REDACTED]

(2) Qualified amateur sports organization defined. -- For purposes of this subsection, the term "qualified amateur sports organization" means any organization organized and operated exclusively to foster national or international amateur sports competition if such organization is also organized and operated primarily to conduct national or international competition in sports or to support and develop amateur athletes for national or international competition in such sports.

Section 501(c)(4) of the Code provides for the exemption from Federal income tax of civil leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(2) of the regulations provides that, in general, an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community.

Rev. Rul. 59-310 - A nonprofit corporation organized for the purpose of establishing, maintaining and operating a public swimming pool, playground and other recreation facilities for the children and other residents of a community is exempt from Federal income tax under section 501(a) of the Internal Revenue Code of 1954 as a charitable organization described in section 501(c)(3) thereof.

Rev. Rul. 70-186 - A nonprofit organization formed to preserve and improve a lake that is used extensively as a public recreational facility qualifies for exemption under section 501(c)(3) of the Code.

Rev. Rul. 78-85 - A nonprofit organization with membership open to the general public that was formed by residents of a city to help preserve, beautify, and maintain a public park located in the city and whose support is derived from membership dues and contributions from the general public is operated exclusively for charitable purposes and qualifies for exemption under section 501(c)(3) of the Code; Rev. Rul. 75-286 distinguished.

Rev. Rul. 77-365 - A nonprofit organization that conducts clinics, workshops, lessons, and seminars at municipal parks and recreational areas to instruct and educate individuals in a particular sport is operated exclusively for educational purposes and qualifies for exemption under IRC 501(c)(3).

Rev. Rul. 57-493 - A corporation organized to build a stadium and lease it to a school district is not entitled to exemption under section 501(c)(3) but is exempt under section 501(c)(4).

Rev. Rul. 67-109 - A nonprofit corporation organized and operated exclusively for the purpose of establishing and maintaining a roller skating rink as a recreational facility for the benefit and use of the residents of a particular county, in a county-owned building which it occupies rent free in cooperation with the county government, may qualify for exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code of 1954 where the rink is open to the general public upon payment of such nominal dues and admissions charges as are needed to defray operating expenses.

Rev. Rul. 69-384 - An organization created to maintain an amateur baseball association made up of baseball teams with amateur players of college age is exempt under IRC 501(c)(4).

Rev. Rul. 70-4 - An organization engaged in promoting and regulating a sport for amateurs is not exempt under IRC 501(c)(3) but may be exempt under IRC 501(c)(4).

Rev. Rul. 75-286 - A nonprofit organization with membership limited to the residents and business operators within a city block and formed to preserve and beautify the public areas in the block, thereby benefiting the community as a whole as well as enhancing the members' property rights, will not qualify for exemption under section 501(c)(3) of Code but may qualify under section 501(c)(4).

Rev. Rul. 64-275 - An organization formed for the purpose of training suitable candidates in the techniques of racing sailboats in national and international competition, and thereby improving the caliber of candidates representing the United States in Olympic and Pan-American games, qualifies for exemption from Federal income tax as an educational organization described in section 501(c)(3) of the Internal Revenue Code of 1954.

Hutchinson Baseball Enterprises, Inc. v. Commissioner of Internal Revenue, 73 T.C. at 144. The organization in Hutchinson funded and operated an amateur baseball team, leased and maintained baseball fields for the use of Little League, American Legion teams and a baseball camp, and provided coaches for Little League teams. The court held and Tenth Circuit Court affirmed that that organization fulfilled a charitable purpose within the meaning of 501(c)(3). The organization provided coaching and instruction for children and recruited only amateur players to play on the team it sponsored.

Media Sports League, Inc. v. Commissioner of Internal Revenue T.C. Memo 1986-568. Petitioner's Articles of Incorporation stated that the organization was organized to promote the development of amateur athletics, the physical and moral well being of all athletes through competition and to "educate public opinion." The petitioner relied on Hutchinson Baseball Enterprises, Inc. v. Commissioner of Internal Revenue to support its contention that its operations furthered amateur athletics. The Court found that the petitioner did not provide formal or on going instruction to its member, had no skill requirements to play in its leagues and does not require its members to participate in any of its activities. The court held that the operational test for exemption under

[REDACTED]

[REDACTED]

section 501(c)(3) was not met since one of the organization's goals was to further the social and recreational purposes of its members.

Wayne Baseball, Inc. v. Commissioner of Internal Revenue T.C. Memo, 1999-304 Wayne Baseball, Inc.'s principal activity is the sponsorship of a highly competitive amateur baseball team. The typical player is over the age of 21, but the roster includes younger players. Each player possesses a high degree of skill in the game. The court found that that organization furthers social and recreational interests and was, therefore, not entitled to exemption under section 501(c)(3).

#### Analysis

You are not an organization described in section 1.501(c)(3) of the Income Tax Regulations because you are not operated exclusively for charitable or educational purposes since your activities include the purchase and maintenance of a facility for a social club.

You are not an organization described in section 501(j) since you are not organized and operated exclusively to foster national and international sports competition. Conducting players' and coaches' clinics, lectures, and educational literature does not demonstrate national or international sports competition nor does the provision of a facility for a social club and players ranging in age from [REDACTED] to [REDACTED] demonstrate national and international sports competition.

You are not an organization described in section 501(c)(4) since you have not shown the facility will promote the common good and general welfare of the people of the community when your primary purpose is the provision of the facility for a social club.

Rev. Rul. 59-310, 70-186, and 78-85 describe organizations who, like [REDACTED], provided recreational facilities. In all three cases the organizations were found to be exempt under 501(c)(3) because the benefits to be derived from the activities of the organizations flowed principally to the general public through the maintenance of public recreational facilities. Those facilities were open to the general public and were commonly used by citizens of the entire city.

Unlike those organizations, [REDACTED] will provide its facilities primarily to [REDACTED], a social club exempt under 501(c)(7), and similar clubs in the region.

Rev. Rul. 77-365 provides guidance concerning organizations that may be exempt based on the education that is provided to the public. You may be distinguished from the revenue ruling since your activities are not exclusively educational.

Rev. Rul. 57-493 and 67-109 provide examples of organizations whose activities, like Worcester Rugby Football Foundation, Inc., include providing facilities. In both cases the organizations were found to qualify for exemption under 501(c)(4). You may be distinguished from the





[REDACTED]

For the reasons stated above, we disagree with your position. You are providing a facility for a social club described in section 501(c)(7) not for an amateur sports team engaging in national competition.

In conclusion, you are not an organization described in section 501(j) of the Code since you are not organized and operated exclusively to foster national and international sports competition. You are not organized and operated exclusively for charitable and educational purposes; therefore, you do not qualify for exemption under 501(c)(3). You are not an organization described in section 501(c)(4) since you primarily serve the needs of a social club, not the general public. Exemption under section 501(c)(4) was suggested if you could show the facility would primarily serve the general public as opposed to the social club. You declined consideration under 501(c)(4). Accordingly, exemption is denied.

Department of the Treasury - Internal Revenue Service  
Consent to Proposed Adverse Action  
(All references are to the Internal Revenue Code)

Case Number [REDACTED]	Date of Latest Determination Letter
Employer Identification Number [REDACTED]	Date of Proposed Adverse Action Letter MAR 01 2000

Name and Address of Organization  
[REDACTED]

I consent to the proposed adverse action relative to the above organization as shown below. I understand that if Section 7428, Declaratory Judgements Relating to Status and Classification of Organizations under Section 501(c)(3), etc. applies, I have the right to protest the proposed adverse action.

NATURE OF ADVERSE ACTION

- Denial of exemption MAR 01 2000
- Revocation of exemption, effective.
- Modification of exemption from section 501(c)( ) to section 501 ( ), effective
- Classification as a private foundation described in section 509(a), effective .
- Classification as an private operating foundation described in sections 509(a) and 4942(j)(3), effective for
- Classification as an organization described in section 509(a)( ), effective
- Classification as an organization described in section 170(b)(1)(A)( ), effective

If you agree to the adverse action shown above, please sign and return this consent. You should keep a copy for your records.

If you sign this consent before you have exhausted your administrative appeal rights, you may lose your rights to a declaratory judgement under section 7428.

(Signature instructions on Back)

Name of Organization:  
[REDACTED]

Signature and Title	Date
Signature and Title	Date