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Date [REDACTED]

Signature [REDACTED]

OP:E:EO:T:3

EIN: [REDACTED]

MAR 3 1999

Dear Applicant:

We are considering your application for recognition of exemption under section 501(c)(3) of the Internal Revenue Code. You were incorporated on [REDACTED]. You were recognized as exempt from federal income tax as an organization described in section 501(c)(4) of the Internal Revenue Code by letter dated [REDACTED]. You are now seeking exemption from federal income tax as an organization described in section 501(c)(3) of the Code, effective [REDACTED], the date on which you filed your exemption application.

Facts:

Your Articles of Incorporation provide that you were formed:

- a. To receive and administer funds exclusively for religious, charitable, scientific, and educational purposes within the meaning of section 501(c)(3) of the Code, and to make distributions to organizations that qualify as exempt under section 501(c)(3) of the Code.
- b. To provide information and education to promote amateur golf and athletic endeavor in and around the [REDACTED] and [REDACTED] to conduct an educational program devoted to developing amateur golf interest and ability in the schools, playgrounds, and public parks; to conduct golf clinics and otherwise provide public coaching instructions for junior players; to provide funds to sponsor, organize, promote, manage and conduct golf tournaments and exhibitions which are designed to educate and stimulate interest in golf and to provide funds therefor and for other religious, charitable, scientific, and educational purposes; to construct, purchase, own and maintain permanent facilities for participants and spectators for the presentation of golf clinics, tournaments and exhibitions;...; and ... to promote sportsmanship, recreation and good health in the community.

[REDACTED]

Your bylaws provide that your purposes are promoting amateur golf in and around [REDACTED]; to organize, and manage golf tournaments and exhibitions which are designed to educate and stimulate interest in golf; to promote sportsmanship, recreation and good health in the community.

You are affiliated with the [REDACTED]. You sponsor the [REDACTED] (hereafter [REDACTED]). You promote the [REDACTED] throughout the [REDACTED] as well as on a nationwide basis.

The [REDACTED] is the [REDACTED], and has been in existence for approximately [REDACTED] years. You state that the [REDACTED] originally was established to offer tournament experience, like the [REDACTED] to [REDACTED], at a time when [REDACTED] were not accepted in [REDACTED].

You state that many professionals have moved on to the [REDACTED] from the [REDACTED] such as [REDACTED], [REDACTED] and [REDACTED] among others.

The [REDACTED] is held each year on the Labor Day weekend at the [REDACTED]. You have a long term contract with the [REDACTED] to use the two golf courses at the [REDACTED]. Your members volunteer their time in planning and conducting the [REDACTED].

You sponsor a hospitality dinner on the Friday night of the tournament weekend for the [REDACTED] players and sponsors. Only guests of the players pay to attend the dinner. Also, a social hour with cocktails is held before the dinner.

[REDACTED] professionals, [REDACTED] senior professionals, and [REDACTED] amateurs participated in the [REDACTED]. The entry fees for the professionals were \$[REDACTED], and the entry fees for the amateurs were \$[REDACTED].

The [REDACTED] brochure indicates that the first [REDACTED] Sr. Professionals and the first [REDACTED] Professionals will receive award money, while the first [REDACTED] amateurs will receive golf prizes. The brochure further states that the Sr. Pro winner will receive \$[REDACTED], the Pro winner will receive \$[REDACTED], and the Amateur winner will receive [REDACTED].

The day before the [REDACTED] you use the [REDACTED] driving range for exhibitions and junior golf clinics. You arrange with high schools and middle schools to provide interested students. You provide transportation for these students. Tournament players act as trainers at the golf clinics. The purposes of the clinics are to educate the community about golf and to stimulate the playing of golf among those in the community of modest means. Also, you state that the junior golf clinics are designed to attract young persons to the game of

you state that the purpose of these events is to promote racial understanding.

In the past you have sponsored other local projects. You provided golf clubs and assistance to a local high school and middle school to develop a golf team at these schools. Also, you sponsor a scholarship at [REDACTED]

You received a \$[REDACTED] sponsorship payment from [REDACTED] in [REDACTED]. For this payment the [REDACTED] was named the [REDACTED]. In addition to sponsorship payments, your fundraising activities include telephone solicitation, personal contacts, and the use of a professional fundraiser. The professional fundraiser received \$[REDACTED].

The financial information reflects that \$[REDACTED] was paid to [REDACTED], a marketing representative. This amount reflected a percentage of revenue received from sponsors she obtained.

You receive income from the (i) Sale of ads, (ii) Awards Dinner cost for guests, (iii) Tournament fees, and (iv) Sponsorship payments. However, the financial information furnished does not show a breakdown of the amount of income generated by each fundraising activity. Also, you furnished no information concerning your investment income.

Your [REDACTED] Financial Report through [REDACTED] contained pen and ink changes which showed that you had \$[REDACTED] in income and \$[REDACTED] in expenses. You indicate that you expect to show losses for the next couple of years. In comparison, your [REDACTED] Financial Report showed no loss. The 1997 Report showed \$[REDACTED] in income and \$[REDACTED] in expenses.

Law:

Section 501(c)(3) of the Internal Revenue Code provides, in part, for the exemption from federal income tax of organizations "organized and operated exclusively for . . . charitable, . . . or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment). . . ."

Section 501(j)(1) of the Code provides that 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.

(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 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that in order to be exempt as an organization described in section 501(c)(3) of the Code, an organization 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 test or the operational test, it is not exempt.

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 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 is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(2) of the regulations defines the term charitable, as used in section 501(c)(3) of the Code, in its generally accepted legal sense. "Such term includes: Relief of the poor and distressed or of the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments, or works; lessening of the burdens of Government; and promotion of social welfare by organizations designed to accomplish any of the above purposes, or (i) to lessen neighborhood tensions; (ii) to eliminate prejudice and discrimination; (iii) to defend human and civil rights secured by law; or (iv) to combat community deterioration and juvenile delinquency...."

Section 1.501(c)(3)-1(e)(1) of the regulations provides that "an organization may meet the requirements of section 501(c)(3) although it operates a trade or business as a substantial part of its activities, if the operation of such trade or business is in furtherance of the organization's exempt purpose or purposes and if the organization is not organized or operated for the primary purpose of carrying on an unrelated trade or business, as defined in section 513. In determining the existence or nonexistence of such primary purpose, all the circumstances must be considered, including the size and extent of the trade or business and the size and extent of the activities which are in furtherance of one or more exempt purposes."

Rev. Rul. 64-182, 1964-1 (Part 1) C.B. 186, holds that "an organization which derives its income principally from the rental of space in a large commercial office building which it owns, maintains and operates, and makes contributions to charitable organizations at the discretion of its governing body" qualifies for exemption under section 501(c)(3) of the Code "if the amount of contributions shows that it is carrying on a charitable program commensurate in scope with its financial resources."

Rev. Rul. 70-4, 1970-1 CB 126, holds, in effect, that an organization which circulated printed material about a sport, conducted exhibitions to introduce the sport to the public, conducted tournaments, and gave occasional instructive clinics did not qualify as exempt under section 501(c)(3) as an educational organization. It was reasoned that since the organization had no regular program of teaching the sport, and since the promotion and regulation of a sport for amateurs neither improves nor develops the capabilities of the individual, nor instructs the public on subjects useful to the individual and beneficial to the community the organization did not qualify for exemption under section 501(c)(3) of the Code.

Rev. Rul. 80-215, 1980-2 CB 174, states that an organization which promotes competition in sports among children is a charitable organization described in section 501(c)(3), even though it does not teach the sport or support an institution that does.

In Golf Life World Entertainment Golf Championship, Inc. v. United States, 65-1 U.S.T.C. p.9174 (S.D. Calif. 1964) (otherwise unreported), which concerned a nonprofit corporation whose only activity was the promotion and conduct of an annual golf tournament, with net proceeds distributed to an exempt charity, the court stated:

While it is true that plaintiff is organized to conduct a golf tournament, it seems well settled that an organization need not engage in a functional charitable activity to be organized and operated for charitable purposes within the meaning of Sec. 501(c)(3).... Such charitable purposes may be accomplished solely by providing funds to other exempt charitable organizations.... Moreover, the fact that plaintiff obtains all of its income from a profit making activity does not destroy the fact that it is organized and operated for charitable purposes within the meaning of Sec. 501(c)(3).

Rationale:

The threshold issues are (1) whether you are engaged in charitable and educational activities within the meaning of section 501(c)(3) of the Code; (2) whether you are primarily operated to educate and instruct children in how to play golf;

[REDACTED]

(3) whether you are organized and operated exclusively to foster national and international sports competition, within the meaning of section 501(c)(3) of the Code; and (4) whether you are a qualified amateur sports organization, within the meaning of section 501(j) of the Code.

The Service traditionally recognizes an organization as exempt under section 501(c)(3) of the Code, if such organization instructs children in sports. While you hold free instructional clinics for children the day before the [REDACTED] begins, your primary activity is the sponsorship of the [REDACTED]. Because your primary activity is not instructing children in golf, you are not like the organization described in Rev. Rul. 80-215, supra.

Moreover, your development of a golf team at a local high school and middle school, as well as your sponsorship of a golf scholarship at [REDACTED] may be educational activities within the meaning of section 501(c)(3) of the Code, but these activities are not your primary activities.

The commensurate-in-scope test looks to the source of an organization's income from commercial endeavors for the limited purpose of determining the extent to which the organization is committed to the accomplishment of exempt purposes. If the facts show that the organization is carrying on a charitable program reasonably commensurate with its financial resources, including income from business activities, it cannot be said that the particular trade or business activity is being so conducted as to serve some nonexempt purpose. A different conclusion would result where the charitable function is incidental and subordinate to the conduct of a commercial trade or business for profit.

Where there is little likelihood that income will be generated from the event itself, there is ground for asserting that no substantial charitable purpose is manifested in conducting the event, and that consequently, there is no basis for concluding that the organization is being operated for the primary purpose of carrying on a charitable activity. That is, it may be argued that the operation of an unprofitable event is basically incompatible with meeting the 'primary purpose' test and should not entitle an organization to exempt status.

Your primary activity is the sponsorship of the [REDACTED] in which both professional golfers and amateur golfers compete. None of the documents submitted reflect that the [REDACTED] is a charitable event. While volunteers plan and conduct the [REDACTED], you use a professional fundraiser. In addition, those individuals who solicit sponsors for you are compensated for their efforts.

Moreover, the information furnished shows that of the \$[REDACTED] generated by the 1998 [REDACTED], only [REDACTED] was devoted to charitable or educational purposes (a scholarship at [REDACTED]). This figure amounts to .005% of the [REDACTED].

gross income. Further, the information furnished shows that of the \$ generated by the 1997 , only \$ was devoted to charitable or educational purposes (donation to). This figure amounts to .002% of the gross income. Thus, the financial data furnished does not establish that you are carrying on a charitable program commensurate in scope with your financial resources.

Moreover and more importantly, you indicate that your operations of the will show a loss for the next few years. Consequently, since there is little likelihood that the will generate income, there is no substantial charitable purpose in conducting the . Therefore, we conclude that you are not carrying on a charitable activity as your primary purpose.

Furthermore, as held in Rev. Rul. 70-4, supra, an organization that promotes the game of golf primarily among adults is merely promoting recreational sports among adults and does not qualify for exemption under section 501(c)(3) of the Code. The promotion of recreational sports among adults is not an educational activity, however, such activity might qualify for exemption under section 501(c)(4) of the Code.

Section 501(c)(3) of the Code was amended by Congress in 1976 by adding the phrase "or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment)." The purpose underlying the addition of amateur sports organizations to section 501(c)(3) was to assure exempt status to organizations devoted to developing amateur athletes for participation in national or international competition in Olympic and Pan American sports. However, the amateur athletic provision does not apply to organizations which provide athletic facilities or equipment.

You do not meet the statutory requirement for exemption under section 501(c)(3) of the Code as an organization that fosters national or international amateur sports competition, because you provide the athletic facilities at which the is conducted and you provide some of the equipment used in the . Therefore, you do not meet the qualifications of a section 501(c)(3) amateur athletic organization.

The remaining issue is whether you are a section 501(j) "qualified amateur sports organizations." Under section 501(j) of the Code, an amateur athletic organization may qualify for exemption from federal income tax even though it supplies training facilities and equipment. To qualify under section 501(j), an amateur athletic organization has to be organized and operated exclusively to foster national or international amateur sports competition and has to be 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(j)(2) of the Code requires that, in addition to fostering amateur athletics, a qualified amateur athletic organization must conduct national or international sports competition or support and develop amateur athletes for national or international competition in such sports. You sponsor no golf competition, other than the [REDACTED], which is a pro-am event. There is nothing in the file to establish that you plan to foster national and international golf competition by sponsoring a national amateur golf competition, and/or by providing a training center for athletes to prepare for national and international golf competition. Also, it does not appear that your primary purpose is the support and development of amateur athletes for participation in national and international golf competition. Thus, even though it is not necessary for a national competition to be part of an established system for advancing athletes toward competing in national or international competitions, a qualified amateur athletic organization must support amateur competition rather than professional competition.

Accordingly, since you promote only a professional golf tournament, we conclude that you are not a "qualified amateur sports organizations" within the meaning of section 501(j) of the Code. Therefore, since you are not a "qualified amateur sports organizations" within the meaning of section 501(j) of the Code, you do not qualify for recognition of exemption under section 501(c)(3) of the Code.

Therefore, we conclude that you do not qualify for recognition of exemption from federal income tax under section 501(c)(3) of the Code. Contributions to you are not deductible under section 170 of the Code.

However, our letter of [REDACTED], remains in full force and effect. Accordingly, you continue to be recognized as exempt from federal income under section 501(c)(4) of the Code.

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 principal officers. You also have the 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 principal officers, that person must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

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 judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the

[REDACTED]

District Court of the United States for the District of Columbia determines that the organization has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days from the date of this letter, this ruling will become final and copies will be forwarded to the Cincinnati 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.

When sending additional correspondence to the Internal Revenue Service with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service
OP:E:EO:T:3
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

We will defer action on your application to enable you to submit the requested information. If we do not hear from you within 30 days from the date of this letter, we will assume that you do not want us to consider the matter any further and will close your case. If you want the matter reopened at a later time, you must pay a new user fee in accordance with the current user fee Revenue Procedure.

Sincerely yours,

S/S
Robert C. Harper, Jr.
Chief, Exempt Organizations
Technical Branch 3

cc: [REDACTED]
[REDACTED]
[REDACTED]

cc: [REDACTED]

OP: E: EO: T: 3

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