

Internal Revenue Service
District Director

Department of the Treasury

Post Office Box 1680, GPO
Brooklyn, NY, 11202

Date:

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 incorporated on [REDACTED] under Section [REDACTED] of the Not-For-Profit Corporation Law of [REDACTED]. The purposes for which the corporation was formed are:

To expend, contribute, disburse and otherwise dispose of its money, income and other property exclusively and only by contributing to, cooperating with and otherwise voluntarily financially assisting any corporation, foundation, fund, trust or community chest, whether now existing or hereafter established, created, or organized in the United States, organized and operated exclusively for charitable, scientific, literary or educational purposes.

To provide financial aid and assistance to any needy and deserving individual or individuals without regard to race, nationality, sex, color or creed.

In general to do any other act or thing incidental to or connected with the foregoing purposes or in advancement thereof but not for the pecuniary profit or financial gain of its members, directors or officers.

The information stated in your application 1023 indicates that the organization conducts fundraising activities such as "bike runs" to aid various charities.

In a cover letter dated [REDACTED] the attorney, [REDACTED] provided copies of [REDACTED] documents: "[REDACTED]" and "[REDACTED]". These documents outline the operations of the [REDACTED] and the activities of the chapters.

The Charter states that "the goal of each chapter is to generate an increased level of enthusiasm for riding [REDACTED] motorcycles," and "purpose of the local chapter is to promote responsible motorcycling activities for [REDACTED] members". The Charter further states that each chapter must be sponsored by an authorized [REDACTED] dealer.

The Membership Manual states that "Joining a chapter is a great way to meet new friends, participate in chapter activities and have lots of fun." The Membership Manual also states that the [REDACTED] sponsors an extensive calendar of receptions, rallies and social functions throughout the United States and Canada.

In her letter dated [REDACTED], [REDACTED] states that membership to the [REDACTED] is a prerequisite to joining the chapter. The preamble of the Chapter indicates that the [REDACTED] "was instituted to offer motorcycling benefits and services to [REDACTED] enthusiasts throughout the world, and to develop a close relationship between the [REDACTED] rider, the [REDACTED] dealer and [REDACTED]".

The benefits provided by the [REDACTED] are described in the Membership Manual. These benefits include emergency pick-up service, Fly & Ride packages and insurance options. Under the insurance options, the Membership Manual states that "[REDACTED] of tens members of the [REDACTED] a competitive motorcycle insurance program "where discounts are applied based upon riding experience and/or [REDACTED] affiliation."

In addition to an insurance program for individuals, [REDACTED] also provides General Liability and Special Event coverage for [REDACTED] chapters.

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(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.

In Better Business Bureau v. U.S., 326 U.S. 279 (1945), the Supreme Court stated that the presence of even a single, non-exempt purpose, if more than insubstantial in nature, will defeat exemption under Section 501(c)(3) of the Code, regardless of the manner or importance of the truly exempt purposes.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations provides, in part, that an organization is not organized or operated exclusively for one or more of the purposes mentioned in section 501(c)(3) of the Code unless it serves a public rather than a private interest. An organization may not be exempt if it is operated for the benefit of private individuals.

Section 1.501(c)(3)-1(a)(2) of the Regulations provides that the term "charitable" includes relief of the poor and distressed, advancement of education and science and the promotion of social welfare designed to accomplish any of the above purposes.

One reason why the Revenue Act of 1950 was passed (the act that created the predecessors to code sections 502 and 512 of the present Internal Revenue Code) was to prevent exempt organizations engaged in a trade or business from receiving an unfair advantage over commercial rival due to the tax exempt status (H. Rept. N. 2319, 81st Cong. 2nd Sess. June 23, 1950, 1950-2 C.B. 380-409).

In United States v. American Bar Endowment 106 S. Ct. 2426 (1986), the Supreme Court held that an IRC 501(c)(3) organization's insurance program constituted both the sale of goods and the performance of services and therefore was a trade or business.

In Retired Teachers Legal Defense Fund, Inc. v. Commissioner, 78 TC 280 the court held that the organization failed to meet the organizational and operational tests because it was organized and operated for the substantial private purpose of protecting the pensions of retired teachers.

██████████ which operated an insurance program, a ██████████ motorcycle emergency pickup service, and a travel center which enables members to book airline flights car rentals, and hotel rooms is carrying on a trade or business with the public. By making membership in this Group a prerequisite to membership in the organization, you are providing a conduit for the performance of services and the sale of goods which is incompatible with tax exemption under any section of IRC 501.

As the goal of each chapter is to generate an increased level of enthusiasm for riding [redacted] motorcycles, you are organized and operated to serve private interests; hence you are not charitable. Further you would be providing [redacted] with an unfair advantage over commercial rivals. Also, the other purposes of the chapter such as to meet new friends, participate in receptions, rollies and social functions and have "lots of fun" are not charitable purposes or activities within the scope of IRC 501(c)(3). You fail to meet the organizational and operational test set forth in Section 1.501(c)(3)-1(a) of the Income Tax Regulation.

Therefore your organization is a mechanism for providing commercial goods and services to members, serves substantial private interests, and has substantial noncharitable and non educational purposes and operations.

Even though your organization conducts activities such as "bike runs" to raise funds for charities, these are incidental to substantial non-exempt 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 1580, 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, *ll*

[Redacted Signature]

District Director

cc:

[Redacted Name]

Enclosure: Publication 892