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PRIVATE TAXPAYER RULING LR03-009

July 11, 2003

This private taxpayer ruling is in response to your letter of February 28, 2003, as supplemented by your electronic mail of March 12, 2003. You requested the Department to rule on behalf of your client . . . ("Taxpayer"), that Taxpayer's gross proceeds derived from exhibition games marketed and funded in part by Taxpayer and "sponsored" by a 501(c) organization are exempt from Arizona transaction privilege tax under the amusement classification pursuant to Arizona Revised Statutes ("A.R.S.") § 42-5073(A)(5).

The following are excerpted facts from your February 28 letter:

Taxpayer operates [a professional athletic team]. Taxpayer assists in the coordination and funding of a [charitable] [p]rogram ("Program") operated by . . . a 501(c) organization ["Nonprofit"] in which no part of the organization's net earnings inures to the benefit of any private shareholder or individual. . . . [Nonprofit] has implemented the Program to construct and rebuild [for charitable purposes].

To raise funds for its endeavors, [Nonprofit] sponsors . . . exhibition games of Taxpayer. In return for its sponsorship, . . . [Nonprofit] receives no less than \$50,000 per game. This amount is due even if the Taxpayer loses money on the event.

The nature of the [Nonprofit's] relationship with regard to the . . . exhibition games ("Games") is best illustrated by the following facts:

1. The [Nonprofit] passed a board resolution stating that: (1) [Nonprofit] will sponsor Taxpayer's Games; and (2) Taxpayer is authorized to use the [Nonprofit's] name in the promotion of the Games;
2. Taxpayer has agreed to: (1) have [Nonprofit] act as a sponsor for its Games; and (2) pay the [Nonprofit] no less than \$50,000 for each of the . . . Games in exchange for the use of the [Nonprofit's] name in the promotion of the Games;

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3. Prior to the annual Games, Taxpayer and/or . . . [Nonprofit] will issue a general press release that market the upcoming [Nonprofit] sponsored Games and advertise the sponsor as . . . [Nonprofit];
4. Prior to the annual Games, Taxpayer and/or . . . [Nonprofit] will facilitate several radio advertisements that market the upcoming [Nonprofit] sponsored Games and advertise the sponsor as [Nonprofit]. . . .
5. Prior to the annual Games, Taxpayer and/or . . . [Nonprofit] will facilitate newspaper advertisements that market the upcoming [Nonprofit] sponsored Games and advertise the sponsor as the [Nonprofit]. . . .
6. Prior to the annual Games, Taxpayer will publish a pocket schedule of its games that market the upcoming [Nonprofit] sponsored Games and advertise the sponsor as . . . [Nonprofit]. . . .
7. The tickets for the Games will state that the Games are a [Nonprofit] event. . . .
8. During the annual Games, there will be an on-field presentation to . . . [Nonprofit]; and
9. During the annual Games, Taxpayer will make public announcements stating that the Games are sponsored by . . . [Nonprofit]; and
10. Subsequent to the annual Games, Taxpayer will publish an article . . . regarding the [Nonprofit] sponsored Games. The article will emphasize the sponsor as . . . [Nonprofit] and discuss the use of the payments by . . . [Nonprofit] in its applicable charitable programs. . . .

Taxpayer will collect the gross revenues from the Games as part of its normal ticket sales. However, Taxpayer will account for such sales in a separate account within their regular chart of accounts.

The total annual amount of no less than \$100,000.00 received by . . . [Nonprofit] is similar in amount to the proceeds retained by the [professional athletic league] charities sponsoring the exhibition games of the [professional athletic league] . . . teams[.]

Your Position:

Taxpayer's gross proceeds derived from exhibition events are exempt from Arizona transaction privilege tax under the amusement classification pursuant to A.R.S. § 42-5073(A)(5) because they are "sponsored" by the Nonprofit.

Conclusion and Ruling:

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The term “sponsored” is not defined in A.R.S. Title 42. Nevertheless, “sponsor” is defined in *Webster’s Third International Dictionary of the English Language, Unabridged* as:

1 *Roman law* : one who binds himself to answer for another’s default : SURETY **2** : one who without request intervenes in behalf of another . . . **4** : one who assumes responsibility for some other person or thing: as **a** : one who presents and supports a legislative proposal **b** : an experienced salesclerk or salesperson who instructs and supervises new selling employees **c** : a teacher acting as adviser to a specified student activity . . . **d** : one who assumes responsibility for a paroled delinquent . . . **6** : a business firm or a person who pays a broadcaster and the performer for a radio or television program that is not in itself commercial with the understanding that a limited portion of the time allotted is devoted to advertising a commercial product.¹

Black’s Law Dictionary defines “sponsor” similarly as:

1. One who acts as a surety for another. **2.** A legislator who proposes a bill. **3.** *Civil law.* One who voluntarily intervenes for another without being requested to do so.²

In examining the plain and ordinary meaning of “sponsor,” it appears that some sort of commitment by one to assume responsibility over a duty is necessary but that name association alone as found in the arrangement at issue is insufficient. Rather, name association is a permission or privilege granted by an event organization as *consideration* for the responsibility or duty over the event furnished through financial or other consideration by the sponsor.³

Based on the facts provided, the Nonprofit does not assume any clearly ascertainable duties over the exhibition events as consideration for the privilege of name association—it does not appear to offer financial aid or volunteer assistance that would normally be the hallmark of sponsorship between an entity and an event. Consequently, the following ruling is given based on the facts presented in your request:

¹ WEBSTER’S THIRD INTERNATIONAL DICTIONARY OF THE ENGLISH LANGUAGE, UNABRIDGED 2204 (1993).

² BLACK’S LAW DICTIONARY 1410 (7th ed. 1999).

³ Refer to sponsorship of the 2004 Olympic Games, <http://www.athens2004.com/page/default.asp?la+2&id.5> (last visited Apr. 2, 2003), and the Boston Marathon, <http://www.bostonmarathon.org/BostonMarathon/Sponsors.asp> (last visited Apr. 2, 2003). Other Arizona charities that sponsor . . . exhibition games also demonstrate this relationship [citations omitted].

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The Department rules that the exhibition events at issue are not sponsored by the Nonprofit such that Taxpayer's gross proceeds derived from the events are exempt under A.R.S. § 42-5073(A)(5). The gross proceeds are subject to Arizona transaction privilege tax under the amusement classification.

The conclusions in this private taxpayer ruling do not extend beyond the facts presented in your letters dated February 28 and March 12, 2003.

This response is a private taxpayer ruling and the determination herein is based solely on the facts provided in your request. The determinations are subject to change should the facts prove to be different on audit. If it is determined that undisclosed facts were substantial or material to the Department's making of an accurate determination, this taxpayer ruling shall be null and void. Further, the determination is subject to future change depending on changes in statutes, administrative rules, case law, or notification of a different Department position.

The determinations in this private taxpayer ruling are only applicable to the taxpayer requesting the ruling and may not be relied upon, cited, nor introduced into evidence in any proceeding by a taxpayer other than the taxpayer who has received the private taxpayer ruling.