

CALL ME ISHMAEL

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I have heard it said by boat owners that the second best day in your life is the day you buy your boat. The best day is the day you sell your boat. Having never owned a boat, my boat experience consists of falling when trying to ski, falling when trying to wakeboard and reading Moby Dick. I asked my wife what she thought about boats and I (literally) got these responses:

- (1) Sailor hats look dorky.
- (2) Why can't they just say "right" and "left"?
- (3) The propellers are sharp even if they aren't moving.
- (4) Boats are too easily destroyed by ice, rock or narwhal.

With that as an introduction, the organization in PLR 201202040, raised funds in part by purchasing boats at bargain prices and then reselling them at a marked up price. Because the sale of boats is not related to an exempt purpose, but instead constituted a substantial commercial activity of the organization, the organization did not qualify for exempt status.

I will add that even if this were not a substantial activity of the organization, because it is not related



A. B. Davidson 1872

"Both jaws, like enormous shears, bit the craft completely in
twain."

—Page 300.

to an exempt purpose (other than by generating income), it would constitute unrelated business income and be taxable. There is an exception to such unrelated business income tax in Section 513(a)(3) of the Code for the sale of goods, substantially all of which were donated; the IRS has even issued a release applying this exception to vehicle donation programs. See <http://www.irs.gov/pub/irs-pdf/p4303.pdf>. Obviously, this exception would not have helped the organization in PLR 201202040 because they purchased boats. But if an otherwise exempt organization wanted to raise additional funds by selling *donated* boats, it should work if the principles set forth by the IRS are followed.

My advice to the rest of you is to not buy a boat. And when you are riding in someone else's boat, don't trust the captain if he is insanely seeking vengeance from a giant whale.

MEET THE TEAM



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