



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

Number: **200821036**
Release Date: 5/23/2008

Date: February 29, 2008

Uniform Issue List:

514.00-00

514.06-00

238882

Contact Person:

Identification Number:

Telephone Number:

Employer Identification Number:

SE:T:EO:RA:T:2

Legend:

Date 1 =

Date 2 =

Date 3 =

Year 1 =

Year 2 =

Year 3 =

Year 4 =

Dear _____ :

We have considered your ruling request dated June 29, 2007 requesting a ruling under section 514(b)(3) of the Internal Revenue Code ("The neighborhood land rule").

The information submitted shows that you are a church that is recognized as exempt from Federal income tax under section 501(c)(3) of the Code. You purchased two parcels of land: Parcel One was purchased on Date 1 with debt financing, which was paid off on Date 2. Parcel One has no structures on the property. Parcel Two was purchased on Date 3 without debt-financing has two structures on the property.

The land was purchased for the purpose of church expansion. You have submitted your proposed plans for constructing a building that will be used for your church activities. The proposed building will be built on the purchased property, which is one mile from your present facility.

You state that architectural plans were approved in Year 1, with a formal fundraising campaign initiated in Year 2. Your original plans were to have construction begin in Year 3, however because your fundraising has fallen short, construction may be delayed until Year 4.

You request a ruling that it is reasonably certain that the land will be used for an exempt purpose within 15 years of its acquisition, and that the property will be exempt from the debt-financed

property provisions of sections 512(b)(4) and 514 of the Code as a result of the neighborhood land rule under section 514(b)(3).

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations that are organized and operated exclusively for charitable and educational purposes, no part of the net earnings of which inures to the benefit of any individual.

Sections 511 to 514 of the Code generally impose a tax on the unrelated business taxable income of exempt organizations derived from the conduct of unrelated trade or business.

Section 512(b)(3) of the Code generally exempts from unrelated business taxable income rents from real property.

Sections 512(b)(4) and 514 of the Code generally impose income tax, notwithstanding the exception for rents under section 512(b)(3), on unrelated business taxable income from debt-financed property.

Section 514(b)(3)(A) of the Code provides a special rule for neighborhood land. If an organization acquires real property for the principal purpose of using the land (commencing within 10 years of the time of acquisition) for an exempt purpose and at the time of acquisition the property is in the neighborhood of other property owned by the organization which is used in such manner, the real property acquired for such future use shall not be treated as debt-financed property so long as the organization does not abandon its intent to so use the land within the 10-year period. The preceding sentence shall not apply for any period after the expiration of the 10-year period, and shall apply after the first 5 years of the 10-year period only if the organization establishes to the satisfaction of the Secretary that it is reasonably certain that the land will be used in the described manner before the expiration of the 10-year period.

Section 514(b)(3)(C) of the Code provides that subparagraph (A):

- (i) shall apply with respect to any structure on the land when acquired by the organization, or to the land occupied by the structure, only if (and so long as) the intended future use of the land for an exempt purpose requires that the structure be demolished or removed in order to use the land in such manner;
- (ii) shall not apply to structures erected on the land after the acquisition of the land; and
- (iii) shall not apply to property subject to a lease which is a business lease (as defined in this section immediately before the enactment of the Tax Reform Act of 1976).

Section 514(b)(3)(E) of the Code has a special rule for debt-financed property which extends the neighborhood land rule for churches to a 15-year period. In addition, churches are exempt from unrelated debt-financed income even if the acquired land does not meet the neighborhood test.

Section 1.514(b)-1(d)(1) of the Income Tax Regulations defines the basic "neighborhood land rule" excepting certain real property from "debt-financed property" if it is acquired for the principal purpose of using it in an exempt function within 10 years (15 years for churches) of the time of acquisition.

Section 1.514(b)-1(d)(1)(iii) of the regulations provides that in order to satisfy the Commissioner that future use of the acquired land in furtherance of the organization's exempt purpose before the

expiration of the relevant period is reasonably certain, the organization does not necessarily have to show binding contracts. However, it must at least have a definite plan detailing a specific improvement and a completion date, and some affirmative action toward the fulfillment of such a plan. This information shall be forwarded to the Commissioner of Internal Revenue, Washington, D.C. 20224, for a ruling at least 90 days before the end of the fifth year after acquisition of the land.

Section 1.514(b)-1(e)(1) of the regulations provides that if a church or association or convention of churches acquires real property, for the principal purpose of using the land in the exercise or performance of its exempt purpose, commencing within 15 years of the time of acquisition, such property shall not be treated as debt-financed property so long as the organization does not abandon its intent to use the land in such a manner within the 15-year period.

Section 1.514(b)-1(e)(2) of the regulations provides that this paragraph shall not apply to any property after the expiration of the 15-year period. Further, this paragraph shall apply after the first 5 years of the 15-year period only if the church or association or convention of churches establishes to the satisfaction of the Commissioner that use of the acquired land in furtherance of the organization's exempt purpose before the expiration of the 15-year period is reasonably certain. For purposes of the preceding sentence, the rules contained in paragraph (d)(1)(iii) of this section with respect to satisfying the Commissioner that the exempt organization intends to use the land within the prescribed time in furtherance of its exempt purpose shall apply.

You have requested a ruling that the neighborhood land rule applies to exempt the land from the definition of debt-financed property for 15 years from acquisition. You submitted your ruling request in a timely manner, and the information submitted indicates that it is reasonably certain that you will use the land in an exempt purpose or function within 15 years of acquisition.

Accordingly, we rule that it is reasonably certain that the land will be used for an exempt purpose within 15 years of its acquisition, and that the properties are exempt from the debt-financed property provisions of sections 512(b)(4) and 514 of the Code as a result of the neighborhood land rule under section 514(b)(3) for 15 years beginning with the dates that you acquired them.

This ruling will be made available for public inspection under section 6110 of the Code after certain deletions of identifying information are made. For details, see enclosed Notice 437, *Notice of Intention to Disclose*. A copy of this ruling with deletions that we intend to make available for public inspection is attached to Notice 437. If you disagree with our proposed deletions, you should follow the instructions in Notice 437. This ruling is directed only to the organization that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited by others as precedent.

This ruling is based on the facts as they were presented and on the understanding that there will be no material changes in these facts. This ruling does not address the applicability of any section of the Code or regulations to the facts submitted other than with respect to the sections described. Because it could help resolve questions concerning your federal income tax status, this ruling should be kept in your permanent records. If you have any questions about this ruling, please contact the person whose name and telephone number are shown in the heading of this letter.

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In accordance with the Power of Attorney currently on file with the Internal Revenue Service, we are sending a copy of this letter to your authorized representative.

Sincerely,

Robert C. Harper, Jr.
Manager, Exempt Organizations
Technical Group 2

Enclosure
Notice 437