

The exempt status of a section 501(c)(3) organization is not affected by the acceptance of an income-producing asset subject to a reserved life estate in the transferor or in exchange for an annuity specifically charged against the asset.

Advice has been requested as to the effect of the transfers described below upon the status of the transferee organization that is otherwise exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954. The organization was formed for exclusively charitable purposes and has engaged in charitable activities.

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

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest.

#### Situation 1

The organization accepted an income-producing asset in which the transferor has reserved a life interest. In accepting the asset the organization acquired a remainder interest in the property subject to a life interest reserved by the transferor. Only the remainder interest in the asset is dedicated to the organization's charitable purposes. Therefore, the transferor's receipt of the income does not constitute inurement of the organization's income to the benefit of private shareholders or individuals. Moreover, the organization is not operated for the benefit of private interests by reason of the payment of this income to the transferor. Such payment is merely the satisfaction of the transferor's reserved property right.

Accordingly, the acceptance of this gift subject to the reservation described above and the satisfaction thereof by the payment of the life income from the asset to the transferor does not affect the exempt status of the organization under section 501(c)(3) of the Code.

#### Situation 2

The organization accepted income-producing property, agreeing to pay the transferor an annuity for life. The value of the transferred asset exceeded the present value of the annuity contract. The contract restricts payment to the annuitant to the income and corpus of the asset transferred, and expressly creates a charge upon the asset transferred. This transaction constitutes

an insubstantial part of the organization's overall activities.

As in Situation 1, this organization acquired an asset subject to a reserved property right. Since the value of the transferred asset exceeded the present value of the annuity contract, the organization did not serve private purposes when it entered into this transaction. In making payments under the annuity contract and thus satisfying the charge upon the transferred asset, the organization is not operated for the benefit of private interests. Neither do the annuity payments constitute inurement of income to the benefit of private shareholders or individuals, since the payments are merely the performance of a contract that was advantageous to the organization and are made in satisfaction of a reserved property right.

Accordingly, the acceptance of this gift does not affect the exempt status of the organization under section 501(c)(3) of the Code.