

Environmental conservancy. A nonprofit organization formed for the purpose of preserving the natural environment by acquiring, by gift or purchase, ecologically significant undeveloped land, and either maintaining the land itself with limited public access or transferring the land to a government conservation agency by outright gift or being reimbursed by the agency for its cost, qualifies for exemption under section 501(c)(3) of the Code.

Advice has been requested whether the nonprofit organization described below, which otherwise qualifies for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954, is operated exclusively for charitable purposes.

The organization was formed by scientists, educators, conservationists, and representatives of the community-at-large for the purpose of preserving the natural environment. It accomplishes this purpose by acquiring and maintaining ecologically significant undeveloped land such as swamps, marshes, forests, wilderness tracts, and other natural areas. The organization acquires the land either as a recipient of a charitable gift or bequest, or as a purchaser. In order to be constantly aware of the availability of significant undeveloped areas, the organization works closely with Federal, state, and local government agencies, and private organizations concerned with environmental conservation.

Some of the land is maintained by the organization itself for the purpose of preserving it in its natural state. Generally, public access to such land is limited so that the delicate balance of the ecosystem remains undisturbed. In these situations the organization will allow educational and scientific research or study as long as such use will not disrupt the particular ecosystem.

Other tracts of land are merely held and preserved by the organization until arrangements can be made to transfer title to the land to a government conservation agency. This usually occurs when the agency is presently unable to acquire the land itself, but where the parcel is particularly suited for inclusion into a new or existing park, wilderness area, or wildlife preserve. Depending upon the circumstances surrounding the organization's initial acquisition of the land, and the restrictions on the particular government agency involved, the organization either makes an outright gift of the land to the agency, or is reimbursed by the agency for the cost of the land. Aside from this occasional reimbursement, the organization does not regularly receive any support from the government, but receives most of its funding from the general public.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations organized and operated

exclusively for charitable purposes.

Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations states that the term 'charitable' is used in section 501(c)(3) of the Code in its generally accepted legal sense and includes the advancement of education and science.

It is generally recognized that efforts to preserve and protect the natural environment for the benefit of the public serve a charitable purpose. Restatement (Second) of Trusts Sec. 375 (1959). In *Noice v. Schnell*, 137 A. 582 (N.J. 1927), the court held that a bequest, in trust, to preserve and protect from commercial development the Palisades along the Hudson River was a valid charitable trust. In addition, in *President and Fellows of Middlebury College v. Central Power Corporation of Vermont*, 143 A. 384 (Vt. 1928), the court found that a devise of land to preserve a specimen of original Vermont forest was a charitable bequest. Similar charitable bequests have been upheld in other cases dealing with environmental preservation. See, e.g., *Richardson v. Essex Institute*, 94 N.E. 262 (Mass. 1911); *Cresson's Appeal*, 30 Pa. 437 (1858); and *Staines v. Burton*, 53 P. 1015 (Utah 1898).

Several published Revenue Rulings have also recognized the charitable and educational nature of organizations designed to preserve and promote the natural environment. For example, Rev. Rul. 70-186, 1970-1 C.B. 128, holds that an organization formed to preserve a lake as a public recreational facility and to improve the condition of the water in the lake to enhance its recreational features qualifies for exemption under section 501(c)(3) of the Code. In addition, Rev. Rul. 67-292, 1967-2 C.B. 184, holds that an organization formed for the purpose of purchasing and maintaining a sanctuary for wild birds and animals for the benefit of the public may qualify as exempt from Federal income tax under section 501(c)(3).

Furthermore, the promotion of conservation and protection of natural resources has been recognized by Congress as serving a broad public benefit. For example, Congress declared in the National Environmental Policy Act of 1969, 42 U.S.C. Sec. 4321 (1969), that the prevention and elimination of damage to the environment stimulates the health and welfare of man and enriches the understanding of ecological systems and natural resources important to the nation.

The benefit to the public from environmental conservation derives not merely from the current educational, scientific, and recreational uses that are made of our natural resources, but from their preservation as well. Only through preservation will future generations be guaranteed the ability to enjoy the natural environment. A national policy of preserving unique aspects of the natural environment for future generations is clearly mandated in the Congressional declarations of purpose and policy in numerous Federal conservation laws. See, e.g., *Wilderness Act*, 16 U.S.C. Sec. 1131 (1964) (wilderness areas); *Estuarine Areas Act*,

16 U.S.C. Sec. 1221 (1968) (estuaries); Wild and Scenic Rivers Act, 16 U.S.C. Sec. 1271 (1968) (rivers); Water Bank Act, 16 U.S.C. Sec. 1301 (1970) (wetlands). While the public benefits from environmental conservation are clearly recognized and measurable, an equally important public purpose is served by preserving natural resources for future generations.

In this case, by acquiring and preserving (whether by self-maintenance or through transfer to a governmental agency) ecologically significant undeveloped land, the organization is enhancing the accomplishment of the express national policy of conserving the nation's unique natural resources. In this sense, the organization is advancing education and science and is benefiting the public in a manner that the law regards as charitable. The restrictions on current access to the lands maintained by the organization are essential to the preservation of their natural state, and are therefore essential to the fulfillment of the organization's charitable purpose. A similar principle is set forth in Rev. Rul. 75-207, 1975-1 C.B. 361, which holds that the value of an island, owned by a private foundation dedicated to preserve the natural ecosystems on the island to which access is limited to invited public and private researchers, may be excluded from the foundation's minimum investment return under section 4942(e) of the Code.

Accordingly, the organization is operated exclusively for charitable purposes and qualifies for exemption from Federal income tax under section 501(c)(3) of the Code.

Even though an organization considers itself within the scope of this Revenue Ruling, it must file an application on Form 1023, Application for Recognition of Exemption, in order to be recognized by the Service as exempt under section 501(c)(3) of the Code. The application should be filed with the District Director of Internal Revenue for the district in which is located the principal place of business or principal office of the organization. See sections 1.508-1(a) and 1.501(a)-1 of the regulations.