

INTERNAL REVENUE SERVICE

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July 25, 2000

Dear Mr. *****:

This letter is in response to your facsimile dated May 11, 2000, concerning the penalties applicable to exempt organizations. More specifically, you requested information on the acts that would cause the Internal Revenue Service (IRS) to revoke the exempt status of an organization or to assess fines or sanctions against an exempt organization.

We are responding with this information letter. An information letter is a statement that calls attention to well-established principles of tax law, without applying them to a specific set of facts. An information letter is advisory only; accordingly, a taxpayer may not rely on any statement made in an information letter.

This information letter will provide a general discussion of some of the laws and sanctions applicable to organizations described in section 501(c)(3) of the Internal Revenue Code (the Code). To be described in section 501(c)(3) an organization must be organized and operated exclusively for charitable purposes. An organization will not be so regarded if more than an insubstantial part of its activities does not further a charitable purpose or if the organization's net earnings inures to the benefit of private persons. Additionally, the Code provides that an organization is not so described if a substantial part of the organization's activities is lobbying or the organization engages in any electioneering. If an organization that has been recognized as a section 501(c)(3) charitable organization engages in any of the above prohibited activities, the IRS may revoke recognition of the organization's exemption.

There are several intermediate sanctions to a charitable organization's engaging in proscribed activity; in most cases these sanctions are supplementary to the revocation sanction. Chapter 42 of the Code provides excise taxes on several activities and transactions of exempt organizations. For example, section 4911 imposes an excise tax on certain lobbying expenditures; this tax is payable by

the organization. Section 4958 imposes excise taxes on any transaction yielding an excess benefit if the transaction is conducted between a public charity and a disqualified person; the taxes are payable by the benefited disqualified person. In the case of a private foundation, sections 4941 and 4945 impose excise taxes on certain prohibited transactions conducted between disqualified persons and the private foundation; these taxes are payable by the disqualified person and the private foundation, respectively.

Section 6033 of the Code requires certain exempt organizations to file information returns. Section 6104 requires certain exempt organizations to disclose copies of those returns as filed, and copies of certain exemption application materials, to any requester. Section 6652(c)(1)(A) imposes a set of penalties on the failure to timely, accurately and completely file the returns as required by section 6033. This set of penalties is payable by the organization manager who fails to comply with an IRS request to file the returns. Section 6652(c)(1)(C) imposes a penalty on the failure to timely disclose the return filed under section 6033 to any requester, and section 6652(c)(1)(D) imposes a penalty on the failure to timely disclose the exemption application materials to any requester. The penalties imposed under sections 6652(c)(1)(C) and 6652(c)(1)(D) are payable by the individual who is under a duty to comply with the section 6104 disclosure requirements.

We hope the above information is helpful. If you have any questions, please address these questions to ****, Identification Number ****, at (202) *****.

Joseph J. Urban

Acting Manager, Projects Branch
Exempt Organizations