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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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Contact Person:

Contact Telephone:

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Dear Sir or Madam:

This is in response to M's request submitted, on M's behalf by M's authorized

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representative, for certain rulings on the tax consequences of certain proposed services performed for a charge under sections 512 and 513 of the Internal Revenue Code

Facts:

The information submitted indicates that M has been recognized as exempt under section 501(c)(3) and classified as a publicly supported organization described in sections 509(a)(1) and 170(b)(1)(A)(vi) of the Code.

M's stated purposes in its articles of incorporation are as follows:

"To receive, administer and expend funds consistent with intent of section 501(c)(3) of the Internal Revenue Code of 1954 . . . in connection with the following: To create, operate, maintain, coordinate and improve public broadcasting and communications facilities and capabilities, and to engage in such other related activities as may be consistent therewith."

M operates N and O as part of its programs and activities. N is a community licensed, non-commercial television station serving a 16-county region in P. M states that N operates as a full service affiliate of Q and is a full participant in the Q national program service. Q, a publicly supported charity exempt under section 501(c)(3) of the Code, is a national network of non-commercial television stations providing public access television programming and broadcasting.

N also produces local programs on the life and culture of the region it serves. M represents that N reaches approximately y households and has approximately z supporting contributors.

O is a community licensed, non-commercial radio station that serves essentially the same geographic region as N. O's primary program service consists of classical music, news, and information. O is an affiliate of R and S. O also produces and broadcasts a regional news and information service that supplements the R programs, full-length concerts from regional and national venues, and several regular local series.

M states that it regularly provides various video production and satellite uplink services for hire to Q, state government agencies, and other organizations described in section 501(c)(3) of the Code. M states that these services are conducted as part of its mission of educating the public.

M will perform the following proposed services from which income will be derived.

Live Interviews

M will regularly provide video production and satellite transmission uplink services for hire to Q to conduct and broadcast live interviews of governmental officials, experts, professors, authors, and other individuals who have something to contribute to educate, instruct, and enlighten the public. M represents that it is the main provider of uplink services within its broadcast region. These interviews are often broadcast as part of other Q news programs.

News and Information

M will regularly provide satellite uplink services for hire to T, an agency of state government. T is a communications agency operated by the state government. T's mission is to distribute news and information on events occurring at the state capital to the citizens of the state through commercial news organizations. With regards to the broadcast of news and information concerning state government agencies and the broadcast M is the sole provider of uplink services in its broadcast region.

Regional News and Information for Commercial Television Organizations

M will also provide video production and satellite uplink services for hire to national, regional, and local commercial news organizations to: (a) conduct and broadcast live interviews of governmental officials, experts, professors, authors and other individuals who have something to contribute to educate and instruct the public; and (b) produce and broadcast regional news and information, to educate and instruct the public. M represents that these interviews regularly appear on nightly news programs broadcast on national network commercial television.

State Workforce Training

M will regularly provide video production and satellite uplink services for hire to U, another agency of state government. These services will be provided to produce, broadcast, and transmit teleconferences and other training programs for state employees. M states that it will have significant participation in the creation, production, and execution of interactive education teleconferences provided for state employees.

Continuing Education

M will provide video production and satellite uplink services for hire to V, a professional educational organization recognized as exempt from federal income tax under section 501(c)(3) of the Code. M represents that it has significant participation in the production and distribution of continuing education programs used by V to educate

members of the X profession throughout the state. M will design the sets used by V, and provide access to the use of video graphics, and editing facilities.

Regional Sports Events

M will provide remote video production and satellite uplink services for hire to W, a state interscholastic athletic association recognized as exempt from federal income tax under 501(c)(3). M states that it will have significant participation in the production and broadcast of coverage of high school football, basketball, and wrestling championship events to the citizens of the state. M will use its broadcast and production personnel, facilities, remote on site camera coverage, and provide the play-by play and color coverage of the event.

Applicable Law:

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated for religious, charitable, or educational purposes.

Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations provides that the term 'charitable' as used in section 501(c)(3) of the Code includes advancement of religion and advancement of education.

Section 1.501(c)(3)-1(d)(3) of the regulations provides that the term 'educational,' as used in section 501(c)(3) of the Code relates to the instruction or training of the individual or training of the individual for the purpose of improving or developing his capabilities or the instruction of the public on subjects useful to the individual and beneficial to the community. An example of an educational organization described in the regulations is one whose activities include public discussions, forums, lectures, panels, and other similar programs. Such programs may be on radio or television.

Section 511(a)(1) of the Code imposes a tax on the unrelated business taxable income of organizations described in section 501(c)(3).

Section 512(a)(1) of the Code describes the term "unrelated business taxable income" as the gross income derived by an exempt organization from any unrelated trade or business, as defined under section 513, regularly carried on by it, less certain deductions.

Section 513(a)(1) of the Code provides that the term "unrelated trade or business" means, in the case of any organization subject to tax under section 511, any trade or business the conduct of which is not substantially related

(aside from the need of such organization for the income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis of its exemption under section 501.

Section 1.513-1(d)(2) of the Income Tax Regulations provides that a trade or business is "related" to exempt purposes, in the relevant sense, only where the conduct of the business activities has a causal relationship to the achievement of exempt purposes (other than through the production of income) and is "substantially related," for purposes of section 513 of the Code, only where the causal relationship is a substantial one. In other words, the production of goods or the performance of services from which gross income is derived must contribute importantly to the accomplishment of the organization's exempt purposes.

Rev. Rul. 66-220, 1966-2 C.B. 209, holds that a nonprofit corporation or station organized and operated exclusively for educational purposes to operate a noncommercial educational broadcasting station presenting educational, cultural, and public interest programs is exempt from federal income tax under section 501(c)(3) of the Code.

Rev. Rul. 67-342, 1967-2 CB 187, holds that a nonprofit organization which produces educational films concerning a particular subject and which disseminates its educational material to the public by means of commercial television may qualify for exemption under section 501(c)(3) of the Code.

Rev. Rul. 76-443, 1976-2 CB 149 a nonprofit organization that makes facilities and equipment available to the general public for the production of noncommercial educational or cultural television programs for communication to the public via public and educational channels of a commercial cable television company qualifies for exemption under section 501(c)(3) of the Code.

Rev. Rul. 80-296, 1980-2 C.B. 195, holds that the sale of broadcasting rights to national radio and television networks by the an organization created by a regional collegiate athletic conference made up of universities to hold an annual athletic event is not unrelated trade or business under section 513 of the Code. Rev. Rul. 80-296 cites congressional committee reports associated with the Tax Act of 1950 that enacted the original unrelated trade or business provisions of the Code and makes clear that athletic activities of schools are substantially related to the educational functions of the schools. The revenue ruling also states that the educational purposes served by exhibiting a game before an audience that is physically present and exhibiting the game on television before a much larger audience are substantially similar.

Analysis:

Public broadcasting organizations as M, N, and O provide noncommercial educational broadcasting to viewers and listeners. See In the Matter of Commission Policy Concerning the Non-commercial Nature of Educational Broadcasting Stations, Public Notice FCC 86-161, April 11, 1986.

M will also provide video production and satellite uplink transmission services to produce and distribute regional news, state government news, and educational programming for other organizations and entities. These entities include agencies of state government, other educational organizations recognized as exempt under section 501(c)(3) of the Code, and commercial network news organizations. M represents that it is the sole potential provider of satellite uplink services in its broadcast region for T. M is the main provider in its region for its section 501(c)(3) affiliate Q.

Rev. Ruls. 66-220, 67-342, 76-443, and 80-296, supra, clearly indicate that a broadcasting organization such as M may achieve its educational purposes through the transmission and production of educational programs.

Following section 1.501(c)(3)-1(d)(3) of the regulations, supra, it has long been established that vocational training may be carried out by section 501(c)(3) organizations. See, e.g., Rev. Ruls. 77-272, 1977-2 C.B. 191; 72-101, 1972-1 C.B. 144, and 76-37 1976-1 C.B. 148.

M through N and O carries out its educational purposes through providing the citizens of a region in P through transmission and program production of news and other information services of world, national, state, and regional content, as well as plays, concerts, and other cultural productions, and P scholastic sport events in a noncommercial advertising context. The Service has also accepted the view that organizations such as M, exempt under section 501(c)(3) of the Code may carry out their charitable purposes through other organizations, including organizations not exempt under section 501(c)(3). Rev. Rul. 69-463, 1969-2 C.B. 131, for example, holds that a section 501(c)(3) hospital that leased an adjacent office building and furnished office services to a for-profit medical group in order to induce the practice to carry out its professional activities on the hospital premises was not engaged in unrelated trade or business under section 513 of the Code. The revenue ruling concludes that the group practice contributed importantly to the hospital's operations and, therefore, the leasing and the provision of office services to a for-profit was substantially related to the performance of the hospital's exempt health care functions. See also Rev. Rul. 67-342, supra, and Rev. Rul. 81-29, 1981-1 C.B. 329.

The proposed services that M will provide will assist in producing and

broadcasting programming that will inform and educate viewers. Through M's video production and satellite uplink transmission services, M will be providing the general public with the opportunity to view programs of an educational, cultural, and informative nature on public access channels and commercial network news television programs. The service contributes importantly to the accomplishment of M's educational purposes within the meaning of sections 1.501(c)(3)-1(d)(3) and 1.513-1(d)(2) of the regulations.

In addition, M's vocational training programs with state agencies T and U and 501(c)(3) organization, V contribute importantly to M's educational purposes pursuant to sections 1.501(c)(3)-1(d)(3) and 1.513-1(d)(2) of the regulations.

Based on the above, we rule as follows:

The proposed service activities described above are substantially related to M's exercise of its exempt purposes, within the meaning of section 513(a) of the Code and section 1.513-1(d) of the regulations and will not generate unrelated trade or business taxable income under section 512(a)(1).

This ruling is directed only to M, N, and O. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent. The ruling purports to rule only on the services described herein.

Sincerely yours,
(signed) Robert C Harper, Jr.

Robert C. Harper, Jr.
Manager, Exempt Organizations
Technical Branch 3

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