

INTERNAL REVENUE SERVICE

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Re: XXXXXXXXXXXXXXXXXXXXX
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Dear Mr. XXXXXX:

We received your recent letter requesting information regarding a program you are considering adopting within your XXXXX Scout Pack. You indicate that your Pack is XXX tax exempt under section 501(c)(3) of the Internal Revenue Code. One of the purposes of the Scouting program is to instill self-reliance iXXXXXXX. You indicate that one way of doing this is to allow the XXXXXX to earn their own way as opposed to depending on others, including their parents, to fund their individual scouting participation.

To further this self-reliance, you are proposing to allow the XXXXXX in your Pack to raise monies through fundraising activities and to designate the use of some of these funds to pay for personal expenses. These expenses would include 1) Scouting fees such as organization dues and camp registration fees; 2) items used exclusively for Scouting such as uniforms and Scouting books; and 3) items used primarily for Scouting such as camping equipment.

Using the money raised in various fundraising activities to further the Scouting program for all of the XXXXXX in your Pack is in accordance with your exempt purposes XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX. In this regard, the Pack could use the funds (all or a percentage) it raises to reduce or eliminate dues and various registration fees, purchase uniforms and Scouting books and purchase camping equipment. The Pack could also use its funds to provide assistance to individual Scouts in cases of financial hardship.

The distribution method you are proposing - the creation of a reserve fund within the Pack where a portion of the money that an individual Scout raises during a fundraising

event is reserved for xxx use alone, is a troublesome one. Earmarked accounts may not be compatible with continued tax exemption. Such a decision cannot be made without considering all of the facts and circumstances. Accordingly, we are not ruling definitively at this time. We hope the following general discussion will be helpful.

Section 501(c)(3) of the Code provides, in part, an exemption to the federal income tax for organizations organized and operated exclusively for educational, charitable or other exempt purposes. Under the Income Tax Regulations, an organization will be considered operated exclusively for exempt purposes if it engages primarily in activities which accomplish those purposes. If more than an insubstantial part of an organization's activities do not further its exempt purposes, it will not be considered operated exclusively for exempt purposes. In addition, an exempt organization must serve a public rather than a private interest. Thus, an organization must establish that it is not organized or operated for the benefit of private interests, such as designated individuals.

The private benefit prohibition is broad and includes the individual Scouts and their parents. The amount of private benefit that will be permitted depends on the magnitude of that benefit in relation to the public benefit derived from the organization's activities and whether that private benefit is necessary for the organization to achieve its exempt purposes. In considering whether a private benefit, such as earmarked accounts for the personal benefit of individual Scouts, is substantial enough to jeopardize your exemption, one must examine all of the facts and circumstances. In relation to the public benefit inherent in the Scouting program, this may be a small private benefit. Whether the private benefit to the individual Scouts is necessary to achieve the goals of the Scouting program, however, is not clear.

We discussed a similar question in regard to athletic booster clubs that earmarked a portion of their fundraising proceeds to be shared only by the members who participated in the fundraiser in the 1993 CPE text (a copy is attached for your convenience). In the hypothetical addressed in the Article (Example one on page 5), we determined that the resulting private benefit to the individual members was substantial and negated the charitable intent of the organization precluding exemption under section 501(c)(3) of the Code.

You have asked whether issuing a Form 1099 for each Scout receiving such benefits would negate the private benefit question. In this case, you would treat all income the Scout receives through the earmarked account as compensation for tax purposes. An exempt organization can, of course, pay reasonable compensation for services. Treating the receipts as income to the individual, however, may raise additional issues for the Pack. In particular, the fundraising activity may, if conducted by paid labor rather than volunteers, be characterized as unrelated business income taxable under section

511 of the Code. You may wish, therefore, to consider whether creating a possible tax liability for both the individual Scouts and the Pack is appropriate under the circumstances.

This letter is advisory only and has no binding effect on the Internal Revenue Service. The information provided here cannot be relied upon as a ruling on the matters discussed. If you have any questions regarding this discussion or we can be of further assistance, please feel free to call me at 202-283-8926 or Ms. xxxxxxxxxxxxxx at xxxxxxxxxxxxxx.

Sincerely,

/s/ Gerald V. Sack

Gerald V. Sack
Manager, Exempt Organizations
Technical Group 4