



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

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January 29, 2002

Number: **200215048**
Release Date: 4/12/2002
CC:TEGE:EOEG:EO2
POSTN-160086-01
UILC: 509.02-02, 3121.02-10

MEMORANDUM FOR VICTOR PICHON
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SUBJECT: Section 3121(b)(10)(B) Supporting Organization Status for
Hospitals

Advice has been requested whether a hospital may be organized and operated exclusively for the benefit of, to perform the functions of, or carry out the purposes of a university and, thereby, qualify as a supporting organization of such university for purposes of I.R.C. § 3121(b)(10)(B).

FACTS

The following facts are hypothetical and are for illustrative purposes only. ABC University (University) is a large private educational institution organized in State. University is comprised of an undergraduate school of arts and sciences, a business school, a law school and a medical school. University's articles of incorporation state that its purposes are to promote public education and learning, advance the literary, artistic, scientific and medical arts through scholarship, research and experimentation, and generally to promote one or more such charitable, educational and scientific activities permitted under State law. In 1980, University organized ABC University Hospital (Hospital), under the Nonprofit Corporation Law of State, to own and operate a full-service tertiary teaching hospital in State. Since formation, University has appointed all members of the board of trustees of Hospital. None of the officers or directors of Hospital are disqualified persons within the meaning of I.R.C. § 4946(a). The Service has recognized University and Hospital as exempt organizations under I.R.C. § 501(c)(3).

Hospital's articles of incorporation state that its purposes are to own and operate a hospital, medical research facilities, and facilities to train and educate physicians, nurses and medical specialists, and to promote the health of the community. Hospital's articles do not expressly state that Hospital is organized and operated to benefit University or any other organization. As a part of its medical training program, Hospital

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maintains a residency program for medical students, who conduct research and provide care and treatment to patients of Hospital under the supervision and direction of Hospital's licensed physicians.

In 2000, Hospital filed a claim for refund of FICA taxes it paid for its medical residents. Hospital asserts that the services performed by the medical residents are not "employment" for purposes of I.R.C. § 3121(b)(10), in part because Hospital is organized and operated exclusively for the benefit or, to perform the functions of or carry out the purposes of University.

LAW

I.R.C. § 3121(b)(10)(B) provides in part that the term employment does not include service performed in the employ of an organization described in section 509(a)(3) if the organization is organized, and at all times thereafter is operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of a school, college, or university and is operated, supervised, or controlled by or in connection with such school, college or university. The legislative history for I.R.C. § 3121(b)(10) listed the following examples of enterprises operated by supporting organizations: bookstores, housing, publishing and food service. Social Security Amendments of 1971, H. Rep. No. 92-231, at 62 (1971).

The statutory language of I.R.C. § 3121(b)(10)(B) is substantially similar to, and parallels the structure of I.R.C. § 509(a)(3). The principal difference between these sections is that I.R.C. § 3121(b)(10)(B) limits the class of permissible supported organizations to schools, colleges or universities, whereas I.R.C. § 509(a)(3) provides that an organization may support any organization described in I.R.C. § 509(a)(1) or (2). I.R.C. § 509(a)(1) organizations are statutorily recognized public charities, which include universities, medical schools and hospitals. See I.R.C. § 170(b)(1)(A)(ii), (iii). I.R.C. § 509(a)(2) organizations are charities that meet a public support test. Treas. Reg. § 31.3121(b)(10)-2(a)(2) states that Treas. Reg. § 1.509(a)-4 applies for purposes of determining whether an organization comes within the ambit of I.R.C. § 3121(b)(10)(B). Based on I.R.C. § 3121(b)(10)(B)'s more limited scope of supported organizations, references in Treas. Reg. § 1.509(a)-4 to publicly supported organizations should be read to include only schools, colleges or universities.

I.R.C. § 509(a)(3) and Treas. Reg. § 1.509(a)-4 set forth the following four requirements for supporting organization status: a relationship test, an organizational test, an operational test, and a disqualified persons test. A supporting organization must meet all four of these tests to be described in I.R.C. § 509(a)(3). Treas. Reg. § 1.509(a)-4(a). In Cockerline Memorial Fund v. Commissioner, the Tax Court stated that the regulations' "requirements must be applied consistent with the stated legislative goal of not unduly interfering with supporting organizations which aid educational institutions." 86 T.C. 53, 64 (1986).

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A. RELATIONSHIP TEST

Under the relationship test, the supporting organization must be (1) operated, supervised or controlled by, (2) supervised or controlled in connection with, or (3) operated in connection with one or more supported organizations. I.R.C. § 509(a)(3)(B); Treas. Reg. § 1.509(a)-4(f)(2). The purpose of the relationship test is to ensure that the supporting organization will be responsive to the needs or demands of the supported organization and the supporting organization be an integral part of, or maintain a significant involvement in, the operations of the supported organizations. Treas. Reg. § 1.509(a)-4(f)(3).

A supporting organization is operated, supervised or controlled by the supported organization if the supported organization exercises a substantial degree of direction over the policies, programs and activities of the supporting organization. Treas. Reg. § 1.509(a)-4(g)(1)(i). This relationship is established if the supported organization appoints a majority of the officers, directors or trustees of the supporting organization. Id. A supporting organization is supervised or controlled in connection with the supported organization if control or management of the supporting organizations is vested in the same persons that control or manage the supported organization. Treas. Reg. § 1.509(a)-4(h). This relationship is established if control or management of the supporting organization is vested in the same persons that control or manage the supported organization. Treas. Reg. § 1.509(a)-4(h)(2). A supporting organization is operated in connection with the supporting organization if (1) the supporting organization is responsive to the needs or demands of the supported organization, (2) the supporting organization maintains a significant involvement in the operations of the supported organization and (3) the supported organization depends upon the type of support the supporting organization provides. Treas. Reg. § 1.509(a)-4(i)(2), (3). As discussed below, Treas. Reg. § 1.509(a)-4 provides a more flexible organizational test for supporting organizations that are operated, supervised or controlled by, or supervised or controlled in connection with, the supported organization.

B. ORGANIZATIONAL TEST

To satisfy the organizational test, Treas. Reg. § 1.509(a)-4(c) (1) generally requires that the articles of incorporation of the supporting organization:

(i) Limit the purposes of such organization to one or more of the purposes set forth in section 509(a)(3)(A);

(ii) Do not expressly empower the organization to engage in activities which are not in furtherance of the purposes referred to in subdivision (i) of this subparagraph;

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(iii) State the specified publicly supported organizations on whose behalf such organization is to be operated (within the meaning of paragraph (d) of this section); and

(iv) Do not expressly empower the organization to operate to support or benefit any organization other than the specified publicly supported organizations referred to in subdivision (iii) of this subparagraph.

The first two requirements relate to the supporting organization's purposes; the third and fourth requirements relate to the supported organizations. The organizational requirements are more flexible if the supporting organization is operated, supervised or controlled by, or supervised or controlled in connection with, the supported organization. When the supporting organization only is operated in connection with the supported organization, the organizational test requires a more precise statement of purpose and greater specificity in designating the beneficiary. See Rev. Rul. 75-436, 1975-2 C.B. 217.

1. Permissible Purposes

a. Limitation on Purposes

Under the first requirement, the articles must limit the supporting organization's purposes to one or more of the purposes specified in I.R.C. § 509(a)(3)(A). Treas. Reg. § 1.509(a)-4(c)(1)(i). These purposes are benefitting, performing the functions of or carrying out the purposes of the supported organizations. I.R.C. § 509(a)(3)(A). See Change-All Souls Housing Corp. v. United States, 229 Ct. Cl. 380, 393 (1982).

The supporting organization's purposes may be as broad as, or more specific than, the purposes set forth in I.R.C. § 509(a)(3)(A). Treas. Reg. § 1.509(a)-4(c)(2). As examples, the regulations provide that an organization will meet the organizational test if its articles state that it is formed: (1) for the benefit of one or more publicly supported organizations; or (2) to perform the publishing functions of a specified university. Id. If the supporting organization is operated, supervised or controlled by the supported organization, the supporting organization will meet these requirements if the purposes stated in the supporting organization's articles are similar to, but no broader than, the stated purposes of the supported organization. Id. See Rev. Rul. 75-436, 1975-2 C.B. 217 (stated purpose of trust to grant scholarships to students who graduate from high school is similar to the educational purposes of a city).

In Change-All Souls Housing Corp., the court stated that these regulations "do not mandate the use of any particular language in the articles." 229 Ct. Cl. at 393. The articles "merely must limit, expressly or by implication, a supporting organization's

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purposes” to those set forth in I.R.C. § 509(a)(3)(A). Id. The court concluded that the supporting organization met the organizational test because its stated purpose, to provide housing for low and moderate income families in a particular neighborhood, carried out a stated purpose of the supported organization. 229 Ct. Cl. at 393, 394. In Goodspeed Scholarship Fund v. Commissioner, the court rejected the Service’s contention that the regulations required the articles to contain the precise language “organized exclusively for the benefit of” the supporting organization. 70 T.C. 515, 521 (1978) (“The regulation does not require that petitioner’s organizational documents use any particular words”).

b. No Express Powers to Engage in Other Activities

Under the second requirement, the articles must not expressly empower the supporting organization to engage in activities which do not further the purposes specified in I.R.C. § 509(a)(3)(A). Treas. Reg. § 1.509(a)-4(c)(1)(ii). Because this requirement essentially parallels the first requirement, which limits the supporting organization’s purposes, the courts have not addressed it as a separate and distinct requirement of the organizational test. See Change-All Souls Housing Corp., 229 Cl. Ct. at 395 (applying only three of the regulations’ four requirements under the operational test). Nor does Treas. Reg. § 1.509(a)-4(c) explicate this requirement. Therefore, we have subsumed this requirement within the purposes analysis above.

2. Designation of Supported Organization

a. Specify Publicly Supported Organization

The third requirement of the organizational test is that the articles must specify the supported organization on whose behalf the supporting organization is operating. Treas. Reg. § 1.509(a)-4(c)(1)(iii). To meet this requirement, the articles of the supporting organization generally must designate each of the supported organizations by name, unless the organization meets the historic relationship exception or the designated class exception. Treas. Reg. § 1.509(a)-4(d)(2).

i. Historic Relationship Exception

Under the historic relationship exception, the articles of the Supporting Organization do not have to identify the supported organization in its articles if (1) there has been an historic and continuing relationship between the supporting organization and the supporting organization; and (2) by reason of that relationship, there has developed a substantial identity of interests between these organizations. Treas. Reg. § 1.509(a)-4(d)(2)(iv).

In Change-All Souls Housing Corp., the court stated that the regulations did not require the relationship to have existed for “any specified time” to be historic.

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229 Ct. Cl. at 394. See Cockerline Memorial Fund, 86 T.C. at 63 (no specific time period required to establish historic relationship). The court ruled that the historic relationship test had been met, based on the following factors: the supported organization formed the supporting organization, the supported and supporting organizations had been closely associated since the supporting organization was formed, the supporting organization's name incorporated part of the supported organization's name, and the supporting and supported organizations served the same objective. 229 Ct. Cl. at 394-395. In Cockerline Memorial Fund, the court concluded that the historic relationship test had been met when a scholarship fund had distributed all of its funds directly to the supported colleges since inception, the colleges returned the funds if the students didn't enroll, the fund and one of the supported schools had established a particularly close working relationship and the fund and supported colleges both had the education of students as their ultimate goal. 86 T.C. at 64.

ii. Designated Class Exception

Under the designated class exception, the articles of the supporting organization do not have to identify the supported organization by name if the following two requirements are met. First, the supporting organization must be operated, supervised or controlled by, or supervised or controlled in connection with, one or more publicly supported organizations. Treas. Reg. § 1.509(a)-4(d)(2)(i)(b).¹ Second, the articles must require the supporting organization to operate to support or benefit one or more organizations which are designated by class or purpose. Treas. Reg. § 1.509(a)-4(d)(2)(i)(b). The class or purpose designation must encompass the supported organization or other organizations that are closely related in purpose or function to the supported organization. *Id.* An example of a qualifying class designation is a supporting organization whose articles required it to operate for the benefit of institutions of higher learning in a particular state. Treas. Reg. § 1.509(a)-4(d)(2)(iii) (ex. 1). An example of a designated purpose is a supporting organization whose articles required it to care for the aged, which was a purpose of the church that controlled it. Treas. Reg. § 1.509(a)-4(d)(2)(iii) (ex. 2).

b. No Express Power to Support Other Organizations

The fourth and final requirement of the organizational test is that the articles must not expressly empower the supporting organization to operate to support or benefit any organization other than the specified supported organization. Treas. Reg. § 1.509(a)-4(c)(1)(iv). For example, a supporting organization will not meet the organizational test if its articles expressly empower it to distribute any part of its income, or perform any service for, any organization other than the designated supported organization. Treas. Reg. § 1.509(a)-4(c)(3).

¹ This exception is not available to organizations operated in connection with the supported organization.

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In Mabury v. Commissioner, 80 T.C. 718, 732-733 (1983), the Tax Court ruled that a trust failed the organizational test, because two of the organizations listed as beneficiaries of the trust were not publicly supported organizations. See Windsor Foundation v. United States, 77-2 U.S. Tax Cas. (CCH) ¶ 9709 (E.D. Va.) (trust instrument that empowered board to award funds to all charitable groups in a particular city, without limiting to publicly supported organizations, failed organizational test).

It is immaterial that the permissible activities of the supporting organization may also yield benefits to individuals or organizations in addition to the supported organizations. In Cockerline Memorial Fund, the Tax Court rejected as “meritless” the Service’s argument that a scholarship fund failed the organizational test because it substantially benefitted students in addition to the colleges and universities the students attended. 86 T.C. at 63. See Treas. Reg. § 1.509(a)-4(d)(2)(iii) (ex. 1) (fund that granted scholarships to students to attend college in a particular state). In Change-All Souls Housing Corp., the supporting organization engaged in housing activities that benefitted both the supported organization and a non-publicly supported organization. 229 Ct. Ct. at 395.

C. OPERATIONAL TEST

A supporting organization will meet the operational test if it engages solely in activities that support or benefit the specified publicly supported organizations. Treas. Reg. § 1.509(a)-4(e)(1). Permissible activities include making payments to or for the use of, or providing services or facilities for, the members of the charitable class benefitted by the supported organization. For example, an alumni association that uses all of its income to support its own educational activities for alumni, faculty and students of a university and encourages alumni to maintain a close relationship with, and make contributions to, such university meets the organizational test. Treas. Reg. § 1.509(a)-4(e)(3) (ex. 1). See Rev. Rul. 75-437, 1975-2 C.B. 218 (college scholarship fund for high school graduates operated to benefit the same charitable class as the high schools the students attended). The supporting organization will not meet the operational test if any part of its activities furthers a purpose other than supporting or benefiting one or more specified publicly supported organizations. Treas. Reg. § 1.509(a)-4(e)(1).

In Change-All Souls Housing Corp., the court stated that the operational test only requires the supporting organization to refrain from engaging in activities that do not directly support or benefit the specified supported organization. 229 Ct. Cl. at 395. The fact that another organization “simultaneously benefits, directly or indirectly” from the activities of the supporting organization does not cause the supporting organization to fail the organizational test. Id. See Cockerline Memorial Fund, 86 T.C. at 62-63 (scholarship fund qualified as a supporting organization, even though it substantially benefitted students).

D. DISQUALIFIED PERSONS TEST

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I.R.C. § 509(a)(3)(C) provides that a supporting organization may not be controlled, directly or indirectly, by one or more disqualified persons, other than foundation managers. Disqualified persons include substantial contributors to the supporting organization (and their families), more than 20 percent owners of substantial contributors (and their families) and corporations or partnerships more than 35 percent of which are owned by disqualified persons. See I.R.C. § 4946(a). Treas. Reg. § 1.509(a)-4(j)(1) provides that the supporting organization is controlled by disqualified persons if such persons, by aggregating their votes or positions of authority, may require the supporting organization to perform (or prevent it from performing) any act that significantly affects its operations.

ANALYSIS

A. RELATIONSHIP TEST

The threshold question to answer before applying the organizational test is the relationship between Hospital and University. University appoints all of the trustees of Hospital and, thereby, exercises a substantial degree of direction over the policies, programs and activities of Hospital. See Treas. Reg. § 1.509(a)-4(g)(1)(i). Therefore, Hospital is operated, supervised or controlled by University for purposes of I.R.C. § 3121(b)(10)(B).

B. ORGANIZATIONAL TEST

1. Permissible Purposes

Because Hospital is operated, supervised or controlled by University, Hospital's stated purposes must be similar to, but no broader than, the stated purposes of University. Treas. Reg. § 1.509(a)-4(c)(2). The question is whether all of Hospital's stated purposes would benefit, perform the functions of or carry out purposes similar to (but no broader than) those of University. *Id.*, Change-All Souls Housing Corp., 229 Cl. Ct. at 393.

Hospital's stated purposes to own and operate medical research facilities and facilities to train and educate physicians and other health professionals fall squarely within University's stated purposes to promote public education and advance the scientific and medical arts. It is less clear whether Hospital's stated purposes to own and operate a hospital and generally to promote public health are similar to, but no broader than, University's specific educational purposes and more general purpose to promote any charitable purposes allowed by law. Arguably, Hospital's stated purpose to own and operate a hospital is beyond the scope of activities Congress contemplated for supporting organizations when it adopted I.R.C. § 3121(b)(10). See Social Security Amendments of 1971, H. Rep. No. 92-231, at 62 (1971) (listing the following examples

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of enterprises operated by supporting organizations: bookstores, housing, publishing and food service).

Nevertheless, substantial doubt exists about whether a court would rule that Hospital is not organized exclusively to benefit University. First, this is a question of first impression. We have not identified any cases or rulings that considered whether a hospital could qualify as a supporting organization of a school, college or university. The issue would never arise for I.R.C. § 509 purposes, because hospitals are treated as I.R.C. § 509(a)(1) organizations and thus would have no reason to qualify as a public charity under I.R.C. § 509(a)(3). See I.R.C. § 170(b)(1)(A)(iii). Nor have we identified any cases, rulings or regulations under I.R.C. § 3121(b)(10) that have considered this fact pattern. Finally, we have not identified any cases or rulings which concluded that a supporting organization failed the organizational test because its stated purposes were broader than the stated purposes of a university or other public charity.

Second, the case law suggests the courts will apply the rules under Treas. Reg. § 1.509(a)-4 liberally to organizations that support colleges or universities. In Cockerline Memorial Fund, the Tax Court stated that these regulations should not be applied in a manner that “unduly inter[es] with supporting organizations which aid educational institutions.” 86 T.C. at 64. One apparent reason why Congress adopted I.R.C. § 3121(b)(10) was to reduce the cost of performing supporting services for colleges and universities. See Social Security Amendments of 1971, H. Rep. No. 92-231, at 62 (1971) (noting unfairness of subjecting to social security taxes compensation of a student employed by organizations providing supporting services to schools, colleges and universities). It is important to consider that courts have been more likely to find that the commercial activities of colleges and universities further their exempt purposes than such ventures by non-educational exempt organizations. See St. Luke’s Hospital v. United States, 494 F. Supp. 85, 87-88 (W.D. Mo. 1980) (teaching hospital’s income from performing diagnostic tests substantially related to exempt purposes), acq. on relatedness to education, nonacq. on other grounds, Rev. Rul. 85-109, 1985-2 C.B. 165; Gundersen Medical Foundation, Ltd. v. United States, 536 F. Supp. 556 (W.D. Wis. 1982) (leasing clinic to private physician group was substantially related to exempt purposes postgraduate medical education organization); Anateus Lineal 1948, Inc. v. United States, 366 F. Supp. 118, 127 (W.D. Ark. 1973) (payments for performing pathology tests substantially related to organization’s exempt purposes of training health professionals). The “similar to” language of Treas. Reg. § 1.509(a)-4(c)(2) provides the courts with some leeway to find that a supporting organization’s stated purposes are close enough to those of the supported organization to qualify. See Rev. Rul. 75-436 (finding that purposes of a scholarship fund are similar to those of a city). Finally, the courts have made clear that Treas. Reg. § 1.509(a)-4 does not require supporting organizations to use “any particular language” in their articles. See Goodspeed Scholarship Fund, 70 T.C. at 521; Change-All Souls Housing Corp., 229 Ct. Cl. at 393.

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Finally, the courts are not likely to deny supporting organization treatment when the supported organization exercises direct control over the supporting organization. As the court stated in Cockerline Memorial Fund, the reason Congress excepted supporting organizations from the private foundation rules in I.R.C. § 509(a) was its determination that “scrutiny by the publicly supported organizations will prevent abuse by the supporting organization.” 86 T.C. at 65. Because of University’s complete governing control and historic relationship with Hospital, it has the “ability and motivation to properly oversee the activities of” Hospital and provide the level of close scrutiny Congress intended. Id. Therefore, absent a showing of abusive behavior by Hospital or a failure by University to exercise close supervision and control of Hospital, the courts may be unlikely to find that granting supporting organization status to Hospital is inconsistent with the legislative intent of I.R.C. § 509(a)(3), even though Hospital’s stated purposes may deviate somewhat from those of University.

2. Designation of Supported Organization

a. Specify Publicly Supported Organization

The articles of Hospital do not specify the supported organization on whose behalf Hospital is operating. Nevertheless, based on the fact that Hospital is operated, supervised or controlled by University, Medical Center will satisfy the designation requirement if it meets the historical relationship exception or the designated class exception.

i. Historic Relationship Exception

The facts suggest Hospital may satisfy the historic relationship exception. First, the following factors show the existence of an historic and continuing relationship between Hospital and University: Hospital’s name incorporates the full name of University, University formed Hospital and appoints all of its trustees, and Hospital and University have been closely and continuously associated for over 20 years. See Change-All Souls Housing Corp., 229 Ct. Cl. at 394-395; Cockerline Memorial Fund, 86 T.C. at 64.

The existence of an historic and continuing relationship would be harder to establish if Hospital had existed for many years as an independent corporation and had only become associated with University within the past 6 months. Nevertheless, the courts have made it clear that no specific time period is required. See Change-All Souls Housing Corp., 229 Ct. Cl. at 394; Cockerline Memorial Fund, 86 T.C. at 63.

Second, the following factors suggest that, because of their historic and continuing relationship, a substantial identity of interests has developed between Hospital and University. Hospital and University serve the common objective of advancing medical education and research, and a principal goal of both Hospital and

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University is to train and educate medical students. See Change-All Souls Housing Corp., 229 Ct. Cl. at 394-395; Cockerline Memorial Fund, 86 T.C. at 64. The identify of interests between Hospital and University is not absolute. A principal interest of Hospital, for example, is providing medical care to its patients, which does not appear to be within the sphere of interests of University. Nevertheless, Treas. Reg. § 1.509(a)-4(d)(2)(iv)(b) only requires a “substantial identity” of interests.

ii. Designated Class Exception.

Hospital may also be able to satisfy the designated class or purpose exception. First, Hospital meets the requirement that it be operated, supervised or controlled by University. See Relationship Test, supra. With respect to the second prong of this exception, Hospital’s articles do not specifically identify the class of organizations it supports. Nevertheless, it would meet the designated purpose exception if its stated purposes came within the scope of University’s stated purposes. Treas. Reg. § 1.509(a)-4(d)(2)(i)(b). Significantly, the regulations do not apply this exception strictly. See Treas. Reg. § 1.509(a)-4(d)(2)(iii) (ex. 2) (organization whose articles required it to care for the aged treated as a supporting organization of a church). Hospital’s stated purposes to operate medical research and training facilities would come within University’s stated purposes of promoting public education and advancing the medical arts through research. Arguably, Hospital’s stated purposes of owning and operating a hospital and promoting public health could come within University’s stated purposes to promote medical education (treating hospital training as an essential component of such education) or within University’s general charitable purposes.

b. No Express Power to Support Other Organizations

Hospital’s articles do not expressly state that it is empowered to support any organization (including University). But Hospital’s articles do empower it to perform services for its patients, who are not publicly supported organizations. Nevertheless, the courts have ruled that it is irrelevant whether a supporting organization is organized to engage in activities that may, as a byproduct, also benefit private individuals or organizations. See Change-All Souls Housing Corp., 229 Ct. Cl. at 395; Cockerline Memorial Fund, 86 T.C. at 63. Specifically, just as a scholarship fund necessarily will promote education and benefit the student recipients, a teaching hospital will necessarily promote education of the medical residents and benefit the hospital’s patients. Therefore, the courts are unlikely to rule that Hospital fails the organizational test because it is empowered to provide health care services to its patients.

C. OPERATIONAL TEST

The question under the operational test is whether Hospital engages solely in activities that support or benefit University. Hospital engages in a number of activities

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that arguably do not directly support or benefit University. Significantly, a principal activity of Hospital is providing health care to its patients, an activity which does not yield any obvious benefit to the educational purposes of University. Nevertheless, an unavoidable byproduct of operating a medical resident training program is that medical residents will provide health care services to the hospital's patients and engage in medical research and other activities that will yield benefits to the hospital's patients. Providing these training, practice and research opportunities for medical residents directly supports and benefits University's medical school and furthers University's overall purposes to promote public education. Therefore, the fact that Hospital's patients "simultaneously benefit, directly or indirectly" from Hospital's medical resident training programs should not cause Hospital to fail the organizational test. See Change-All Souls Housing Corp., 229 Ct. Cl. at 395; Cockerline Memorial Fund, 86 T.C. at 62-63.

It also could be argued that if some of Hospital's patients only received care from private physicians with staff privileges at Hospital, with no involvement by a medical resident, these activities would not support or benefit University's stated purposes. Notwithstanding, because University's purpose to provide a comprehensive training and research program for medical residents probably could not be accomplished without the participation of a full-service hospital, it should not matter that some of Hospital's patients may receive care from someone other than a medical resident. Finally, as discussed above, the case law suggests the courts will apply the rules under Treas. Reg. § 1.509(a)-4 liberally to organizations like Hospital that support colleges or universities. See Cockerline Memorial Fund, 86 T.C. at 64.

D. DISQUALIFIED PERSONS TEST

None of the trustees or officers of Hospital are disqualified persons within the meaning of I.R.C. § 4946(a). Therefore, Hospital is not controlled by disqualified persons.

CONCLUSION

As set forth above, some of Hospital's stated purposes and activities arguably are outside the scope of University's stated purposes. Nevertheless, the courts are likely to interpret and apply the rules under I.R.C. § 509(a)(3) liberally to organizations, like Hospital, that support colleges and universities. Accordingly, based on the fact that University exercises complete control over Hospital, Hospital and University share many common purposes, University's stated purposes are written in broad terms and Hospital and University have an historic and continuous relationship, a court probably would rule that Hospital is a supporting organization of University for purposes of I.R.C. § 3121(b)(10)(B).