



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

INFO 2005-0053

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Dear Mr. \*\*\*\*\*,

I am responding to your letter of March 8, 2004 regarding non-profit hospitals described in section 501(c)(3) of the Internal Revenue Code.

You are concerned because you feel that hospitals are giving preferential treatment or discounts to "private interest." You indicate that you believe that \*\*\*\*\* is a private interest.

Section 501(c)(3) of the Code provides, in part, for the exemption from federal income tax of corporations organized and operated exclusively for charitable, scientific, or educational purposes, provided no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations states that an organization is not organized exclusively for any of the purposes specified in section 501(c)(3) of the Code unless it serves public, rather than private interests. Thus, an organization applying for tax exemption under section 501(c)(3) must establish that it is not organized or operated for the benefit of private interests.

For purposes of section 501(c)(3) of the Code, the term "private interests" has a specific meaning. Private interests include: the creator of an organization or members of his family, shareholders of an organization, or persons controlled, directly or indirectly, by such private interests.

Based on this definition, \*\*\*\*\* is not a private interest. If the contracts between \*\*\*\*\* and the hospitals are at arm's length and fair market value, the relationship between the hospitals and \*\*\*\*\* will not jeopardize the tax-exempt status of the hospitals. Unless you have information substantiating the negotiations between the hospitals and \*\*\*\*\* were not at arm's length and the reimbursement received by the hospitals from \*\*\*\*\* was below fair market value, we have no creditable basis to consider revoking exemption. To show the reimbursement received by the hospitals is below fair market value, you would, as an example, have to provide comprehensive

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written expert opinion from a qualified expert showing the amounts received for each type of reimbursement is less than fair market value.

If you feel that section 501(c)(3) of the Code, as written, allows impermissible preferential treatment, you may want to take the action recommended by the U.S. Department of Justice in their letter of February 5, 2004 and contact the Oversight Subcommittee of the Committee on Ways and Means whose jurisdiction includes review of tax-exempt organization's compliance with the Internal Revenue.

I hope this information is helpful to you. If you need further assistance, please contact \*\*\*\*\* at \*\*\*\*\*. Her Identification Number is \*\*\*\*\*.

Sincerely,

Michael Seto  
Manager, Exempt Organizations  
Technical Group 1