



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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Number: **200648030**

Release Date: 12/1/06

Date: September 7, 2006

Contact Person:

Identification Number:

Telephone Number:

UIL Code:

501.03-00

509.02-02

513.00-00

170.07-08

Employer Identification Number:

Legend:

A =

B =

C =

D =

E =

F =

G =

H =

I =

Dear _____ :

This is in reply to your request for rulings concerning the proposed merger of A into B.

Facts

A is an organization described in section 501(c)(3) of the Internal Revenue Code and classified as a public charity under sections 509(a)(1) and 170(b)(1)(A)(vi). A provides crisis management, emergency financial assistance, professional counseling and community programs for residents of the greater C area.

B is an organization described in section 501(c)(3) of the Code and classified as a public charity under sections 509(a)(1) and 170(b)(1)(A)(vi). B provides social welfare services to G children and their families residing in the greater C area.

F is an organization described in section 501(c)(3) of the Code and classified as a public charity under sections 509(a)(1) and 170(b)(1)(A)(vi). F is the central planning and fundraising

organization of the G community in C. Anyone who contributes a certain minimum amount to F becomes a member of F and also becomes a member of A and B.

A and B each has a supporting organization that raises funds for their respective organization. A's supporting organization is D and B's supporting organization is E. Both D and E are described in sections 501(c)(3) and 509(a)(3) of the Code. D's sole members are A and F. D has seven directors, of whom four are appointed by A and three are appointed by F. E's sole members are B and F. E has seven directors, of whom four are appointed by B and three are appointed by F.

Over the past year, A and B have reviewed their structures and interactions. Based on this review, the organizations propose to reorganize as described below:

- A will merge into B (subsequently known as "H").
- D will merge into E (subsequently known as "I").

The organizations anticipate several benefits from the merger. These include improving the effective delivery of charitable services, and reducing the costs of operating these organizations. The surviving organizations will continue to operate their existing programs, as well as the programs previously operated by the predecessor organizations.

Rulings

The following rulings are requested:

1. The proposed merger of D into E (subsequently known as I) will not adversely impact the current status of D as an organization described in sections 501(c)(3) and 509(a)(3) of the Code.
2. Subsequent to the proposed merger of D into E, E (subsequently known as I), will continue to qualify for exemption under section 501(a) of the Code as an organization described in sections 501(c)(3) and 509(a)(3).
3. The proposed merger of D into E will not adversely impact the continuing qualification of I (formerly known as E, a successor to D) to receive tax deductible charitable contributions as an organization described in sections 509(a)(3) and 170(b)(1)(A)(viii) of the Code.
4. The proposed merger of D into E (subsequently known as I) will not adversely impact the continuing qualification of I (formerly known as E, a successor to D) to receive tax deductible charitable contributions under sections 2055, 2106, and 2522 of the Code for federal estate and gift tax purposes.
5. Any transfer of assets, liabilities, funds, services or personnel due to the proposed merger of D into E (subsequently known as I) will not generate unrelated business taxable income or result in the recognition of any gain or loss under sections 511 through 513 of the Code.

Law

Section 501(c)(3) of the Code recognizes as exempt from federal income tax entities that are organized and operated exclusively for charitable purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations states that the term “charitable” is used in section 501(c)(3) of the Code in its generally accepted legal sense. This includes the promotion of social welfare and the providing of social services to a community.

Section 509(a)(3) of the Code states that an organization described in section 501(c)(3) is not a private foundation if it meets three requirements:

Under section 509(a)(3)(A), it must be organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of, one or more specified organizations described in section 509(a)(1) or section 509(a)(2). See also sections 1.509(a)-4(b) through 1.509(a)-4(e) of the regulations.

Under section 509(a)(3)(B), it must be operated, supervised or controlled by or in connection with one or more organizations described in section 509(a)(1) or 509(a)(2). See also section 1.509(a)-4(f) of the regulations.

Under section 509(a)(3)(C), it must not be controlled, directly or indirectly, by one or more disqualified persons (as defined in section 4946), other than foundation managers and other than one or more organizations described in section 509(a)(1) or 509(a)(2). See also section 1.509(a)-4(j) of the regulations.

Section 511 of the Code imposes income tax on the unrelated business taxable income of, among others, organizations described in section 501(c) of the Code.

Section 512(a)(1) of the Code defines unrelated trade or business taxable income as the gross income derived by any organization from any unrelated trade or business regularly carried on by it, less the allowable deductions directly attributable to such business activity, with certain modifications.

Section 513(a) of the Code states that the term “unrelated trade or business” means, for purposes of section 511, any trade or business the conduct of which is not substantially related to the exercise or performance by such organization of its exempt purpose constituting the basis for its exemption under section 501.

Section 1.513-1(c) of the regulations states that a business must be regularly carried on in order to be subject to the unrelated trade or business income rules of section 512 of the Code.

Section 1.513-1(d) of the regulations states that a business must be substantially related to the exempt purposes of a charity in order not to be subject to the unrelated trade or business income rules of section 513 of the Code.

Section 2055(a) of the Code provides that, for purposes of the federal estate tax, the value of the taxable estate shall be determined by deducting from the value of the gross estate the amount of all bequests, legacies, devises, and transfers to or for the use of a corporation, or trust, or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes.

Under section 2106(a)(2) of the Code, in determining the taxable estate of a decedent who was not a resident or a citizen of the United States, a deduction is allowed for the amount of all bequests, legacies, devises or transfers to or for the use of any domestic corporation organized and operated exclusively for religious, charitable, scientific, literary or educational purposes.

Section 2522(a) of the Code provides that in computing taxable gifts in the case of a citizen or resident, a deduction is allowed for the amount of all gifts made to or for the use of a corporation, or trust, or community chest, fund, or foundation, organized and operated exclusively for religious, charitable scientific, literary or educational purposes. Under section 2522(b), in the case of a nonresident not a citizen of the United States, a deduction is allowed for the amount of all gifts made to or for the use of a domestic corporation organized and operated exclusively for religious, charitable, scientific, literary or educational purposes.

Analysis

The proposed merger of D into E (subsequently known as I) will be consistent with the tax-exempt status of D, as a predecessor of E, and the continued tax-exempt status of I under section 501(c)(3) of the Code as organizations organized and operated exclusively for charitable purposes. I will receive tangible and intangible assets from D and will use these assets in the conduct of its charitable activities. Thus, after the merger, I will continue to operate primarily for charitable purposes under section 1.501(c)(3)-1(d)(2) of the regulations.

Because D, prior to its merger into E (subsequently known as I), was an organization described in section 501(c)(3) of the Code and classified as a supporting organization under section 509(a)(3), and I will continue to be organized and operated to support or benefit B, subsequently known as H, within the meaning of section 509(a)(3)(A) of the Code and sections 1.509(a)-4(b) through 1.509(a)-4(e) of the regulations, the proposed merger will not adversely impact the classification of D, as a predecessor of E, and/or the continuing classification of I, as supporting organizations under section 509(a)(3) of the Code. Therefore, the proposed merger will not adversely impact the continuing classification of I (formerly known as E, a successor to D) to receive tax deductible charitable contributions as a supporting organization described in section 509(a)(3) of the Code.

Because D, prior to its merger into E (subsequently known as I), was an organization described in section 501(c)(3) of the Code and classified as a supporting organization under section 509(a)(3), and I will continue to be described in section 501(c)(3), the proposed merger will not adversely impact the continuing qualification of I to receive tax deductible charitable contributions under sections 2055, 2106, and 2522 for federal estate and gift tax purposes.

The services E (subsequently known as I) will perform as a result of the proposed merger, as described above, will encourage efficiency and cost savings. I will continue to operate its existing programs, as well as the programs previously operated by D. The proposed merger will be a one-time transfer, and therefore will not possess the characteristics of a trade or business “regularly carried on” within the meaning of section 512(a)(1) of the Code and section 1.513-1(c) of the regulations. In addition, the transfer of assets or assumption of liabilities will be “substantially related” to the exempt charitable purposes of I within the meaning of section 1.513-1(d) of the regulations. Therefore, the proposed merger will not result in unrelated business taxable income under sections 511 through 513 of the Code.

Conclusion

Accordingly, we rule that:

1. The proposed merger of D into E (subsequently known as I) will not adversely impact the current status of D as an organization described in sections 501(c)(3) and 509(a)(3) of the Code.
2. Subsequent to the proposed merger of D into E, E (subsequently known as I) will continue to qualify for exemption under section 501(a) of the Code as an organization described in sections 501(c)(3) and 509(a)(3).
3. The proposed merger of D into E will not adversely impact the continuing qualification of I (formerly known as E, a successor to D) to receive tax deductible charitable contributions as an organization described in sections 509(a)(3) and 170(b)(1)(A)(viii) of the Code.
4. The proposed merger of D into E will not adversely impact the continuing qualification of I (formerly known as E, a successor to D) to receive tax deductible charitable contributions under sections 2055, 2106, and 2522 of the Code for federal estate and gift tax purposes.
5. Any transfer of assets, liabilities, funds, services or personnel due to the proposed merger of D into E (subsequently known as I) will not generate unrelated business taxable income or result in the recognition of any gain or loss under sections 511 through 513 of the Code.

This ruling is based on the understanding there will be no material changes in the facts upon which it is based.

This ruling does not address the applicability of any section of the Code or regulations to the facts submitted other than with respect to the sections described.

This ruling is directed only to the organization that requested it. Section 6110(k)(3) of the Code provides it may not be used or cited by others as precedent.

This ruling will be made available for public inspection under section 6110 of the Code after certain deletions of identifying information are made. For details, see enclosed Notice 437,

Notice of Intention to Disclose. A copy of this ruling with deletions that we intend to make available for public inspection is attached to Notice 437. If you disagree with our proposed deletions, you should follow the instructions in Notice 437.

If you have any questions about this ruling, please contact the person whose name and telephone number are shown in the heading of this letter.

In accordance with the Power of Attorney currently on file with the Internal Revenue Service, we are sending a copy of this letter to your authorized representative.

Sincerely,

Steven B. Grodnitzky
Manager
Exempt Organizations
Technical Group 1

Enclosure
Notice 437