



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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Number: **201222040**
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Contact Person:

Identification Number:

Telephone Number:

Employer Identification No.:

UIL: 509.02-02 Supporting Organizations

UIL: 513.00-00 Unrelated v. Not Unrelated Trade or Business

Dear :

You request a ruling concerning certain consequences under §§501, 509 and 511-514 of the Internal Revenue Code (the "Code") relating to the proposed transfer of assets described below.

FACTS:

You have been recognized as exempt under §501(c)(3) and classified as a §509(a)(3) supporting organization. Your specified Supported Organizations have received rulings recognizing their tax exempt status under §501(c)(3) and their non-private foundation classification under §509(a)(1).

Each of your Supported Organizations operates a retirement community that provides housing, health care and other services to serve the special needs of the aged within the meaning of §501(c)(3) and Rev. Ruls 72-124 and 79-18. You will be the sole member of each Supported Organization. You are a non-stock corporation whose Articles of Incorporation identify each of the Supported Organizations by name. You are authorized to appoint three directors to the board of each Supported Organization, all of whom may also be directors on your board. At least one director of each Supported Organization will serve on your board.

You function as a parent of the system of retirement communities; providing oversight, supervision, management and strategic planning for the Supported Organizations. You develop policies for standards of care and operation for the Supported Organizations. You carry out various executive, administrative, financial, policy setting, planning and other functions of the Supported Organizations, coordinate activities by or among them and supervise overall policy and planning. As a Supporting Organization of each of the Supported Organizations, you represent that you perform functions for the benefit of

each Supported Organization--functions that each Supported Organization would otherwise be required to perform.

Each of the Supported Organizations has transferred a pro rata amount of funds to you to fund your start-up and initial working capital requirements. Each of the Supported Organizations regularly makes contributions to support your on-going operations.

In addition to your initial start-up and on-going operational costs, in the future, there may be additional sharing of funds, assets, services and personnel throughout the system determined on a case by case basis and only as needed to support the exempt purposes of any Supported Organization or the Supporting Organization System as a whole. This may be accomplished through formal execution of contracts or other less formal arrangements, a combination of gratuitous transfers, sales, leases or charges for services, all as the individual facts and circumstances warrant, and to ensure that each entity is fully capable of fulfilling its respective exempt purpose. This would mean funds may be transferred to and from you and the Supported Organizations.

Ruling Requested:

Transfers, contributions or sharing of assets, personnel, facilities and services, including the execution of contracts for the sharing of assets and services between you and the Supported Organizations shall, to the extent related to the exempt purposes of these entities, not give rise to any unrelated business income under §§511 through 514 to you.

LAW:

Section 501(c)(3) of the Code describes organizations that are organized and operated exclusively for charitable purposes.

Section 511 imposes a tax on unrelated business taxable income of organizations exempt from federal income tax under §§501(a) and 501(c)(3).

Section 512(a)(1) defines "unrelated business taxable income" as the gross income derived by any organization from any unrelated trade or business regularly carried on by it, less allowable deductions and computed with modifications in §512(b).

Section 513(a) defines the term "unrelated trade or business" as any trade or business which is not substantially related (aside from the need of such organization for income or funds or the use it makes of profits derived) to the exercise or performance by such organization of the purposes or function constituting the basis for its exemption under §501.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations ("the regulations") provides that in order to be exempt as an organization described in section §501(c)(3), the organization must be both organized and operated exclusively for one or more exempt purposes.

Section 1.513-1(b) states that the term "trade or business" has the same meaning as in §162, and generally includes any activity carried on for the production of income from the sale of goods or the performance of services.

Section 1.513-1(d)(1) provides that gross income derives from "unrelated trade or business," within the meaning of §513(a), if the conduct of the trade or business which produces the income is not substantially related (other than through the production of funds) to the purposes for which exemption is granted. This requirement necessitates an examination of the relationship between the business activities which generate the particular income in question and the accomplishment of the organization's exempt purposes.

Section 1.513-1(d)(2) states that to be "substantially related" to the exempt purposes of the organization, the business activity must have a causal relationship to the achievement of exempt purposes, and it must contribute importantly to the accomplishment of those purposes; and it is substantially related for purposes of §513 only if the causal relationship is a substantial one. Thus, for the conduct of a trade or business from which a particular amount of gross income is derived to be substantially related to purposes for which exemption is granted, the production or distribution of the goods or the performance of the services from which the gross income is derived must contribute importantly to the accomplishment of exempt purposes.

Rev. Ruls. 72-124, 1972-1 C.B. 145, and 79-18, 1979-1 C.B. 194, hold that providing housing for the elderly can be a charitable purpose within the meaning of §501(c)(3) if it is specially designed for the elderly, provides for their health, emotional, social and recreational needs, is built at the lowest feasible cost, is priced within the financial reach of a significant segment of the community served, and if the organization maintains residents who become unable to pay.

Rev. Rul. 77-72, 1977-1 C.B. 157, holds that inter-organizational indebtedness between a parent and its wholly owned subsidiary is not acquisition indebtedness within the meaning of §514(c), but merely a matter of accounting between related organizations.

Rev. Rul. 78-41, 1978-1 C.B. 148, holds that when a trust performs a function that the hospital could carry out itself in the performance of its exempt purpose such as the payment of malpractice claims against the hospital, the trust's performance of an integral part of the hospital's function was also exempt under §501(c)(3).

ANALYSIS:

You and Supported Organizations function to meet the housing, health, and financial needs of elderly persons which is considered a charitable purpose within the meaning of §501(c)(3). Rev. Ruls 72-124 and 79-18. The relationship among the several organizations advances their charitable purposes.

By providing overall policy and planning guidance, coordinating activities between the communities and assuming various functions that the Supported Organizations would otherwise conduct, you enhance the ability of each Supported Organization to serve the special needs of the aged of its particular community. Rev. Rul. 78-41. You relieve each entity of administrative and other burdens and allow them to focus on providing housing, health care and services for their residents.

You have represented that these activities are related to your tax-exempt purposes and those of your Supported Organizations because the transfers of cash, assets and

personnel, and the sharing of personnel, services, facilities and expenses permit all of the entities to more efficiently carry out their respective tax-exempt operations. Transfers that are related to your exempt purpose will not result in unrelated business activity. Transfers between closely related exempt organizations for their exempt purposes are regarded as matters of accounting. Rev. Rul. 77-72. Furthermore, such transfers are not generally regarded as trades or businesses regularly carried on for the production of income. Section 1.513-1(b). Thus, the transfers will not give rise to unrelated business taxable income under §§511 through 514 to you.

RULING:

Based upon the information provided above, we rule as follows:

Transfers, contributions or sharing of assets, personnel, facilities and services, including the execution of contracts for the sharing of assets and services between you and the Supported Organizations shall, to the extent related to the exempt purposes of these entities, not give rise to any unrelated business income under section §§511 through 514 to you.

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.

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

This ruling is based on the facts as they were presented and on the understanding that there will be no material changes in these facts. 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. Because it could help resolve questions concerning your federal income tax status, this ruling should be kept in your permanent records.

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 representatives.

Sincerely,

Ronald Shoemaker
Manager Technical Group 2

Enclosure: Notice 437