

RULING REQUESTED:

Whether the proposed transfer of a church building and the site on which it sits to the Foundation is a charitable activity within the meaning of Treas. Reg. 1.501(c)(13)-1(a)?

LAW:

Section 501(a) provides that organizations described in subsection (c) or (d) or section 401(a) shall be exempt from taxation under subtitle A of the Internal Revenue Code unless such exemption is denied under section 502 or 503.

Section 501(c)(3) provides for the exemption from federal income tax of organizations which are organized and operated exclusively for charitable purposes and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 501(c)(13) describes cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for the purpose of the disposal of bodies by burial or cremation which is not permitted by its charter to engage in any business not necessarily incident to that purpose and no part of the earnings of which inures to the benefit of any private shareholder or individual.

Treas. Reg. 1.501(c)(13)-1(a) provides that a nonprofit cemetery company may be entitled to exemption if it is owned by and operated exclusively for the benefit of its lot owners who hold such lots for bona fide burial purposes and not for the purpose of resale. A mutual cemetery company which also engages in charitable activities, such as the burial of paupers, will be regarded as operating in conformity with this standard.

Rev. Rul. 67-149, 1967-1 C.B. 133, concerns an organization formed for the purpose of providing financial assistance to several different types of organizations which are exempt under § 501(c)(3). It carries on no operations other than to receive contributions and incidental investment income and to make distributions of income to such exempt organizations at periodic intervals. The ruling indicates that a § 501(c)(3) organization may further its exempt purposes by giving assets to another § 501(c)(3) organization.

ANALYSIS:

As stated in the regulations, a mutual cemetery company may engage in charitable activities, such as the burial of paupers. You plan to contribute the church and Church Site to the Foundation. Based on your representations, the contribution to the Foundation, a § 501(c)(3) organization, furthers a charitable purpose. See Rev. Rul. 67-149.

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Based on the facts and representations submitted, we conclude that:

This transaction, as represented, is a charitable activity within the meaning of Treas. Reg. 1.501(c)(13)-1(a).

The ruling contained in this letter is based upon information and representations submitted by or on behalf of _____ accompanied by a penalty of perjury statement executed by an individual with authority to bind _____ and upon the understanding that there will be no material changes in the facts. This office has not verified any of the material submitted in support of the request for a ruling, and such material is subject to verification on examination.

No ruling is granted as to whether _____ qualifies as an organization described in section 501(c)(13).

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 specifically described, and, except as expressly provided in this letter, no opinion is expressed or implied concerning the federal income tax consequences of any aspects of any transaction or item of income set forth above.

Because it could help resolve questions concerning federal income tax status, this ruling should be kept in _____ permanent records.

A copy of this letter must be attached to any tax return to which it is relevant. Alternatively, if _____ files its return electronically, this requirement may be satisfied by attaching a statement to the return that provides the date and control number of this letter.

This ruling will be made available for public inspection under section 6110 after certain deletions of identifying information are made. For details, see the enclosed Notice 437, Notice of Intention to Disclose. A copy of this ruling, showing the deletions that we intend to make on the version that will be made available to the public, is attached to the Notice 437. If _____ disagrees with our proposed deletions, it should follow the instructions in the Notice 437.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to _____ authorized representative.

This letter is directed only to _____ . Section 6110(k)(3) provides that it may not be used or cited as precedent by anyone else.

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For any questions about this letter, please contact the person whose name and telephone number are shown in the heading.

Sincerely,

Casey Lothamer
Branch Chief, Branch 2
Tax Exempt & Government Entities

Enclosures:

Notice 437

Copy of redacted ruling