

Internal Revenue Service

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Date:

June 28, 2016

Legend

Organization A =
Entity V =
Entity W =
Entity X =
Foundation Y =
Association Q =
Association R =
State B =
Statute M =
Year 1 =
Year 2 =
Year 3 =
Year 4 =
Year 5 =

Dear :

This is in response to your letter of December 21, 2015 requesting a letter ruling that donations to Organization A are tax deductible under § 170 because Organization A, as a consolidated department of all incorporated cities in State B is a wholly owned instrumentality of political subdivisions of State B.

FACTS

The following facts and representations are submitted under penalties of perjury in support of your request.

Origin and Governing Documents

The facts represented provide that Organization A is a governmental entity formed in Year 1 by 25 incorporated home rule cities in State B. Organization A's initial purpose was to defend its member cities against State intrusions on their home rule authority and to advocate on behalf of those governments before the State B Legislature.

Subsequently, State B's Legislature enacted Statute M. Statute M provides that a unit of local government of State B may enter into a written agreement with any other unit or units of local government for the performance of any or all functions and activities that a party to the agreement, its officers or agencies, have authority to perform. Statute M further explicitly provides that the agreement may provide for the performance of a function or activity by, among other things, a consolidated department.

In Year 2, all incorporated cities in State B entered into an "intergovernmental agreement" pursuant to Statute M establishing Organization A as a consolidated department of all the cities participating in the agreement. The agreement further provided that Organization A would continue to have the functions and governance as set forth in Organization A's Constitution as it existed at that time.

In Year 3, the cities participating in Organization A entered into a new intergovernmental agreement (hereinafter referred to as the "Intergovernmental Agreement"). The Intergovernmental Agreement expanded the number of seats on Organization A's Board of Directors, and currently governs the purpose, function and structure of Organization A. In Year 4, the IRS ruled that Organization A is exempt from federal income tax under § 501(c)(4). Organization A's purpose and governance are further set out in Organization A's Constitution and Bylaws, which were most recently updated in Year 5.

Purpose and Function

Organization A's Constitution and Intergovernmental Agreement state that Organization A has the following purposes and functions:

- To maintain an organization to secure cooperation among the cities of the State by thorough study of local problems, and in the application of efficient methods to local government;
- To provide a means whereby officials may interchange ideas and experiences and obtain expert advice;

- To collect, compile and distribute to municipal officials information about municipal government and the administration of municipal affairs;
- To engage in the study and preparation of uniform ordinances and practices;
- To formulate and promote such legislation as will be beneficial to the cities of State B and the citizens thereof and to oppose legislation detrimental thereto, but not to expend monies in favor of or in opposition to any public measure initiated by or referred to the people, or for or against the election of any candidate for public office;
- To provide such services to cities as cities may authorize and require through Organization A, including, but not limited to, assistance in collective bargaining with employees, liability, casualty, and health insurance, and the provision of joint facilities for local governments with other governmental units acting singly or cooperatively. To that end, Organization A may create or participate in appropriate entities and trusts which are suitable and convenient for carrying out its purposes;
- To secure harmony of action among municipalities in matters that affect the rights and liabilities of cities;
- To institute or participate in litigation in the name of a member city, upon request of such city, or in its own name for the purpose of securing a determination relative to the rights and liabilities of the cities of State B under any constitutional provision, statute or ordinance; to appear as a friend of the Court in any Court proceeding wherein the rights and liabilities of cities are affected; to appoint or employ counsel for the purpose herein mentioned;
- To adopt and amend, from time to time, such rules regulations, constitution and bylaws as are not inconsistent with the Intergovernmental Agreement; and
- To do any and all things necessary or proper for the benefit of the cities of State B which the cities themselves might do singly or in cooperation with other units or agencies of government.

Among its other activities, Organization A leverages the collective power of the participating cities to obtain services at a lower cost than cities would otherwise pay, or that would be difficult for cities to obtain individually. For example, as allowed by State B's public purchasing laws, Organization A operates cooperative purchasing programs for local governments, wherein Organization A negotiates bulk fixed price agreements with providers of goods and services that Organization A's participating cities may then use to procure those goods and services.

Governance

Cities are the only parties to the Intergovernmental Agreement establishing Organization A, and cities are the only entities eligible for full Organization A membership, which grants full access to all of Organization A's programs and services and gives those cities voting rights in selecting Organization A's Board of Directors as

well as approving changes to Organization A's Constitution. Under the terms of the Intergovernmental Agreement and Organization A's Bylaws, Organization A's governing body consists of voting and non-voting members. The voting members of Organization A's Board of Directors include four Officers (President, Vice-President, Treasurer, and Immediate Past President) and 11 Directors (two of whom hold an appointed position with a member city and 9 of whom are elected city officials). Non-voting members of the Board of Directors include one individual who holds an appointed position with a member city, past presidents who hold a city elected office, and the Executive Director of Organization A. The term of office of the voting Officer members is one year, while the term of office of Directors who hold an elected office with a member city is three years, and the term of office of Directors who hold an appointed position with a member city is two years. Candidates for membership on the Board of Directors are selected by a Nominating Committee, consisting of the Immediate Past President, one other Past President, two current Board members, and one city official not currently serving on the Board, all of whom are appointed by the President. All Officers, three Directors who hold elected positions with member cities, one Director who holds an appointed position with a member city, and one non-voting Director who holds an appointed position with a member city are elected each year at Organization A's annual business meeting.

The Board of Directors has an Executive Committee, consisting of the President, Vice-President, Treasurer, Immediate Past President, and the most senior voting Director serving in a position reserved for an individual holding an appointed position with a member city. The functions of the Executive Committee include, among other things, providing direction to Organization A's staff between Board meetings. Additionally, an Executive Director of Organization A is appointed by the Board of Directors and holds office at the pleasure of the Board of Directors. The Executive Director manages Organization A's employees, and oversees the day-to-day operations of Organization A. The Executive Director is a non-voting member of the Executive Committee.

As set out in the Intergovernmental Agreement and Organization A's Constitution, Organization A's membership meets at least once annually to vote on matters of policy and governance. There are no limits on the number of delegates each member city may send to an annual meeting, and all delegates are to be heard in debate. However, each member city is entitled to one vote, which is expressed by a voting delegate (designated by each member city, often by vote of the city's governing body). At the annual meeting the voting delegates receive and approve a financial report, elect Officers and members of the Board of Directors, and if necessary adopt resolutions governing Organization A's Constitution (which requires a two-thirds majority vote of the delegates present).

Because the original primary emphasis of Organization A relates to legislative and legal advocacy, Organization A has established an extensive process that places control with the member cities in deciding Organization A's position on state and federal policy matters. Specifically, as set out in Organization A's By-laws, the biennial process

begins with the establishment of policy committees that are organized by topic. The President appoints the committee members, who must be either elected or appointed city officials to be voting members. No person representing private interests may serve as a voting member on a policy committee. The policy committees meet and make recommendations to Organization A's Board on proactive and defensive positions in the legislative process. The Board then either adopts or rejects those recommendations at a meeting held before Organization A's annual meeting. The member cities are then able to review and if desired modify the Board's adopted positions at the annual meeting.

Pursuant to the Intergovernmental Agreement, Organization A may be dissolved by a two-thirds vote of the participating cities, in which event the cities then participating shall mutually agree upon the transfer of personnel or the division of assets and liabilities between the parties.

Subsidiary and Supporting Entities

In order to provide services to cities in the area of collective bargaining with employees, liability, casualty, and health insurance, and the provision of joint facilities, Organization A has formed the following four entities to help carry out those purposes:

- Entity V: Entity V is a joint venture between Organization A and Association Q, which is an association of State B counties. Entity V was formed to provide human resources and labor relations assistance to local government entities in State B. Entity V's operating agreement provides that income or money collected by or credited to Entity V shall not accrue to the benefit of any private person, firm, or corporation, but shall accrue only to the parties to Organization A and Association Q. The operating agreement further provides that in the event Entity V is terminated, assets, as well as indebtedness or liabilities shall be split between Organization A and Association Q.
- Entity W: Entity W is an insurance trust for public entities. As allowed by State B law, Organization A and Association Q formed Entity W to provide pooled liability, casualty, and health insurance to their member cities and counties, respectively. In 1987, Entity W received a ruling from the IRS that its income is excludable from gross income under § 115.
- Entity X: Entity X is a real estate trust formed by Organization A, Association Q, and Association R (an association of State B school boards), to aid in the management of real property held by these three entities in common. The real property includes an undivided percentage ownership interest in the building that houses the primary place of business for all three entities and the real estate on which the building is located, as well as property adjacent to that building that is used for parking and being held for future building expansion. The most current Declaration of Trust of Entity X states that the executive directors of Organization A, Association Q and Association R, have full power to control any proceeds from

the trust estate subject only to the restriction that no part thereof shall be used at any time for other than governmental purposes. If the trust terminates, the Declaration of Trust provides that the entire trust estate will be distributed to Organization A, Association Q, and Association R in accordance with the beneficial ownership shares, as long as the trust is not distributed for other than governmental purposes.

- Foundation Y: Foundation Y is a separate, non-profit foundation, the purpose of which is to solicit grants and receive charitable donations for Organization A. Foundation Y has a ruling from the IRS that it is tax exempt under § 501(c)(3).

Participation Categories

In accordance with Organization A's Bylaws, Organization A maintains various participation categories:

- Full Membership: A city may become a member of Organization A by paying the membership dues for the current year and adopting the Intergovernmental Agreement. Full membership entitles a city to all services provided by Entity W and voting privileges at Organization A's annual meeting. Any member may withdraw from membership by giving six months written notice in the form of council resolution or ordinance to the Executive Director. Additionally, any member that fails to pay membership dues during the current fiscal year may be stricken from the membership roll by Organization A's Board of Directors.
- Associate Membership: Associate member status is available to a variety of enumerated "public bodies," such as a State B political subdivision, a State B municipal or public corporation, or certain intergovernmental agencies, that are not cities or counties and that, therefore, are ineligible for direct membership in Organization A or in Association Q. As provided in Organization A's Bylaws, Associate membership status is not available to private non-profit or private for-profit entities. Entities that qualify for associate membership may become associate members by paying annual dues, in an amount set by the Board of Directors of Organization A, and upon approval by Organization A's Executive Director. Associate members may participate in Entity W and risk management services, subject to adopted Entity W policies, obtain labor services from Entity V, receive Organization A publications, and attend Organization A trainings. Associate members are not entitled to voting privileges, cannot serve on Organization A committees, and are not entitled to legislative lobby or intergovernmental relations services. Organization A's Board of Directors created the Associate Membership category as part of Organization A's efforts to ensure that Entity W, an insurance trust, remained financially healthy and had adequate participation.
- Sponsorships: Upon approval of the Executive Director, a person or entity may be allowed to participate in a sponsorship role with Organization A. Sponsors may be recognized for their sponsorship and receive benefits based on the level

of financial support or fees provided to Organization A. (Sponsorships are described in greater detail below.)

In addition, Organization A's Bylaws state that it may provide services to affiliate groups for reimbursement, based on available resources and approval by Organization A's Board of Directors. For this purpose, an "affiliate organization" is one that is composed of local government officials, formally organized under a constitution or bylaws, or both, and recognized by Organization A's Board of Directors. Furthermore, Organization A's Constitution provides that other classes of, and conditions for, non-voting membership may be established by Organization A's Board of Directors, which may include separate boards or commissions of cities and other entities or groups of persons that want one or more of Organization A's services.

Revenues and Expenses

The Intergovernmental Agreement provides that no Organization A funds shall be expended except upon a vote of its Board of Directors and in furtherance of the objectives and purposes of Organization A. State B law provides that any moneys collected by an intergovernmental entity, like Organization A, shall not accrue to the benefit of private persons. The Intergovernmental Agreement further provides that incidental income from any Organization A activity shall be devoted solely to the governmental purposes of Organization A and its member cities; and that no profit from any Organization A activity shall inure to the benefit of any private person, firm, or corporation. Private businesses are not eligible to participate in the governance of Organization A or to have any material interest in or control over Organization A. Therefore, the only transactions Organization A has involving private interests are in the form of contractual relationships, either where Organization A is paying or receiving a fee for a service.

As more fully described below, Organization A's revenues are generally derived from:

- membership and other fees or assessments;
- fees for services provided to cities and affiliate groups;
- revenues derived from the insurance trust;
- real estate transactions; and
- grants and charitable donations.

Membership and Other Fees

Organization A's Constitution provides that the Board of Directors shall assess the annual membership fee for cities in an amount sufficient to finance the expenses of Organization A for the current year. Under the Intergovernmental Agreement, the amount of the annual fees or assessments must be based upon the populations of the respective cities entering into the agreement, as determined by the Board of Directors

no later than January 1 of each calendar year. The Constitution further provides that the annual membership fee for other, non-voting memberships shall be as determined by the Board, and the Board may levy assessments in addition to the annual membership fee and request voluntary contributions for other services and programs authorized by the Board.

Fee-For-Service Programs

To enhance revenues that offset costs of providing programs to participating cities, Organization A established two fee for service programs (hereinafter referred to as "Program 1" and "Program 2") where Organization A provides a service to a private interest on a fee for service basis. In all instances, the fee charged to the private interest equals or exceeds Organization A's cost in providing the service. In addition, both programs enhance the purpose of Organization A in linking city officials with their public duties.

Under Program 1, private, for-profit entities pay a fee of \$400, \$600, or \$1,000 in exchange for some combination of the following: quarter-page advertising or discounts on other advertising in Organization A's monthly publication; advance registration for the trade show at Organization A's annual conference; a discount on an exhibitor booth at Organization A's annual conference; advertising in Organization A's online Products and Services Directory; a subscription to Organization A's monthly publication and weekly bulletin (both available free of charge on Organization A's website); use of Organization A's business partner logo; access to Organization A's membership list at a lower rate than that charged to the general public; recognition in Organization A's annual conference program and on Organization A's website; and an Organization A wall calendar.

Program 2, which helps cover the cost of Organization A's annual conference (Organization A's signature annual event for local elected and appointed officials) is structured similarly to Program 1. Under Program 2, a private business pays a fee of \$500, \$750, \$1,500, \$2,500, \$6,000, or \$10,000 in exchange for one or more of the following: recognition as sponsor of certain events at the conference and banner placement, logo display, or some other recognition during a conference event; the opportunity to welcome and introduce a speaker; recognition of sponsorship and a full page advertisement in the annual conference program; an exhibitor booth at the trade show; admission to the conference; the opportunity for company representatives to present an informational conference session; logo featured on signs in audio-visual media at the conference; and recognition on Organization A's website and in Organization A's monthly publication.

Real Estate Transactions

As noted above with respect to the discussion of Entity X, Organization A owns an undivided 33.21 percent of the building that is Organization A's principal place of business, as well as the real estate on which the building is located. Association Q and Association R own the remaining interest in the building and the land upon which the building is located. Those organizations maintain their principal place of business in the same building as Organization A, and other governmental entities also rent space in the building. The property is managed by Entity X, which in turn is governed by a board of trustees made up of the executive directors of Organization A, Association Q and Association R, who make decisions relating to use and management of the property and building. Organization A, Association Q and Association R jointly own property adjacent to the building, which was purchased for future building expansion. That property is currently occupied by single-family residential rental dwelling units. In accordance with the trust documents, any revenue net of expenses that is derived from those activities is used to operate the building, or distributed to Organization A, Association Q, or Association R in amounts equal to the percentage ownership of each entity.

Grants and Charitable Donations

As noted above, in Year 4, several elected officials undertook an effort to create Foundation Y, for the purpose of soliciting grants and receiving charitable donations that would be used to generate data and information for cities and to support and educate municipal government officials through Organization A trainings, conferences and workshops.

RULING REQUESTED

Based on the above facts represented, you request a ruling that Organization A, as a consolidated department of all incorporated cities in State B, is a wholly owned instrumentality of political subdivisions of State B to which donations are tax deductible under § 170.

LAW

Section 170(a)(1) provides that there shall be allowed as a deduction any charitable contribution (as defined in § 170(c)) payment of which is made within the taxable year.

Section 170(c)(1) states that, for purposes of § 170, the term "charitable contribution" means a contribution or gift to or for the use of a State, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

Rev. Rul. 57-128 provides that, in cases involving the status of an organization as a wholly owned instrumentality of one or more states or political subdivisions, the following factors are taken into consideration:

- (1) whether it is used for a governmental purpose and performs a governmental function;
- (2) whether performance of its function is on behalf of one or more states or political subdivisions;
- (3) whether there are any private interests involved, or whether the states or political subdivisions involved have the powers and interests of an owner;
- (4) whether control and supervision of the organization is vested in public authority or authorities;
- (5) if express or implied statutory or other authority is necessary for the creation and/or use of such an instrumentality and whether such authority exists; and
- (6) the degree of financial autonomy and the source of its operating expenses.

In Rev. Rul. 75-359, 1975-2 C.B. 79, the IRS concluded that a voluntary association was separate from its member counties and qualified as a wholly-owned instrumentality of those counties, which were political subdivisions, and was formed and operated exclusively for the public purposes of the member counties. Therefore, contributions to the association were deductible as contributions “for the use of” political subdivisions subject to the limitation of § 170(b)(1)(B).

In Rev. Rul. 65-26, advice was requested regarding whether a municipal league was a wholly owned instrumentality of political subdivisions of a State for Federal employment tax purposes. In that case, the municipal league was incorporated by individuals under the State laws applicable to private, not-for-profit corporations. The purposes of the municipal corporation were the improvement of municipal government and the promotion of the general welfare of the cities and villages of the State by appropriate means, including research, fostering of conferences, and publications. The municipal league’s governing body was a board of trustees, comprised of qualified officials of member cities or villages. The league’s activities, in Rev. Rul. 65-26, consisted of publishing a monthly magazine featuring articles on government matters; conducting conferences, surveys and research projects on governmental subjects and publishing the results in pamphlets; and sponsoring or participating in municipal law institutes and seminars. Income of the league was derived from membership dues, sales of publications, advertising and conference receipts, and was expended in carrying out its activities.

The IRS, in Rev. Rul. 65-26, found the league did not meet all of the factors enumerated in Rev. Rul. 57-128. The IRS concluded the league had not been designated by any municipal corporation as its agent or instrumentality, as would be possible under the constitution of the State. The IRS said the activities of the league were governed by its board of trustees who, although municipal officers, were acting as individuals with no

power of agency from their respective municipalities. Thus, the IRS stated control and supervision of the league were not vested in public authority. Accordingly, the IRS held the league was not a wholly owned instrumentality of political subdivisions of the State.

ANALYSIS

At issue in this case is whether Organization A is a wholly owned instrumentality of political subdivisions of State B. If Organization A is a wholly owned instrumentality of political subdivisions of State B, then pursuant to Rev. Rul. 75-359, contributions to Organization A may constitute charitable contributions (within the meaning of § 170(c)(1)) “for the use of” political subdivisions of State B, which are deductible under § 170(a), subject to the limitation of § 170(b)(1)(B). A determination of whether Organization A is a wholly-owned instrumentality of one or more political subdivisions of State B is made by applying the factors set forth in Rev. Rul. 57-128.

Governmental Purpose and Function

The first factor under Rev. Rul. 57-128 is whether Organization A is used for a governmental purpose and performs a governmental function. Organization A’s initial purpose was to defend its member cities against State intrusions on their home rule authority and to advocate on behalf of those governments before the State B Legislature. Under Organization A’s current Constitution and the Intergovernmental Agreement, Organization A analyzes a variety of municipal policy issues and legislative initiatives, and provides such services to cities as cities may authorize and require through Organization A. For example, Organization A assists cities in collective bargaining with employees, as well as with liability, casualty, and health insurance matters. Additionally, Organization A institutes or participates in litigation in the name of a member city, upon request of such city, or in its own name for the purpose of securing a determination relative to the rights and liabilities of the cities of State B under any constitutional provision, statute or ordinance. Furthermore, Organization A negotiates bulk fixed price agreements with providers of goods and services that Organization A’s participating cities may then use to procure those goods and services. Moreover, Organization A produces publications, training and conferences regarding issues that are relevant to cities. Thus, Organization A satisfies this factor because its purposes and functions are governmental in nature.

Performance on Behalf of Political Subdivisions

The second factor under Rev. Rul. 57-128 is whether performance of Organization A’s function is on behalf of one or more states or political subdivisions. All of the incorporated cities in State B have entered into the Intergovernmental Agreement pursuant to Statute M establishing Organization A as a consolidated department of all the cities participating in the agreement. The incorporated cities of State B are political subdivisions of the State, and Organization A’s Constitution and the Intergovernmental

Agreement establish that the performance of Organization A's function is on behalf of the incorporated cities and other political subdivisions of state B. Accordingly, the performance of Organization A's function is on behalf of such political subdivisions.

Powers and Interests of an Owner

The third factor under Rev. Rul. 57-128 is whether there are any private interests involved, or whether the states or political subdivisions involved have the powers and interests of an owner. Cities are the only parties to the Intergovernmental Agreement establishing Organization A, and cities are the only entities eligible for full Organization A membership, which grants full access to all of Organization A's programs and services and gives those cities voting rights in selecting Organization A's Board of Directors as well as approving changes to Organization A's Constitution. State B law and the Intergovernmental Agreement provide that no profit from any Organization A activity shall inure to the benefit of any private person, firm, or corporation. Private businesses are not eligible to participate in the governance of Organization A or to have any material interest in or control over Organization A. Therefore, based on the foregoing, we conclude that Organization A's member cities, which are political subdivisions of State B, have the powers and interests of an owner with respect to Organization A.

Control and Supervision

The fourth factor under Rev. Rul. 57-128 is whether control and supervision of Organization A is vested in public authority or authorities. In this case, the incorporated cities of State B are the only parties to the Intergovernmental Agreement establishing Organization A, and those cities are the only entities eligible for full Organization A membership, which gives those cities voting rights in selecting Organization A's Board of Directors as well as approving changes to Organization A's Constitution. Under the terms of the Intergovernmental Agreement and Organization A's Bylaws, Organization A's governing body consists of voting and non-voting members. The voting members of Organization A's Board of Directors include four Officers (President, Vice-President, Treasurer, and Immediate Past President) and 11 Directors (two of whom hold an appointed position with a member city and 9 of whom are elected city officials). Non-voting members of the Board of Directors include one individual who holds an appointed position with a member city, past presidents who hold a city elected office, and the Executive Director of Organization A. Candidates for membership on the Board of Directors are selected by a Nominating Committee, consisting of the Immediate Past President, one other Past President, two current Board members, and one city official not currently serving on the Board, all of whom are appointed by the President. Since duly selected representatives of the incorporated State B cities govern Organization A, and only those cities are eligible to vote in selecting Organization A's Board of Directors as well as to approve changes to Organization A's Constitution, we conclude that control and supervision of Organization A is vested in public authorities.

Statutory Authority

The fifth factor under Rev. Rul. 57-128 is whether express or implied statutory or other authority is necessary for the creation and/or use of Organization A and whether such authority exists. Statute M provides that a unit of local government of State B may enter into a written agreement with any other unit or units of local government for the performance of any or all functions and activities that a party to the agreement, its officers or agencies, have authority to perform. Statute M further explicitly provides that the agreement may provide for the performance of a function or activity by, among other things, a consolidated department. All of the incorporated cities in State B entered into the Intergovernmental Agreement pursuant to Statute M establishing and continuing to maintain Organization A as a consolidated department of all the cities participating in the agreement. Accordingly, we conclude that express or implied statutory authority or other authority is necessary for the creation and/or use of Organization A and that such authority exists.

Financial Autonomy and Source of Operating Expenses

The sixth factor under Rev. Rul. 57-128 is the degree of Organization A's financial autonomy and the source of its operating expenses. Organization A's revenues are generally derived from: membership and other fees or assessments; fees for services provided to cities and affiliate groups; revenues derived from the Entity W insurance trust; real estate transactions (including rental income); and grants and charitable donations. While some of Organization A's funds come from non-governmental sources (e.g., sponsorships, advertising, etc.),¹ most of its revenues are derived from its member cities and other governmental entities through fees or assessments, and the Entity W insurance trust. The finances of Organization A are managed by its Board of Directors in concert with the will of its member cities as expressed through the elected or appointed officials representing the member cities. Organization A satisfies the sixth factor of Rev. Rul. 57-128 because most of its revenue is derived from dues and fees paid by its member cities. Furthermore, any other income of Organization A is required by its governing documents to be devoted solely to the governmental purposes of Organization A and its member cities.

For the reasons stated above, Organization qualifies as a wholly owned instrumentality of its member cities of State B within the meaning of Rev. Rul. 57-128. Organization A's purposes and functions are governmental in nature; Organization A's function is on behalf of the incorporated cities and other political subdivisions of state B; the incorporated cities of State B, which are political subdivisions of State B, have the powers and interests of an owner; since duly selected representatives of the incorporated State B cities govern Organization A, and only those cities are eligible to

¹ We note that, subject to limited exceptions, § 511 imposes a tax on the unrelated business taxable income of organizations exempt under § 501(c). See also §1.511-1.

vote in selecting Organization A's Board of Directors as well as to approve changes to Organization A's Constitution, control and supervision of Organization A is vested in public authorities; express statutory authority is necessary for the creation and use of Organization A and such authority exists; and Organization A's revenues are generally derived from the fees and assessments derived from its member cities. Unlike Rev. Rul. 65-26, the facts in this case indicate the activities of Organization A are governed by its Board of Directors whose members are municipal officers acting with the power of agency from their respective municipalities. Therefore, in accordance with Rev. Rul. 75-359, we conclude that contributions to Organization A may constitute charitable contributions (within the meaning of § 170(c)(1)) for the use of political subdivisions of State B, that are deductible under § 170(a), subject to the limitation of § 170(b)(1)(B).

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. For example, no opinion is expressed, without limitation, on the income tax treatment of any of Organization A's revenue, or whether Organization A has any unrelated business taxable income within the meaning of § 512(a)(1).

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party, as specified in Rev. Proc. 2016-1, 2016-1 I.R.B. 1, § 7.01(15)(b). This office has not verified any of the material submitted in support of the request for ruling, and such material is subject to verification on examination. The Associate office will revoke or modify a letter ruling and apply the revocation retroactively if there has been a misstatement or omission of controlling facts; the facts at the time of the transaction are materially different from the controlling facts on which the ruling was based; or, in the case of a transaction involving a continuing action or series of actions, the controlling facts change during the course of the transaction. See Rev. Proc. 2016-1, § 11.05.

Sincerely,

Lynne Camillo
Branch Chief, Employment Tax Branch 2
(Exempt Organizations/Employment Tax/Government
Entities) (Tax Exempt & Government Entities)