

Internal Revenue Service

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:TEGE:EOEG:EO2
PLR-115468-18

Date:
October 29, 2018

Legend
Organization =
State =
Residents =
Members =
Subsistence =

Dear _____ :

This letter responds to your letter from your authorized representative dated April 18, 2018 and subsequent correspondence submitted on behalf of Organization.

FACTS

Organization is recognized by the Internal Revenue Service as a tax-exempt organization described in I. R. C. § 501(c)(3) and exempt from federal income tax under I.R.C. § 501(a) of the Internal Revenue Code.¹ It is a religious residential community located in State. Organization is inspired by Christian ideals and structured around many daily religious observances, as well as celebrations of festivals of the Christian

¹ The Internal Revenue Code of 1986, as amended, to which all subsequent I.R.C. § references are made unless otherwise indicated.

year. It adheres to the tenets of . However, Organization is not under the control and supervision of a church or convention or association of churches.

Organization lives out the ideals and worldview of through its dedication to the care and well-being of adults with developmental disabilities (“Residents”) in its residential community. The community also includes Members who care for Residents and the Members’ children. The Residents, Members, and Members’ children live together full-time in extended family households and work together maintaining the community.

Members are those individuals who have been in continuous residence at the Organization’s facility for at least three years, have completed a prescribed course of studies in , have completed a discernment process within the Organization regarding the suitability of their intended permanent commitment to the community, and have been accepted into an intended permanent residence in the community. Members agree to strive to live out of ideals requiring moral and spiritual self-sacrifice and dedication to the goals of the Organization at the expense of their material well-being.

Members live and work full-time at the Organization’s facility. They are devoted full-time to the fulfillment of Organization’s spiritual and religious goals. Members pledge to faithfully abide by the ideals of the Organization and are held to that standard. Common and private prayer, reading of Christian scriptures (in light of interpretations), the Bible evening, offering service, and celebration of Christian festivals are integral to the lives of Members. The Members’ caring for Residents is the Organization’s core religious objective.

Subsistence is provided by the Organization to Members without cost to the Members and without regard to their economic contribution to the community. In practice this includes meals, lodging, clothing, the use of automobiles, costs of travel, and medical insurance. Members are also given a modest annual cash allotment for three-to-four week vacations outside the community. In the case of Members who have school-aged children, Organization covers the cost of education at two local private schools with a philosophy similar to that of the Organization. In the case of Members with college-aged children, the Organization provides such Members with an annual sum to offer partial aid in support of the college expenses of such children.

ISSUES

1. Whether the Organization is a religious order described in Rev. Proc. 91-20, 1991-1 C.B. 524.
2. Whether the Organization’s Members are members of a religious order as described in Rev. Proc. 91-20.

3. Whether Subsistence constitutes wages for purposes of I.R.C. §§ 3121(a), 3306(b) and 3401(a).

Ruling Requests Number 1 and Number 2

Law and Analysis

The term "religious order" is not defined in the Code or regulations. Organizations and individuals may request rulings from the Service on whether they are religious orders, or members of a religious order, by following the procedures in Rev. Proc. 91-20.

Rev. Proc. 91-20 states that the Service will use these characteristics, as set forth below, in determining whether an organization is a religious order and whether an Individual is a member of a religious order.

1. The organization is described in I.R.C. § 501(c)(3) of the Code.
2. The members of the organization vow to live under a strict set of rules requiring moral and spiritual self-sacrifice and dedication to the goals of the organization at the expense of their material well-being.
3. The members of the organization, after successful completion of the organization's training program and probationary period, make a long-term commitment to the organization (normally more than two years).
4. The organization is, directly or indirectly, under the control and supervision of a church or convention or association of churches, or is significantly funded by a church or convention or association of churches.
5. The members of the organization normally live together as part of a community and are held to a significantly stricter level of moral and religious discipline than that required of lay church members.
6. The members of the organization work or serve full-time on behalf of the religious, educational, or charitable goals of the organization.
7. The members of the organization participate regularly in activities such as public or private prayer, religious study, teaching, care of the aging, missionary work, or church reform or renewal.

Generally, the presence of all the above characteristics is determinative that the organization is a religious order. On the other hand, the absence of the characteristic that the organization is an organization described in I.R.C. § 501(c)(3) is determinative

that the organization is not a religious order. The absence of one or more of the other enumerated characteristics is not necessarily determinative in a particular case.

With respect to the characteristics set forth in Rev. Proc. 91-20, Organization does not satisfy characteristic number 4. The Organization is not either directly or indirectly, under the control and supervision of a church or a convention or association of churches, and is not significantly funded by a single church or convention or association of churches.

The Organization satisfies the other characteristics in Rev. Proc. 91-20 for a religious order, and the Members satisfy the other characteristics in Rev. Proc. 91-20 for members of a religious order. Accordingly, based on our consideration of all the facts and circumstances, we conclude that Organization is a religious order and that the Members are members of such religious order.

Ruling Request Number 3

Law and Analysis

Taxes under the Federal Insurance Contributions Act (FICA) apply to remuneration for employment as defined in I.R.C. § 3121(b). Section 3121(b)(8)(A) excepts from employment, for FICA tax purposes, service performed by a member of a religious order in the exercise of duties required by such order.

In this case, we have determined that Organization is a religious order and that Members are members of such religious order. The services performed by Members for Organization are duties that are required by Organization's community. Accordingly, pursuant to I.R.C. § 3121(b)(8)(A), the Subsistence earned by Members for services performed by them as members of Organization, a religious order, does not constitute wages subject to FICA taxes.

I.R.C. § 3401(a) provides that the term "wages" for income tax withholding purposes means all remuneration for services performed by an employee for his employer, with certain exceptions. I.R.C. § 3401(a)(9) excepts from the definition of wages, for income tax withholding purposes, remuneration for services performed by a member of a religious order in the exercise of duties required by such order. Consequently, pursuant to I.R.C. § 3401(a)(9), the Subsistence earned by Members for services performed by them as members of Organization, a religious order, does not constitute wages subject to federal income tax withholding.

I.R.C. § 3306(b) provides that the term "wages" for purposes of the taxes imposed under the Federal Unemployment Compensation Act (FUTA) means all remuneration for employment, with certain exceptions. I.R.C. § 3306(c)(8) excepts from the definition of "employment," for FUTA tax purposes, any service performed in the

employ of a religious, charitable, educational or other organization described in § 501(c)(3) that is exempt from federal income tax under § 501(a). Therefore, because Organization is described in I.R.C. § 501(c)(3) and is exempt from federal income tax under I.R.C. § 501(a), pursuant to I.R.C. § 3306(c)(8), the Subsistence earned by Members for services performed by them as members of Organization, a religious order, is not subject to FUTA tax.

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.

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.

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

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

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. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Sincerely,

Taina E. Edlund
Senior Technician Reviewer
(Tax Exempt & Government Entities)

Enclosure (1)