



OFFICE OF
CHIEF COUNSEL

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

AUG - 5 2002

CC:PA:APJP
CPNachman

MEMORANDUM FOR SUSAN E. GILBERT
ACTING MANAGER, GRANTS ADMINISTRATION PROGRAM
(SPEC)

Attn: Debra J. Chandler

FROM:

Deborah A. Butler
Deborah A. Butler
Associate Chief Counsel (Procedure & Administration)

SUBJECT: Tax-Exempt Applicants—Other Than Section 501(c)(3)

Your office recently inquired about the possible qualification of Low Income Taxpayer Clinic (LITC) applicants that are exempt from taxation under an Internal Revenue Code section other than § 501(c)(3). We believe that tax-exempt organizations (nonprofits) need not have a section 501(c)(3) exemption to qualify for an LITC grant.

Currently, there is an applicant that is tax exempt under section 501(c)(6); other clinics also have inquired about eligibility for an LITC grant if they are tax exempt but do not have 501(c)(3) status. Section 501(c)(6) provides tax exemption for several types of organizations, provided that they are not organized for profit and no part of their net earnings inures to the benefit of any private shareholder or individual. The current applicant is a national accounting organization which proposes to refer low income taxpayers to its various members, who will represent the taxpayers on a pro bono basis.

Section 7526 defines a clinic as including academic clinics and "an organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the [other relevant] requirements" of section 7526. See, section 7526(b)(2)(B). Because nonprofit LITCs traditionally have been section 501(c)(3) organizations, you are concerned that perhaps they are the only nonprofits that satisfy the requirements of a qualified LITC. The statute, however, is nonexclusive and provides that an organization can be a clinic if it is described in section 501(c); there is no mention of section 501(c)(3). Nor have we found any legislative history that indicates Congress intended qualifying nonprofits to be exclusively section 501(c)(3) organizations. Thus, assuming you find the current applicant otherwise qualified to receive a grant, its section 501(c)(6) status should not prevent it from becoming an LITC grantee.

PMTA: 00553

Although it is more likely that a nonprofit grantee would be one whose tax exemption is under section 501(c)(3), there is nothing in section 7526 to prevent the Service's providing a grant to any of the other types of section 501(c) nonprofits that otherwise satisfy section 7526. Most likely many of the other 501(c) nonprofits would not consider becoming an LITC simply because of the nature of their respective organizations. For example, section 501(c)(13) exempts cemeteries "owned and operated exclusively for the benefit of their members or which are not operated for profit." [REDACTED]

DP

If you have any questions, please call Carol Nachman at (202) 622-7885.

cc: Kirsten Wielobob (CC:WI)