UIL- 514.00-00

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

200125096

Date: MAR 29 2001

Contact Person:

Identification Number:

Telephone Number:

T:EO:B1

Employer Identification Number:

Legend:
A=
B=
C=
D=

Dear Sir or Madam:

We are responding to your letter asking whether you are in compliance with section 1.514 of the Income Tax Regulations regarding the neighborhood land rule.

Facts

You are exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code. Your primary purpose is providing temporary room and board for families with a relative or loved one in a local hospital. You also make counseling available on a limited basis to help families deal with the stress of their loved ones' illnesses.

You state on January 31, 1996, you acquired land and a building located at A with the intention of using the property for your exempt purpose within ten years of the acquisition. The property is contiguous with B, the location of your hospitality house. The B property is property you already owned at the time of the acquisition and were using and continue to use for your exempt purpose.

You intend to demolish the existing structures at both A and C and construct a new hospitality house. At the current time, the demolition and construction should be complete by March 31, 2002. The demolition and construction plans were negotiated and reduced to writing in a memorandum of understanding dated June 27, 2000 between D and your Board of Directors. Your Board of Directors approved the memorandum of understanding on September 28, 2000.

You request the Service to rule that the A property is not debt-financed property as defined in section 514(b)(1) of the Code.

65

Law

Section 1.514(b)-1 of the regulations defines debt-financed property to mean any property which is held to produce income (e.g., rental real estate, tangible personal property, and corporate stock), and with respect to which there is an acquisition indebtedness (determined without regard to whether the property is debt-financed property) at any time during the taxable year.

Section 1.514(b)-1(d)(1)(i) of the regulations states if an organization acquires real property for the principal purpose of using the land in the exercise or performance of its exempt purpose, commencing within 10 years of the time of acquisition, such property will not be treated as debt-financed property, so long as (a) such property is in the neighborhood of other property owned by the organization which is used in the performance of its exempt purpose, and (b) the organization does not abandon its intent to use the land in such a manner within the 10-year period. The rule expressed in this subdivision is referred to as the neighborhood land rule.

Section 1.514(b)-1(d)(1)(ii) of the regulations states property shall be considered in the "neighborhood" of property owned and used by the organization in the performance of its exempt purpose if the acquired property is contiguous with the exempt purpose property or would be contiguous with such property except for the interposition of a road, street, railroad, stream, or similar property.

Section 1.514(b)-1(d)(1)(iii) of the regulations states the neighborhood land rule shall not apply to any property after the expiration of 10 years from the date of acquisition. Further, the neighborhood land rule shall apply after the first 5 years of the 10-year period only if the organization establishes to the satisfaction of the Commissioner that future use of the acquired land is in furtherance of the organization's exempt purpose before the expiration of the 10-year period is reasonably certain. In order to satisfy the Commissioner, the organization does not necessarily have to show binding contracts. However, it must at least have a definite plan detailing a specific improvement and a completion date, and some affirmative action toward the fulfillment of such a plan. This information shall be forwarded to the Commissioner of Internal Revenue for a ruling at least 90 days before the end of the fifth year after acquisition of the land.

Rationale and Conclusion

You state on January 31, 1996 you acquired land and a building located at A with the intention of using the property for your exempt purpose within ten years of the acquisition. The property is contiguous with B which you already own and are using and continue to use for your exempt purpose. Pursuant to a memorandum of understanding you intend to demolish the existing structure at A and construct a new facility. At the current time, the demolition and construction should be completed by March 31, 2002. You submitted your request for a ruling 90 days before the end of the fifth year after acquisition of the land. Based on all the facts and circumstances, we rule the A property is not debt-financed property as defined in section 514(b)(1) of the Code because your purchase and plans for use of the property satisfy the requirements of section 1.514(b)-1 of the regulations.

626

This ruling is conditioned on the understanding there will be no material change in the facts upon which it is based. Any changes that may have a bearing on your tax status should be reported to the Service. We are informing your Exempt Organizations Area Manager of this ruling. Please keep this letter in your permanent records.

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

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.

Sincerely,

Marvin Friedlander

Marvin Friedlander
Manager, Exempt Organizations
Technical Group 1

627