TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

200236051

Date: June 17, 2002

NO THIRD PARTY CONTACTS

SIN: 501.03-08
513.00-00

T:EO:B4

Employer Identification Number:

Legend:
M =
N =

Dear Sir or Madam:

This is in response to your letter of March 7, 2002, in which you request a private letter ruling regarding the effect of two new programs on your continued exemption under section 501(c)(3) of the Internal Revenue Code. In addition, you request a ruling that the proposed additional activities will not result in unrelated business income tax under sections 511 through 514 of the Code.

Since your inception, you have actively engaged in projects exclusively for the benefit of M, the business school at N. You have supported the publishing of materials related to M, provided scholarships and fellowships to support study at M and provided funds directly to M for its ongoing educational activities. Most recently, you ran an executive education program, a series of educational seminars run in conjunction with M, to provide ongoing business training to corporate executives and students from other universities around the world. You have been recognized as exempt under section 501(c)(3) of the Code and are a supporting organization described in section 509(a)(3).

You propose to acquire and/or develop student housing projects on or near N's campus to assist N's students in finding affordable housing in a tight housing market. The housing projects will be in the form of student apartments and may be funded through the issuance of tax-exempt bonds. All residential units will be limited to students at N, though some apartments may be reserved for certain classifications of students, for example, students seeking an MBA degree. Within each classification, student residents will be selected on a nondiscriminatory basis. Market rates will be charged for the units.

In conjunction with the student apartments, you plan to provide an educational experience for M's students in real estate acquisition, management and possibly development. The clinical program will have both a classroom component and an experiential component, each supervised by M's regular faculty. In the clinical program, business students will gain real world experience by being directly involved in the acquisition and management of the residences. In this regard, faculty supervised student interns will work with the independent management company you select for day-to-day management services.

You have asked us to rule as follows:

1. The acquisition and/or development of student housing projects solely for the benefit of students at N will not adversely affect your tax exempt status under section 501(c)(3) of the Code.

2. The operation of the clinical program for N's students in conjunction with the acquisition and development of student housing projects will not adversely affect your tax exempt status under section 501(c)(3) of the Code.

3. The acquisition, development, and management of student housing projects solely for the students at N, will not produce unrelated business taxable income under sections 511–514 of the Code.

Section 501(c)(3) of the Code provides, in part, that an organization is exempt from Federal income tax if it is organized and operated for charitable and educational purposes, and if no part of the net earnings of the organization inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations defines the term "charitable" as including the advancement of education.

Section 1.501(c)(3)-1(d)(3) of the regulations defines the term "educational" as including the instruction or training of the individual for the purpose of improving or developing his capabilities.

Section 511 of the Code imposes a tax on income derived from any trade or business the conduct of which is not substantially related to the exercise or performance by an organization of its charitable, educational, or other exempt purposes.

Section 513(a)(2) of the Code exempts from the definition of "trade or business" any trade or business that is carried on by an exempt organization primarily for the convenience of its students.

Section 1.513-1(d)(4) of the regulations provides that gross income derived from charges for the performance of exempt functions does not constitute gross income from the conduct of unrelated trade or business.

Rev. Rul. 67-217, 1967- 2 C.B. 181, recognized an organization formed to provide housing and food service exclusively for students and faculty of a specific university lacking such facilities as exempt under section 501(c)(3) of the Code. The housing facility was constructed by the organization on land near the university and made available to the students of the university at rates comparable to those offered by the university in its own facilities. While the facility was run by a commercial management company, any surplus from operations was donated to the university and the university had an option to purchase the facility at any time for an amount equal to the outstanding indebtedness. Providing the housing under these circumstances served to advance education.

Rev. Rul. 76-336, 1976-2 C.B. 143, describes an organization created by community leaders to provide housing for students of a particular college in response to studies by staff members of the college showing that it lacked suitable housing to meet its needs. All students attending the college were eligible to apply for residence. In concluding that the organization qualified for exemption under section 501(c)(3) of the Code, the Service determined that the organization was both helping the college, which was unable to provide adequate student housing, to fulfill its educational purposes, and aiding the students to attain an education.

Rev. Rul. 68-16, 1968-1 C.B. 246, recognized an organization formed to provide clinical experience to business school students as advancing education within the meaning of section 501(c)(3) of the Code. The organization was formed to give the students experience in the management of a portfolio of securities under the supervision of the business school's faculty. A fund was created which was invested by the students under the supervision of the faculty. No salaries were paid to the directors or students. Funds in excess of those needed to run the program were paid over to the business school.

Other rulings have found that clinical programs advance education. For instance, in Rev. Rul. 78-310, 1978-2 C.B. 173, an organization facilitating placement of law students in legal aid and public interest internships was recognized as exempt under section 501(c)(3) of the Code. In Rev. Rul. 75-284, 1975-2 C.B. 202 and Rev. Rul. 70-584, 1970-2 C.B. 114, organizations providing internship programs for college students were recognized as exempt under section 501(c)(3).

Likewise, in Rev. Rul. 76-37, 1976-1 C.B. 149, an organization that purchased building lots, and furnished funds to a public vocational training center for use in its on-the-job home construction training program qualified for exemption under section 501(c)(3) of the Code. The Service determined that its activities contributed importantly to the overall program of the vocational center and promoted education within the meaning of section 1.501(c)(3)-1(d)(3) of the regulations.

The completed homes were sold to the general public at fair market value and the income from home sales used to finance new projects and obtain vocational training equipment for the public school system. In determining that the income from the sale of the homes was not unrelated business income, the Service ruled that the organization was engaging in activities essential to the conduct of the on-the-job training program. The completed houses were products of the performance of an exempt function, sold in substantially the same state they were in upon completion of the exempt function. Only as many houses were built as were needed by the vocational center for its on-the-job training program. Thus, under section 1.513-1(d)(4)(ii) of the regulations, the construction activity was not unrelated trade or business. and the income derived from the sale of completed homes was not unrelated business income.

You plan to acquire and develop student housing facilities solely for students at N, a university that lacks sufficient student housing. In this regard, your operations will be similar to the organizations described in Rev. Ruls. 67-217 and 76-336 in that you will be helping N fulfill its educational purposes and aiding N's students to attain an education. This activity advances education and is charitable within the meaning of section 1.501(c)(3)-1(d)(2) of the regulations. In addition, you plan to operate a clinical program for students studying at M, the business school at N by allowing them, as part of a supervised program, to assist in the acquisition and operation of the facilities. In this regard, your operations will be similar to the organizations described in Rev. Ruls. 68-16, 78-310, 75-284, 70-584 and 76-37. This activity will contribute importantly to M's overall program and as such will promote education within the meaning of section 1.501(c)(3)-1(d)(3) of the regulations.

Developing and operating a student housing facility for the exclusive use of N's students and operating a clinical program for the benefit of the students at M fulfill purposes that are substantially related to your exempt charitable and educational purposes. Gross income from the performance of exempt functions is not unrelated trade or business under section 1.513-1(d)(4) of the regulations. In this regard, you are similar to the organization described in Rev. Rul. 76-37. Your activities will contribute importantly to the accomplishment of your educational and charitable purposes and the income derived from them will not be considered unrelated business income taxable under section 511 of the Code.

In conclusion, we rule as follows:

1. The acquisition and/or development of student housing projects solely for the benefit of students at N will not adversely affect your tax exempt status under section 501(c)(3) of the Code.

2. The operation of the clinical program for N's students in conjunction with the acquisition and development of student housing projects will not adversely affect your tax exempt status under section 501(c)(3) of the Code.

3. The acquisition, development, and management of student housing projects solely for the students at N, will not produce unrelated business taxable income under sections 511–514 of the Code.

This ruling is based on the understanding that there will be no material changes in the facts upon which it is based.

This ruling is directed only to the organization that requested it. Section 6110(k)(3) of the Code provides that it 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,

Gerald V. Sack

Gerald V. Sack
Manager, Exempt Organizations
Technical Group 4