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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: DEC 19 2002

Contact Person:

Identification Number:

Telephone Number:

SIN: 511.00-00

T:EO:B4

Employer Identification Number:

Legend:
B=
C=
D=

Dear Sir or Madam:

This is in reply to a letter dated October 10, 2002, from your legal representative, in which he requested certain rulings relative to the public charity status of B and C.

C is a private, four-year, co-educational liberal arts college. It has been recognized as an organization described in section 501(c)(3) of the Internal Revenue Code. It is not a private foundation because it is a school described in sections 509(a)(1) and 170(b)(1)(A)(ii).

B was formed and organized exclusively to receive and maintain funds, the income and principle of which are used exclusively in support of the charitable and educational goals of C. It has been recognized as an organization described in section 501(c)(3) of the Code and as not a private foundation because it is described in section 509(a)(3).

B and C wish to make certain structural and organizational changes in their operations. The directors of B intend to amend its organizational documents to change its tax-exempt purpose from that of serving as a supporting organization of C under section 509(a)(3) to serving as a section 501(c)(3) educational institution itself, which will have exactly the same tax-exempt purposes that C has today. It will directly operate an educational facility with a faculty, curriculum, student body and regular place of instruction. Furthermore, B will assume ownership of the assets of C and continue to operate the educational programs currently being operated by C. C would dissolve upon the approval of the directors and trustees of B and C, respectively. B would be renamed C.

In a letter dated November 26, 2002, your legal representative, has stated that the directors of B and the trustees of C, in a special meeting held on November 22, 2002, approved a plan of dissolution which allows for the transfer of all of the assets and liabilities of C to B, which it has agreed to accept and assume. C will file the articles of dissolution on December 30, 2002, to be effective on December 31, 2002.

B has represented that it will continue to exist and operate in accordance with its Articles of Incorporation and Bylaws, as amended pursuant to the reconfiguration, in furtherance of its tax-exempt educational purposes; that it will continue to conduct all of the educational activities of C in exactly the same manner as C itself was conducting these activities immediately before its dissolution; that C will continue to operate in furtherance of its tax-exempt educational purposes until its actual dissolution; that C and B will settle any outstanding issues with respect to its assumption of all outstanding liabilities of C, and resolve any issues with respect to the assignment of various contracts to B.

Section 501(c)(3) of the Code provides for the exemption from federal income tax of an organization organized and operated exclusively for charitable and educational purposes.

Section 509(a) of the Code provides that a section 501(c)(3) organization shall be a private foundation unless it is described in sections 509(a)(1) through 509(a)(4).

Section 509(a)(3)(A) of the Code describes an organization that is organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of organizations which are described in section 509(a)(1) or 509(a)(2).

Section 170(b)(1)(A)(ii) of the Code describes a school as an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.

Sections 511-514 of the Code imposes a tax on the unrelated business taxable income of certain exempt organizations, including those exempt under section 501(c)(3).

The facts of this case indicate that after the implementation of the contemplated changes, B will continue to qualify for exempt status under section 501(c)(3) of the Code. After the transfer of assets from C to B, B will operate a school that is an organization described within the meaning of section 501(c)(3) and which is not a private foundation because it is described in sections 509(a)(1) and 170(b)(1)(A)(ii). This transfer of assets would allow B to continue to fulfill the educational purposes which were previously carried on by C from its inception. It will directly operate an educational facility with a faculty, curriculum, student body and regular place of instruction.

Moreover, C will continue to operate as a school and fulfill its educational purposes until it is officially dissolved; and B will settle any outstanding issues with respect to its assumption of all outstanding liabilities of C, and resolve any issues with respect to the assignment of various contracts to B.

Lastly, the transfer of assets and liabilities from C to B would not result in unrelated trade or business because this is a transfer between two entities, each of which is tax-exempt under section 501(c)(3) of the Code, and the assets of which will be used to further tax-exempt educational purposes.

Accordingly, based on the facts and circumstances, as stated above, we rule as follows:

1. The consummation of the proposed transactions will not adversely affect the tax-exempt status of B under section 501(c)(3) of the Code.

2. The consummation of the proposed transactions will not adversely affect the tax-exempt status of C under section 501(c)(3) of the Code for the period ending with its actual dissolution under D law pursuant to the plan of dissolution, at which time it will cease to exist as a D nonprofit corporation.

3. The consummation of the proposed transactions will not give rise to unrelated business taxable income to either B or C under sections 511-514 of the Code.

4. Following the consummation of the proposed transactions, B will continue to qualify as an organization described in section 501(c)(3) of the Code other than as a private foundation described in section 509(a) of the Code, and it will be classified as an educational organization under sections 509(a)(1) and 170(b)(1)(A)(ii) of the Code.

5. Following the consummation of the proposed transactions and the related transactions, charitable contributions to B will continue to be deductible by the donor under sections 170, 2055, 2106 and 2522 of the Code.

Revenue Procedure 75-50, 1975-2 C.B. 587, sets forth guidelines and recordkeeping requirements for determining whether private schools have racially nondiscriminatory policies as to students. B must comply with this revenue procedure to maintain its tax-exempt status.

This ruling does not purport to rule on any other present, pending or future legal matters in which B and C may be involved.

We are informing the Ohio TE/GE office of this action. Please keep a copy of this ruling with your organization's permanent records.

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 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