UIL
513.00-00

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Contact Person: 199910061

Telephone Number:

In Reference to: OP:E:EO:T:2

Date:

DEC 14 1998

DO:
EIN:

Legend: A =
B =
C =

Dear Sir or Madam:

This is in reply to your letter of March 27, 1998, as supplemented by your letter of June 23, 1998, regarding the effect on your tax exempt status of engaging in certain proposed activities.

You were established to assist the local housing authority to find housing for low to moderate income families and elderly persons. You have been recognized as exempt under section 501(c)(3) of the Internal Revenue Code and are a public charity within the meaning of section 509(A)(3) of the Code.

The State within which you are located has established A, a fund, to help address housing and other development issues through providing funding and other assistance to eligible metropolitan area municipalities. A is administered by a council which establishes the requirements and guidelines for uses of the funds and operation of projects you intend to support.

The city in which you are located has elected to participate in A. It has developed a housing action plan and you have represented that this plan relies heavily on you to implement the program. The City Council appoints 2 members of your Board of Directors and the remaining 3 are appointed by the city housing authority. In addition, at least a majority of the members of your board shall always be residents of B.

The city has recently designed 3 new housing initiatives a home buyer program, and two slightly different basic home improvements programs.

350

Re:

The homebuyer program was established to provide loans for down payment and closing cost assistance to low and moderate income homebuyers. There are certain requirements as to the income levels of the participants, the amount of the loan and the terms of the loan. The property must be located anywhere within the city limits. The program is to be operated in conjunction with C.

The second program provides funds for basic home improvements undertaken in conjunction with the purchase of a home by low or moderate income homebuyers. The funds can be used for energy efficiency improvements, mechanical, electrical, plumbing, structural exterior improvements, code compliance and accessibility or specialized improvements for persons with disabilities. Funds may not be used for decorative or cosmetic improvements to the structure. Again, there are certain requirements as to the income levels of the participants, the amount of the loan and the terms of the loan. These loans will bear interest. This program is also operated in conjunction with C.

The third program is to provide funds to existing low and moderate income homeowners needing to undertake basic repairs to their homes such as windows, roofing, furnaces, siding and painting. Again, there are certain requirements as to the income levels of the participants, the amount of the loan and the terms of the loan. This program is a deferred repayment loan secured by a second mortgage and will bear interest. This program is to augment a currently existing program funded by Community Development Building Grants funds.

In your letter of June 23, 1998, you requested that we give no further consideration to another program, called the Housing Purchase and Substantial Rehabilitation Program, because details involving this program are not yet available. In this same letter your requested a ruling concerning the proposed amendment to your articles of incorporation because they currently limit your activities to B, a particular section of the city within which you are located, and you wish to expand your activities into other parts of the city.

You have requested the following rulings:

1. Whether, your participation in the proposed homebuyer assistance program, the program to provide funds for basic improvements in newly purchased homes, and the program to provide funds for basic improvements for current homeowners is related to the accomplishment of your exempt purposes and will not adversely affect your tax exempt status under section 501(a) of the Code as an organization described in section 501(c)(3),

Re:

2. Whether your participation in the proposed homebuyer assistance program, the program to provide funds for basic improvements in newly purchased homes, and the program to provide funds for basic improvements for current homeowners is related to the accomplishment of your exempt purposes and will not adversely affect your status as an organization described in section 509(a)(3) of the Code,

3. Whether the revenues received by you from the participation in the proposed homebuyer assistance program, the program to provide funds for basic improvements in newly purchased homes, and the program to provide funds for basic improvements for current homeowners are substantially related to the accomplishment of your charitable purposes and will not subject you to unrelated business income tax, and

4. Whether the expansion of the boundaries within the city in which you will carry on your programs will not adversely affect your tax exempt status under section 501(c)(3) of the Code as an organization described in section 509(a)(3).

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

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(2) of the regulations provides that the term charitable is used in its generally accepted legal sense. The term includes, among other organizations, those operating relieve the poor and distressed or of the underprivileged; to lessen the burdens of government; to lessen neighborhood tension; or to eliminate prejudice and discrimination; and to combat community deterioration.

Section 509(a)(1) of the Code provides an exception from classification as a private foundation for organizations described in section 170(b)(1)(A) (other than in clauses (vii) and (viii).

Section 170(b)(1)(A)(v) of the Code, for the purposes of deductibility, lists governmental units which are defined in section 170(c)(1) as including a state, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

Section 509(a)(3) of the Code provides an exception from classification as a private foundation for certain organizations which, in general, are organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of, one or more specified organizations described in paragraph (1) or (2).

Section 1.509(a)-4 of the regulations describes in detail the nature of the 509(a)(3) relationship and the various activities an organization described in section 509(a)(3) can carry on.

Section 511(a) of the Code imposes a tax on the "unrelated business taxable income" of organizations described in section 501(c).

Section 512(a) of the Code defines the term unrelated business taxable income as gross income derived by any organization from any unrelated trade or business (as defined in section 513) regularly carried on by it.

Section 513(a) of the Code provides that the term "unrelated trade or business" means any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501.

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

The information you have submitted establishes that you were recognized as exempt under section 501(c)(3) of the Code because you act to assist the city and local housing authority in providing housing to low to moderate income families and elderly persons under certain government mandated housing initiatives. You are controlled by the local city and its housing authority. The state has developed new housing initiatives and you propose to assist the city and housing authority take advantage of these

programs. Your current articles of incorporation limit the area within which you can operate and because these initiatives are boarder based you have proposed to amend your governing instrument to expand the boundaries within the city in which you will operate.

A review of the materials you have submitted regarding the new housing initiatives establishes that participation in these programs will merely be an extension of the current programs upon which your exemption under section 501(c)(3) is based. Therefore, any income derived therefrom will be considered exempt function income.

Accordingly, based upon the information you have submitted we have concluded that:

1. Your participation in the proposed homebuyer assistance program, the program to provide funds for basic improvements in newly purchased homes, and the program to provide funds for basic improvements for current homeowners is related to the accomplishment of your exempt purposes and will not adversely affect your tax exempt status under section 501(a) of the Code as an organization described in section 501(c)(3),

2. Your participation in the proposed homebuyer assistance program, the program to provide funds for basic improvements in newly purchased homes, and the program to provide funds for basic improvements for current homeowners is related to the accomplishment of your exempt purposes and will not adversely affect your status as an organization described in section 509(a)(3) of the Code,

3. The revenues received by you from the participation in the proposed homebuyer assistance program, the program to provide funds for basic improvements in newly purchased homes, and the program to provide funds for basic improvements for current homeowners are received during the performance of your exempt charitable functions and will not subject you to unrelated business income tax, and

4. The expansion of the boundaries within the city in which you will carry on your programs will not adversely affect your tax exempt status under section 501(c)(3) of the Code or as an organization described in section 509(a)(3).

This ruling is directed only to the organization that requested it. Section 6110(j)(3) of the Code provides that it may not be used or cited as precedent.

Re:

We are informing your key District Director of this ruling. Because this letter could help resolve any question about your exempt status, you should keep it in your permanent records.

If you have any question about this ruling, please contact the person whose name and telephone number are shown in the heading of this letter. For other matters, including questions concerning reporting requirements, please contact your key District Director.

Sincerely Yours,
(signed) Garland A. Carter

Garland A. Carter
Chief, Exempt Organizations
Technical Branch 2

25