Internal Revenue Service

Department of the Treasury

Washington, DC 20224

199919038

Contact Person: S.I.N.:
501.06-03
Telephone Number: 6033.03-00

In Reference to:

Date: FEB 16 1999

Employer Identification Number:
Key District:

Dear Applicant:

This letter is in reply to the letter from your authorized representative, in which you requested a ruling that section 6033(e)(1)(A) does not apply to you because substantially all of the dues you receive from members is not deductible to such members without regard to section 162(e) of the Code.

You are an organization recognized by the Internal Revenue Service as exempt from federal income tax under section 501(c)(6) of the Code. You state that you were established for the purpose of providing representation and advocacy before state and federal governments on behalf of your state member hospitals. You state that you receive institutional dues from for-profit hospitals, not-for-profit hospitals, and other hospitals (county, district, state, and federal), and that you receive personal/affiliate member dues from for-profit members and not-for-profit members.

You state that in 1996, the dues you received from "exempt" members (those members who are treated by the Service as satisfying the requirements of section 6033(e)(3) of the Code) exceeded 90% of your total members' dues revenue. In 1997, however, you state that only approximately 88.5 percent of your total members' dues was from exempt members. You project that, based upon the existing ratio of exempt members to non-exempt members, the percentage of members' dues you will receive in future years from exempt members will vary between 85 percent and 95 percent of your total members' dues.

You state that it is your practice to mail annual notices to your members in November for the following calendar year's dues. Your 1997 dues invoice, mailed in November 1996, did not provide the disallowance notice described in section 6033(e)(1)(A) of the Code since in 1996 the dues you received from your exempt members exceeded 90 percent of your total members' dues revenue.

Section 501(c)(6) of the Code provides for the exemption from federal income tax of business leagues, chambers of

commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players) not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 6033(e) of the Code imposes reporting and notice requirements on tax-exempt organizations (other than section 501(c)(3) organizations) that incur lobbying and political expenditures to which section 162(e) applies ("nondeductible lobbying expenditures").

Section 6033(e)(1)(A) of the Code requires a tax-exempt organization that pays or incurs nondeductible lobbying expenditures to notify its members, at the time the dues (or other similar amounts) are assessed or paid, of its reasonable estimate of the portion of the dues that is allocable to those expenditures.

Section 6033(e)(2) of the Code, in general, imposes a tax where an organization elects not to provide the notices described in section 6033(e)(1)(A) for any taxable year, or fails to include in such notices the amount allocable to expenditures to which section 162(e)(1) applies.

Section 6033(e)(3) of the Code provides that section 6033(e)(1)(A) shall not apply to an organization which establishes to the satisfaction of the Secretary that substantially all of the dues or other similar amounts paid by persons to such organization are not deductible without regard to section 162(e).

Section 162(a) of the Code provides that, in general, there shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business.

Section 162(e)(1) of the Code provides that, in general, no deduction shall be allowed under section 162(a) for any amount paid or incurred in connection with (a) influencing legislation, (b) participation in, or intervention in, any political campaign on behalf of (or in opposition to) any candidate for public office, (c) any attempt to influence the general public, or segments thereof, with respect to elections, legislative matters, or referendums, or (d) any direct communication with a covered executive branch official in an attempt to influence the official actions or positions of such official.

Section 162(e)(3) provides that no deduction shall be allowed under section 162(a) for the portion of dues or other similar amounts paid by the taxpayer to an organization which is exempt from tax under this subtitle which the organization notifies the taxpayer under section 6033(e)(1)(A)(ii) is allocable to expenditures to which section 162(e)(1) applies.

Rev. Proc. 95-35, 1995-2 C.B. 391, sets forth specific circumstances in which certain tax-exempt organizations are treated as meeting the requirements of section 6033(e)(3) of the Code and provides guidance to other exempt organizations regarding how they may establish that they satisfy the requirements of section 6033(e)(3). The revenue procedure states that organizations recognized by the Service as exempt from taxation under section 501(c)(6) shall be treated as meeting the requirements of section 6033(e)(3) if more than 90 percent of all annual dues (or similar amounts) are received from organizations described in section 501(c)(3), state governments, local governments, entities whose income is exempt from tax under section 115, or organizations exempt from tax under section 501(a) other than section 501(c)(4) that are not veterans organizations, and sections 501(c)(5) and (6).

Rev. Proc. 95-35 also states that any exempt organization that is not treated as satisfying the requirements of section 6033(e)(3) of the Code may still establish that it satisfies the requirements of section 6033(e)(3) by: (i) maintaining records establishing that 90 percent or more of the annual dues (or similar amounts) paid to the organization are not deductible without regard to section 162(e), and (ii) notifying the Service that it is described in section 6033(e)(3) on any Form 990 (Return of Organization Exempt From Income Tax) that it is required to file. Unless an organization complies with both of the above requirements, it will not have established to the satisfaction of the Service that it meets the requirements of section 6033(e)(3). The revenue procedure states that an organization may request a private letter ruling that substantially all the annual dues (or similar amounts) paid to the organization are not deductible, either directly or indirectly, without regard to section 162(e). To receive a favorable private letter ruling, the organization must provide that Service with evidence establishing that 90 percent or more of all annual dues (or similar amounts) are not deductible, either directly or indirectly, without regard to section 162(e). If an organization receives a favorable private letter ruling, the Service will not contest the organization's entitlement to exemption under section 6033(e)(3) for a subsequent year so long as the character of the organization's membership is

substantially similar to its membership at the time of the ruling.

You have shown that substantially all of the dues you receive from your members is not deductible, either directly or indirectly, to such members without regard to section 162(e).

Based on the application of the Code to the facts presented in your ruling request, we rule that section 6033(e)(1)(A) does not apply to you. Accordingly, you are not subject to the notification requirements of section 6033(e)(1)(A), nor are you subject to the tax imposed by section 6033(e)(2).

This ruling is based on the understanding that there will be no material changes in the facts upon which it is based. Any such change should be reported to your key District Director. Because it could help resolve questions concerning your federal income tax status, this ruling should be kept in your permanent records. A copy of this ruling is being forwarded to your key District Director.

Except as we have specifically ruled herein, we express no opinion as to the consequences of these transactions under the cited provisions or under any other provisions of the Code.

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.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

(Signed) Marcus S. Owens

Marcus S. Owens
Director, Exempt Organizations
Division