



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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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Contact Person:

Identification Number:

Telephone Number:

Employer Identification Number:

Legend:

University =

State =

Club =

Division =

Agency =

Office =

Dear :

This is in reply to a letter dated September 25, 2012, in which you requested rulings concerning the income tax consequences of certain proposed transactions.

Facts:

You are a land grant university organized primarily for educational purposes, and your primary missions are teaching, research, and public service. You have been determined to be exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code.

Your activities in furtherance of your exempt purposes include educational instruction to students from the undergraduate level to the most advanced graduate level. These activities are performed at 10 different campuses located throughout State.

You represent that the Club program in State is overseen by you through Division. Division oversees all of the activities of the Club, including a list of separately chartered activities bearing the Club name and emblem. In order to bear such name each activity must be approved by Agency, an agency of the federal government. None of the separate activities of Club is independently organized as a separate legal entity. You conduct the Club program in conjunction with Agency, which also provides financing

for the program. You represent that you will continue to operate Club activities as part of your operations, in the same manner as you operate academic courses, athletic events, and scientific research. You state that all the county directors in Division are your employees and that the directors are responsible for the administration and management of the Club activities. In addition to federal and state laws and guidelines you also ensure that the Club activities follow your university wide policies. You also represent that you will keep records of Club activities to ensure that all Club funds are used for section 501(c)(3) purposes. You require all Club activities to provide you with annual financial reports.

On your behalf, Division supervises several different types of Club activities, including camping programs, after-school clubs, and community clubs. The Club activities are open to all young persons within State and are organized to impart to the participants the skills that they will need as adults. The focus of the Club is to promote positive youth development through educational programs directed at (i) science, engineering, and technology; (ii) healthy living; (iii) citizenship; and (iv) leadership. The Club program achieves its educational goals through various methods, including project-based, experiential, and collaborative methods. All Club classes are taught by highly-trained staff and volunteers.

You treat all Club activities as your activities. You require all the Club chapters to provide you with annual Club financial reports. Club chapter financial reports are summarized and submitted to the Division's Office, which reviews the summary reports and posts the summarized information to the University general ledger.

You provide acknowledgment letters to Club donors. In those letters, you inform donors that you have full ownership of all gifts made to you for the benefit of Clubs, indicate whether any goods or services were provided in consideration for the donated funds, and, if so, provide a description and good faith estimate of the value of those goods or services.

Because you are a governmental unit, you are not required to file any Form 990 series information return. However, you have stated that you will report on Form 990-T all unrelated business income and expenses in connection with Club programs.

Rulings Requested:

1. Contributions made to University that are designated for Club activities or related programs may be deductible as charitable contributions, subject to the requirements and limitations of section 170.
2. University's operation of Club activities will not adversely affect University's tax-exempt status under section 501(c)(3).

Law:

I.R.C. § 501(c)(3) provides for the exemption from federal income tax of an organization organized and operated exclusively for purposes described in section 501(c)(3), including educational purposes.

Treas. Reg. § 1.501(c)(3)-1(a)(1) provides that in order to be exempt under section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more of the exempt purposes specified in that section.

Treas. Reg. § 1.501(c)(3)-1(c)(1) states 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. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Treas. Reg. § 1.501(c)(3)-1(d)(3) defines educational as the instruction or training of the individual for the purpose of improving or developing his capabilities, and the instruction of the public on subjects useful to the individual and beneficial to the community.

I.R.C. § 170(a)(1) allows, subject to certain limitations, a deduction for charitable contributions as defined in section 170(c), payment of which is made within the taxable year and verified under regulations prescribed by the Secretary.

I.R.C. § 170(c)(2) includes in the definition of "charitable contribution" a contribution or gift to or for the use of a corporation, trust, or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals.

Several substantiation requirements apply to charitable contributions.

I.R.C. § 170(f)(8) provides in part that no deduction is allowed under section 170(a) for any contribution of \$250 or more unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgment of the contribution by the donee organization.

I.R.C. § 170(f)(17) provides in part that no deduction is allowed under section 170(a) for any contribution of a cash, check, or other monetary gift unless the donor maintains as a record of such contribution a bank record or a written communication from the donee showing the name of the donee organization, the date of the contribution, and the amount of the contribution.

Other substantiation requirements apply for deductibility of certain noncash contributions. See section 170(f)(11) and the regulations thereunder.

Revenue Procedure 95-48, 1995-2 C.B. 418, provides that a tax-exempt organization, in

the IRS's discretion, may be excused from filing Form 990 annual information returns if it is determined to be a governmental unit or affiliate of a governmental unit. Revenue Procedure 95-48 does not affect an organization's obligation to file Form 990-T.

Analysis:

You represent that Club activities are not separately incorporated, do not have organizing documents of their own, and are not legal entities in their own right. You represent that you operate Club activities as part of your operations. Club activities cannot be recognized as such except through you within State, and your employees are responsible for the operations and administration of Club activities. Additionally, Club activities are subject to all of your internal policies as well as your financial control of their budgets. In furtherance of your financial control you require Club activities to provide you with annual reports. Finally, you have stated that any unrelated business income from the Club activities will be treated as your unrelated business income and will be reported on your Form 990-T filings. Given all of these factors the Club activities will be treated as your activities.

An exempt organization must be operated exclusively for one of the exempt purposes described in § 501(c)(3). Section 1.501(c)(3)-1(a)(1). An organization will be regarded as operated exclusively for one or more exempt purposes if it engages primarily in activities that further its exempt purposes and if no more than an insubstantial part of its activities are not in furtherance of the exempt purposes. Section 1.501(c)(3)-1(c)(1). One of the exempt purposes described in § 501(c)(3) is educational, which is defined as the instruction or training of the individual for the purpose of improving or developing his capabilities. Section 1.501(c)(3)-1(d)(3). You are a land grant university that is currently operated for educational purposes, and you have been recognized as exempt under § 501(c)(3).

The mission of the Club is to impart to the participants the skills that they need to prosper as adults. Club activities further this mission by offering project-based, experiential, and collaborative methods to educate young persons on (i) science, engineering, and technology; (ii) healthy living; (iii) citizenship; and (iv) leadership. These activities constitute the primary activities of Club and meet the definition of educational as described in § 1.501(c)(3)-1(d)(3). Furthermore, the Club will offer its educational activities through highly-trained staff and volunteers. The mission of the Club is consistent with your own mission and exempt purposes and furthers your accomplishment of those purposes. While some of the Club activities may constitute an unrelated trade or business, such activities will be insubstantial as compared to the other activities of Club and to your overall activities. Income from these activities will be reported by you on your Form 990-T, and the insubstantial nature of these activities will not jeopardize your exemption under § 501(c)(3).

Accordingly, a contribution made to University that is designated for Club activities or related programs may be deductible as a charitable contribution, subject to the requirements and limitations of section 170.

Rulings:

1. University's Club activities will be treated as a part of its overall educational activities, and contributions made to University that are designated for Club activities or related programs may be deductible, subject to the requirements and limitations of section 170.
2. University's operation of Club activities will not adversely affect its tax-exempt status under section 501(c)(3).

This ruling will be made available for public inspection under section 6110 of the Code after certain deletions of identifying information are made. For details, see enclosed Notice 437, Notice of Intention to Disclose. A copy of this ruling with deletions that we intend to make available for public inspection is attached to Notice 437. If you disagree with our proposed deletions, you should follow the instructions in Notice 437.

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.

This ruling is based on the facts as they were presented and on the understanding that there will be no material changes in these facts. This ruling does not address the applicability of any section of the Code or regulations to the facts submitted other than with respect to the sections described. Because it could help resolve questions concerning your federal income tax status, this ruling should be kept in your permanent records.

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.

In accordance with the Power of Attorney currently on file with the Internal Revenue Service, we are sending a copy of this letter to your authorized representative.

Sincerely,

Ronald J. Shoemaker
Manager, Exempt Organizations
Technical Group 2

Enclosure "
Notice 437