TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Release Number: **201433016**
Release Date: 8/15/2014
Date: May 19, 2014

Uniform Issue List Numbers:
501.00-00
501.03-00
501.03-30

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

Dear :

This is our final determination that you do not qualify for exemption from Federal income tax as an organization described in Internal Revenue Code section 501(c)(3). Recently, we sent you a letter in response to your application that proposed an adverse determination. The letter explained the facts, law and rationale, and gave you 30 days to file a protest. Since we did not receive a protest within the requisite 30 days, the proposed adverse determination is now final.

You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file. File the returns in accordance with their instructions, and do not send them to this office. Failure to file the returns timely may result in a penalty.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose,* and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at

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1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Tamera Ripperda
Director, Exempt Organizations
Rulings and Agreements

Enclosure
Notice 437
Redacted Proposed Adverse Determination Letter
Redacted Final Adverse Determination Letter

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TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Contact Person:

Date: March 26, 2014

Uniform Issue List Numbers:

501.00-00
501.03-00
501.03-30

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

LEGEND

| | |
|---|---|
| Taxpayer | = |
| Department | = |
| Medical School | = |
| Hospital | = |
| LLP | = |
| Center | = |
| Organization | = |
| Foundation | = |
| Year 1 | = |
| Year 2 | = |
| Year 3 | = |
| x | = |

Dear :

We have considered your application for recognition of exemption from Federal income tax under Internal Revenue Code section 501(a). Based on the information provided, we have concluded that you do not qualify for exemption under Code section 501(c)(3). The basis for our conclusion is set forth below.

Facts

You, Taxpayer, were organized in Year 1 as a nonprofit corporation under state law. According to your Articles of Incorporation, your purpose is to support the work of Department faculty of the Medical School in providing teaching, research and medical services at medical and educational facilities in the state and surrounding geographical region.

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The primary purpose of Department is to train family medicine physicians through a three-year accredited family medicine residency program (the "Program"). The Program is sponsored by Hospital, an organization described in § 501(c)(3), and Medical School. Board-certified family medicine physicians, all with Medical School faculty appointments (the "faculty physicians"), train the resident physicians working at Hospital and at Hospital's outpatient clinic, Center. Such training includes "precepting," which involves the active teaching and supervision of the resident physician through demonstration and examination of clinical skills, assessing clinical plans, and providing clinical guidance and information. Precepting of resident physicians at the Center is provided by faculty physicians under a Professional Services Agreement (the "Agreement"), the original parties to which were LLP, a limited liability partnership composed of Department faculty members, and Hospital. When LLP ceased operations in Year 1, the Agreement was assigned to you.

Under the Agreement, Hospital is responsible for all patient billings for physician services. Hospital paid you a fixed fee for the teaching and precepting services provided by the faculty physicians at the Center. You, in turn, allocated the fees, in amounts determined by the Department chair, to the faculty physicians, in part to provide salary equity among the faculty physicians. You told us that—

> Entry base salaries for Department faculty physicians were determined by a Medical School scale.... Over time, Deans of the Medical School utilized different policies regarding the level where a new faculty member could enter. Some Deans mandated that all new faculty enter at a level 1. Other Deans allowed negotiations to take place whereby years of experience prior to academic medicine could be taken into account, hence a level 2 or level 3 was allowed at entry.
>
> This discrepancy in entry levels created great disparity in faculty salaries. Physicians who were assistant professors mandated to enter at a level 1 and who now worked in the department for 5 years could have a total annual salary less than a new assistant professor physician faculty who was able to negotiate a level 3 under a new Dean. This balance created a management problem which was rectified by equity payments through Taxpayer.

You had no formal relationship or written agreements with the faculty physicians working at the Center. The faculty physicians were treated as independent contractors. In July of Year 2, the Agreement was reassigned to a faculty practice organization created to support the clinical, academic, and research activities of the faculty of Medical School.

During Year 2 and the first quarter of Year 3, you provided administrative support to Organization, a nonprofit corporation, and Foundation, a § 501(c)(3) organization. You were paid a fee for the administrative services rendered. You are not related to either Organization or Foundation.

You continue to provide financial support to Department faculty. Specifically, you collect gifts, grants, and contributions and make payments therefrom directly to individual faculty and staff members to cover the cost of scholarly development, continuing medical education required to maintain state licensure and state medical board certification, and related professional

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development expenses such as travel to educational conferences and seminars. Such payments, which can amount to as much as $x per person annually, cover expenses that would not otherwise be paid by Medical School as part of the total compensation and benefits paid to such faculty or staff member under his or her employment contract with Medical School. The amounts paid are approved by the Department chair.

According to your Articles of Incorporation, you have no members. Your original Bylaws provided for a three-member Board of Directors consisting of your President and two other directors elected by the Board at its annual meeting. Whoever was the current chair of the Department automatically served as your President. Your Second Amended and Restated Bylaws removed the requirements that the chair of the Department serve as your President and that your President serve on your Board of Directors. The resolution of the Board that implemented the Second Amended and Restated Bylaws recites that these amended and restated Bylaws "eliminate the special relationship between the Corporation [i.e., you] and the Department...." You do not now have, or plan to have, employees.

Law

I.R.C. § 501(a) provides for the exemption from federal income tax of organizations described in § 501(c).

I.R.C. § 501(c)(3) describes organizations organized and operated exclusively for charitable, educational, and other enumerated exempt purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Treas. Reg. § 1.501(c)(3)-1(a)(1) provides that an organization is not exempt as an organization described in § 501(c)(3) unless it is both organized and operated exclusively for one or more of the purposes specified in such section.

Treas. Reg. § 1.501(c)(3)-1(c)(1) 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 § 501(c)(3). 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(c)(2) provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Treas. Reg. § 1.501(c)(3)-1(d)(1)(i) lists "charitable" and "educational" among the specified purposes for which an organization may be exempt as an organization described in § 501(c)(3).

Treas. Reg. § 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (i) of this subparagraph unless it serves a public rather than a private interest. Thus, to meet the requirements of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family,

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shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Treas. Reg. § 1.501(c)(3)-1(d)(2) provides that the term "charitable" is used in § 501(c)(3) in its generally accepted legal sense. In Rev. Rul. 69-545, 1969-2 C.B. 117, it was recognized that the promotion of health for the benefit of the community is a charitable purpose under the common law of charity.

Treas. Reg. § 1.502-1(b) provides that if a subsidiary organization of a tax-exempt organization would itself be exempt on the ground that its activities are an integral part of the exempt activities of the parent organization, its exemption will not be lost because, as a matter of accounting between the two organizations, the subsidiary derives a profit from its dealings with its parent organization.

Rev. Rul. 58-194, 1958-1 C.B. 240, concerns a corporation organized to conduct a general book and supply store on the campus of a State university for the convenience of its student body and the members of its faculty. It is authorized to receive and disburse such funds as may be collected in accordance with the laws of the State and with the approval of the State Director of Education. The corporation's activities are conducted on the campus of the university. It is controlled by a board of directors composed of the president of the university, three elected faculty members and three elected student members. Membership in the corporation consists of all regular employees of the university and students who have purchased a membership for a nominal fee. The bylaws of the corporation provide that none of the profits or assets of the corporation shall ever be distributed to the members but shall be used solely for the benefit of the students and faculty of the university. The facilities of the corporation are available to members as well as to non-members in order that all students are afforded an opportunity to obtain their academic supplies without undue inconvenience. The ruling reasons that since the corporation is controlled by and serves almost exclusively the members of the faculty and student body, and since it is performing functions for their benefit and convenience and in furtherance of the educational purposes of the university, it is for all intents and purposes an integral part of the university. In view of the foregoing, since the corporation is organized for the purpose of operating a book and supply store on the campus of a State university primarily for the convenience of its student body and members of its faculty, and no part of its net earnings inures to the benefit of any private shareholder or individual, it is held that the corporation is operated exclusively for educational purposes and is exempt from Federal income tax under § 501(c)(3).

Rev. Rul. 68-26, 1968-1 C.B. 272, concerns an organization incorporated without stock by a church to provide a standardized source of educational and religious material for the church's parochial school system. Its affairs are managed by a board of directors composed of clergymen appointed by the church and responsible to the church for the organization's finances and operations. The organization prints material which is prepared and edited by the school system. The organization sells the material exclusively to the parochial schools system. All profits are returned annually to the school system. The ruling states that although a technical parent-subsidiary relationship between the church and the organization is lacking because of the nonstock character of the organization, a substantially similar relationship does in fact exist through the control and close supervision of its affairs by the church. In printing material which

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has been prepared for the parochial school system, the organization is carrying out an integral part of the activities of the church, the parent organization. Accordingly, it qualifies for exemption under § 501(c)(3) because it is operated as an integral part of the exempt activities of the parent.

Rev. Rul. 68-422, 1968-2 C.B. 207, concerns an organization created pursuant to the will of a stockholder of a company for the sole purpose of paying pension benefits to retired employees of the company. The pension benefits are paid to all retired employees age 65 or over, regardless of their economic resources. The company employs approximately 750 persons. In an average year, 35 employees retire. The assets of the organization consist of various investments and cash bequeathed to it by the testator. The company does not contribute funds to the organization, nor does the company have any control over its affairs. The organization claims it is organized for the relief of the poor. To come within the scope of the term "relief of the poor", the organization must at least show that the class it benefits is lacking in the necessities or comforts of life. Since this organization does not pay pensions on the basis of need, and has not shown that the retired employees of the company as a class lack the necessities or comforts of life, it does not qualify for exemption as a charitable organization under § 501(c)(3).

Rev. Rul. 69-383, 1969-2 C.B. 113, concerns a hospital that, after arms-length negotiations, entered into an agreement with a hospital-based radiologist to compensate him on the basis of a fixed percentage of the radiology department's gross billings. The radiologist did not have any management authority with respect to the hospital itself, but did have the right to approve the amounts charged by the hospital for radiology services. The amount received by the radiologist was not excessive when compared with amounts received by other radiologists having similar responsibilities and handling comparable patient volume at other hospitals. The ruling notes that, under certain circumstances, a method of compensation based on a percentage of income might constitute prohibited inurement, e.g., when the arrangement transforms the organization's principal activity into a joint venture between it and a group of physicians, or is merely a device for distributing profits to persons in control. Under the circumstances, described above, the radiologist did not control the organization and the agreement was negotiated at arm's length. The amount the radiologist received was reasonable under the terms of the responsibilities and activities that he assumed under the contract. For these reasons, it was held that the arrangement entered into between the hospital and the radiologist did not constitute inurement of net earnings to a private individual within the meaning of § 1.501(c)(3)-1(c)(2).

Rev. Rul. 69-528, 1969-2 C.B. 127, concerns an organization that was formed to provide investment services on a fee basis exclusively to organizations exempt from income tax under § 501(c)(3). It receives funds from the participating exempt organizations, invests the funds, and upon request liquidates the participant's interest and distributes the proceeds to the participant. The organization is free from the control of the participants. The ruling states that providing investment services on a regular basis for a fee is a trade or business ordinarily carried on for profit. If such services were regularly provided by one tax-exempt organization for other tax-exempt organizations, such activity would constitute unrelated trade or business. Thus, this organization is not exempt under § 501(c)(3) since it is regularly carrying on the business of providing investment services that would be unrelated trade or business if carried on by any of the tax-exempt organizations on whose behalf it operates.

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Rev. Rul. 72-369, 1972-2 C.B. 245, concerns an organization that was formed to provide managerial and consulting services for nonprofit organizations exempt from Federal income tax under § 501(c)(3) to improve the administration of their charitable programs. The organization enters into agreements with unrelated nonprofit organizations to furnish managerial and consulting services on a cost basis. The ruling states that providing managerial and consulting services on a regular basis for a fee is trade or business ordinarily carried on for profit. The fact that the services in this case are provided at cost and solely for exempt organizations is not sufficient to characterize this activity as charitable within the meaning of § 501(c)(3). Furnishing services at cost lacks the donative element necessary to establish this activity as charitable. Accordingly, it is held that the organization's activities are not charitable and, therefore, the organization does not qualify for exemption under § 501(c)(3).

Rev. Rul. 73-126, 1973-1 C.B. 220, concerns an organization, exempt from Federal income tax under § 501(c)(3), that carries out its charitable program through a staff of salaried employees. It has no established retirement plan for these employees but has followed a general practice of paying pensions to retired employees at the discretion of its board of directors. The pensions are not gratuities but represent extra compensation paid for past services, are reasonable in amount as compensation for such services, and would be deductible for Federal income tax purposes if incurred in the conduct of trade or business. The ruling states that the payment of pensions to retired employees is an accepted method of employee compensation used by many public and private organizations. Since the payments for the pensions in this case are reasonable compensation in light of the surrounding circumstances, they are a proper expense in the operation of the organization's charitable program and do not constitute the improper use of the organization's charitable resources, nor do they constitute inurement of the organization's net earnings to private individuals within the meaning of § 501(c)(3). Accordingly, it is held that the organization's payment of pensions to retired employees as described above does not adversely affect its exemption under § 501(c)(3).

Rev. Rul. 78-41, 1978-1 C.B. 148, concerns a trust created by a hospital that is exempt from tax under § 501(c)(3). The sole purpose of the trust is to accumulate and hold funds for use in satisfying malpractice claims against the hospital. The trustee of the trust is a banking institution. Malpractice claimants are paid directly by the trustee upon the order of the hospital. The hospital makes all decisions on the claims to pay, and the trustee merely acts as its agent in disbursing funds. The ruling states that by serving as a repository for funds paid in by the hospital, and by making payments at the direction of the hospital to persons with malpractice claims against the hospital, the trust is operating as an integral part of the hospital. Of equal importance is that the trust is performing a function that the hospital could do directly. Accordingly the organization is operated exclusively for charitable purposes and, thus, is exempt from Federal income tax under § 501(c)(3).

*Squire v. Students Book Corp.*, 191 F. 2d 1018 (9th Cir. 1951), held that an organization that operated a bookstore on the premises of a college for the accommodation of students and faculty, and which was controlled by the college, qualified for exemption because it bore a "close and intimate relationship" to the functioning of the college itself.

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*B.H.W. Anesthesia Found., Inc. v. Comm'r*, 72 T.C. 681 (1979), held that the Harvard Medical School faculty clinical practice organization created by the anesthesiology department of Harvard Medical School qualified for exemption under § 501(c)(3). A clinician could qualify for membership in the organization only so long as he or she was a clinical faculty member at Harvard Medical School. Control of the organization rested directly or indirectly with the chairman of the Harvard Medical School department of anesthesiology. The patients served by the organization were limited to patients of the teaching hospital. Although the organization's revenues were used to supplement compensation paid to the members of the faculty practice, compensation was capped at an amount that the Tax Court held was reasonable and was less than the clinical faculty member would likely obtain in private practice. Accordingly, the organization comprised an integral part of Harvard Medical School and its teaching hospital, the Boston Hospital for Women. No private benefit accrued to the clinical faculty members of the organization, which would otherwise disqualify it from exempt status.

*University of Massachusetts Medical School Group Practice v. Comm'r*, 74 T.C. 1299 (1980), acq. 1980-2 C.B. 1, held that the organization serving as the clinical faculty practice group comprised exclusively of clinical faculty of the University of Massachusetts Medical School, was an integral part of the medical school and its teaching hospital. Members of the organization participated in the clinical teaching program at the teaching hospital and divided their time between academic pursuits (teaching and research) and clinical duties at the teaching hospital and other smaller affiliated state hospitals. The opportunity for students to observe and assist in the actual treatment of patients was considered to be a vital and necessary part of their medical education. Accordingly, the faculty members' patient care activities at the hospital were inseparable from the faculty members' teaching function. Members of the organization were required to hold academic appointments at the medical school and to be engaged to some degree in clinical practice. State conflict of interest laws precluded clinical faculty from personally billing patients or third party payors for their clinical services. The organization collected the fees generated by the faculty clinical services, deposited those funds into a trust fund pursuant to statute, and expended in the funds for legislatively mandated purposes. Although amounts generated through the clinical practice enhanced a clinician's overall compensation, total compensation paid to the clinicians was subject to the same institutional regulations as the clinician's academic salary. The provisions regulating the allocation of clinical fees among the practicing clinicians prevented the organization from serving the private interests of the clinicians. The Tax Court found that the organization provided vital clinical training for medical students, interns, and residents and, therefore, comprised an integral component of the medical school and the university hospital.

*University of Maryland Physicians, P. A. v. Comm'r*, T.C. Memo. 1981-23, found that the medical practice comprised exclusively of clinical faculty of the cardiology, nephrology, pulmonary diseases, and nuclear medicine departments of the University of Maryland Medical School qualified for exemption as an integral part of the medical school and its teaching hospital. The organization's members provided clinical services exclusively to patients at the medical school teaching hospital and were precluded from holding concurrent positions at any other medical facility or with any other practice groups. The Tax Court found that clinical instruction is an indispensable primary component of training undergraduate and graduate students at the medical school. The clinical practice group's organizing documents limited its activities to serving the interests of the medical school and teaching hospital. The organization's

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clinical practice revenues were subject to the control of the medical school. Although each clinician owned shares in the stock in the organization, a shareholder could obtain no more than the nominal par value for his or her shares upon leaving the practice group. These factors precluded the faculty members from deriving an impermissible private benefit from the organization's operations. Accordingly, the organization qualified for exempt status as an integral part of the University of Maryland Medical School.

*IHC Health Plans, Inc. v. Comm'r*, 325 F.3d 1188 (10th Cir. 2003), further develops the principle of vicarious exemption under the integral-part doctrine. In general, an entity seeking exemption from tax under § 501(a) must show that it is entitled to exemption on its own merits. However, an entity that cannot qualify for tax exemption on its own merits, may be entitled to derivative or vicarious exemption under the "integral part" doctrine if its sole activity is an integral part of the exempt affiliate's activities. Citing the example of the power company described in § 1.501-1(b), the court stated that an essential nexus must exist between the parent and the subsidiary seeking exemption under the integral part doctrine. Important factors are whether the goods or services provided by the subsidiary to the parent are essential to the accomplishment of the parent's exempt purposes; whether the subsidiary provides services solely to the parent (and the subsidiary does not engage in a trade or business that would be an unrelated trade or business if engaged in by the parent); and whether the parent exercises control over the subsidiary. These factors must be considered in conjunction with the exempt purpose for which the parent operates and must support a finding that the subsidiary operates for the same purpose as the parent.

Analysis

To qualify as an organization described in § 501(c)(3) you must engage primarily in activities that accomplish one or more exempt purposes. Treas. Reg. § 1.501(c)(3)-1(c)(1). You have not been engaged in activities that primarily accomplish exempt purposes. Your original role was to replace LLC as party to the Agreement. The Agreement called for Department faculty physicians to precept resident physicians at Center. While the precepting of resident physicians *may* have furthered the exempt purposes of Medical School or Hospital, these activities were conducted by faculty physicians who were neither your employees nor your members, but who were treated as independent contractors with respect to the Agreement. Therefore, such activities could not be attributed to you for purposes of determining whether you have been operated in furtherance of an exempt purpose. Your role with respect to the Agreement was to receive fees from Hospital and to distribute such fees to the faculty physicians in amounts determined by the Medical School. Such activities are nothing more than administrative duties that do not, in and of themselves, directly further either charitable or educational purposes. Since you do not have employees, even these administrative duties must have been performed by someone else.

Under certain facts and circumstances, a faculty group practice organization may qualify for exemption under § 501(c)(3) on the grounds that its activities constitute an integral part of the exempt activities of its parent medical school and affiliated teaching hospital. See, *B.H.W. Anesthesia Found., Inc. v. Comm'r*, *Univ. of Massachusetts Medical School Group Practice v. Comm'r*, *Univ. of Maryland Physicians, P.A. v. Comm'r* . However, you do not qualify as a faculty group practice organization because the Department faculty physicians whom you serve

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are not your members or employees. Furthermore, you do not bear the kind of connection to Medical School that supports a finding of vicarious exemption under the integral part doctrine described in § 1.502-1(b). Under that doctrine, when an organization performs essential *services* for an exempt organization, the former organization may qualify for exemption even though such activities, standing alone, would not justify exemption. See Rev. Rul. 58-194; Rev. Rul. 78-41. However, for activities to be treated as an integral part of the activities of an already existing exempt organization, there must be, in substance, a parent-subsidiary relationship whereby the existing exempt organization exercises control and close supervision of the organization seeking exemption under the integral part doctrine. See Rev. Rul. 68-26; *Squire v. Students Book Corp.* You have never been under the close supervision and control of Medical School. Although under your original bylaws one of your three directors was the chair of the Department, the other two directors were not required to have any connection with Medical School. And even this less than controlling relationship was removed from your Second Amended and Restated Bylaws.

In addition to the control requirement, the activities of a subsidiary organization do not constitute an integral part of the activities of the tax-exempt parent organization unless they are essential to the accomplishment of the parent's exempt purposes. See *IHC Health Plans, Inc. v. Comm'r.* Under the Agreement, you provided no services to Medical School other than to make equity payments out of fees collected from Hospital. You have failed to show, and we fail to find, that the making of equity payments to the faculty physicians is *essential* to the accomplishment of Medical School's exempt purposes.

Therefore, since your activities under the Agreement do not, in themselves, further exempt purposes, and since such activities are not an integral part of the exempt activities of a parent organization, such activities do not form any basis for exemption under § 501(c)(3).

In addition, the making of "equity payments" to employees of another organization for the purpose of rectifying perceived disparities in the employing organization's entry base salary scales would appear to constitute inurement of your net earnings for the benefit of private individuals within the meaning of § 1.501(c)(3)-1(c)(2). An organization will not qualify for exemption under § 501(c)(3) unless no part of its net earnings inures to the benefit of any private shareholder or individual. For these purposes, the term "private shareholder or individual" means a person having a personal and private interest in the activities of the organization, such as the directors and officers of the organization. Reg. § 1.501(a)-1(c). An exempt organization may pay reasonable compensation for services actually rendered without violating the inurement prohibition. Rev. Rul. 73-126. The compensation plan of an exempt organization does not result in prohibited inurement if: (1) it is not merely a device to distribute profits to principals or transfer the organization's principal activity into a joint venture; (2) the compensation plan is the result of arm's-length bargaining; and (3) the compensation plan results in reasonable compensation. Rev. Rul. 69-383. The faculty physicians to whom you make payments are not your employees and they do not provide services to you. These payments do not appear to be based on any objective measure of the value of the services rendered under the Agreement, but appear, at least in part, to represent a device for the gratuitous transfer of your net earnings to a group of persons that have a personal and private interest in your activities, i.e., Department faculty members.

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In addition to administering the Agreement, you also provided administrative support to Organization and Foundation for a fee. You did not tell us the nature of this support. The provision of administrative services to unrelated exempt organizations for a fee is an activity similar to a commercial trade or business carried on for profit, and does not further exempt purposes. If the services were regularly carried on by one tax-exempt organization for other tax-exempt organizations, such activity would constitute unrelated trade or business. See Rev. Rul. 69-528, 1969-2 C.B. 127; Rev. Rul. 72-369, 1972-2 C.B. 245. Consequently, your provision of such administrative services did not further any exempt purpose.

Finally, your sole current activity is to accept contributions and make payments therefrom to Department faculty members to reimburse the personal professional development expenses incurred by those members. Such payments are not based on need, nor are they provided to a charitable class of individuals. Therefore they do not further a charitable purpose. See Rev. Rul. 68-422.

Furthermore, you told us that such payments were not to be considered part of the total compensation and benefits paid to such faculty or staff member under his or her employment contract with Medical School and do not cover expenses that would otherwise be paid by Medical School. Nor can the payments be considered the result of an arm's-length transaction, since the chair of the Department who approves the payments is also a member of the Department faculty and, presumably, would also be eligible for payments. Therefore, such payments do not represent compensation for services as in Rev. Rul. 73-126, but appear to be gratuitous transfers to a non-charitable class of private individuals as in Rev. Rul. 68-422 resulting in inurement of your net earnings in violation of § 1.501(c)(3)-1(c)(2).

Finally, insofar as such payments are made to cover the personal expenses of a small group of designated individuals, i.e., Department faculty and staff, we conclude that you are operated to benefit private, not public, interests in violation of § 1.501(c)(3)-1(c)(1)(ii).

Consequently, we conclude that you have not engaged in activities that further exempt purposes in violation of § 1.501(c)(3)-1(c)(1), that you are operated to benefit private, not public, interests in violation of § 1.501(c)(3)-1(d)(1)(ii), and that you have allowed your net earning inure to the benefit of private shareholders or individuals in violation of § 1.501(c)(3)-1(c)(2).

Conclusion

In light of the above, we conclude that you do not qualify as an organization described in § 501(c)(3).

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter. We will consider your statement and decide if the information affects our determination.

Your protest statement should be accompanied by the following declaration:

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*Under penalties of perjury, I declare that I have examined this protest statement, including accompanying documents, and, to the best of my knowledge and belief, the statement contains all the relevant facts, and such facts are true, correct, and complete.*

You also have a right to request a conference to discuss your protest. This request should be made when you file your protest statement. An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you. If you want representation during the conference procedures, you must file a proper power of attorney, Form 2848, *Power of Attorney and Declaration of Representative,* if you have not already done so. For more information about representation, see Publication 947, *Practice before the IRS and Power of Attorney.* All forms and publications mentioned in this letter can be found at www.irs.gov, Forms and Publications.

If you do not file a protest within 30 days, you will not be able to file a suit for declaratory judgment in court because the Internal Revenue Service (IRS) will consider the failure to protest as a failure to exhaust available administrative remedies. Code section 7428(b)(2) provides, in part, that a declaratory judgment or decree shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted all of the administrative remedies available to it within the IRS.

If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848 and any supporting documents to this address:

Internal Revenue Service
Attn:

1111 Constitution Ave, NW
Washington, DC 20224-0002

You may also fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

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

Sincerely,

Michael Seto
Manager, EO Technical

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