



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

Number: 200916033

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Legend:

Foundation =

Dear :

We have considered your ruling request dated November 30, 2007.

Facts:

Foundation is a tax-exempt public charity described in sections 501(c)(3), 509(a)(1), and 170(b)(1)(A)(vi) of the Internal Revenue Code ("Code"). Its Articles of Incorporation state its mission as organized for purposes that are exclusively religious, charitable, scientific, literary, and educational within the meaning of section 501(c)(3). Its principal activities involve supporting youth in a particular sport, especially for individuals who have historically been underserved or underrepresented in the sport. The Foundation targets the disabled, minorities, inner-city youth, juniors, and women.

The Foundation also maintains a scholarship program for college students who meet academic, sport, community service, and financial need requirements and are studying sport management for the particular sport at issue in an accredited program at one of 19 U.S. universities. Applicants are screened by a university scholarship committee and the most eligible candidates are forwarded to the Foundation scholarship selection committee. Three of five selection committee members are on the Foundation board. The remaining two selection committee members are independent individuals, generally experts in the field of education. While family members of scholarship committee members are eligible for scholarships, the related committee member must recuse him/herself or withdraw the family member's application. Scholarship grants are paid directly to the recipient's university for qualified tuition and related expenses under Section 117(b). The Foundation creates and maintains records and case histories as required by Revenue Ruling 56-304, 1956-2 C.B. 306.

Foundation now plans to add three new scholarship programs to assist financially needy students to study sport management and to encourage diversity in the sport. The first new

scholarship program is for high school graduates admitted into an accredited sport management program for the particular sport at issue, at one of 19 U.S. universities. This is a four-year renewable scholarship, dependent upon maintaining academic, sport, internship, community service, and financial need requirements. Eligible recipients will have completed one of Foundation's youth development programs prior to high school graduation and met a number of other objective criteria, including minimum grade point average, financial need, documented community service, and minimum verifiable sport playing ability. Initial selection for the award and subsequent renewal of the scholarship for up to four years is determined by the Foundation Scholarship Committee described above. While family members of scholarship committee members are eligible for these scholarships, the related committee member must recuse him/herself or withdraw the family member's application. Scholarship grants are paid directly to the recipient's university for qualified tuition and related expenses under Section 117(b). The Foundation will create and maintain records and case histories as required by Revenue Ruling 56-304, 1956-2 C.B. 306.

The second new scholarship program is a diversity scholarship program for women and ethnic minority students attending one of the nineteen U.S. universities that offer the sport management curriculum for the particular sport at issue. The ethnic minority populations targeted for these scholarships include: African-American; Hispanic-American; Native or Alaskan American; and Asian or Pacific Island American. Eligible students must have completed at least two years of the sport management program, and as with the existing scholarship program, applicants are initially screened by a university scholarship committee and the most eligible candidates are forwarded to the Foundation scholarship selection committee. Applicants must meet additional criteria: have at least a 3.0 grade point average, pass the sport playing ability test, and have completed at least two internships related to the sport management program for this sport. While family members of scholarship committee members are eligible for these scholarships, the related committee member must recuse him/herself or withdraw the family member's application. Scholarship grants are paid directly to the recipient's university for qualified tuition and related expenses under Section 117(b). The Foundation will create and maintain records and case histories as required by Revenue Ruling 56-304, 1956-2 C.B. 306.

The third scholarship program is open to contestants in a minority collegiate sport championship for the sport at issue. Contestants are individuals, whether or not they are ethnic minorities, attending Historically Black Colleges and Universities, Hispanic Serving Institutions, and Tribal Colleges, or ethnic minority students from other U.S. colleges or universities. Participants in the sport championship are eligible for this scholarship if they have at least a 3.0 grade point average in college and have participated in community service while a college student. Information about this scholarship is distributed to all tournament participants. Selection of scholarship recipients is made by the Foundation Scholarship Committee. Scholarship grants are paid directly to the recipient's university for qualified tuition and related expenses under Section 117(b). While family members of scholarship committee members are eligible for these scholarships, the related committee member must recuse him/herself or withdraw the family member's application. The Foundation will create and maintain records and case histories as required by Revenue Ruling 56-304, 1956-2 C.B. 306.

Requested Ruling:

The continued operation by the Foundation of the existing sport management scholarship program and the adoption and implementation of the three proposed additional scholarship programs described above will not adversely affect the Foundation's status as a tax-exempt charity described in sections 170(b)(1)(A)(vi), 501(c)(3), and 509(a)(1) of the Internal Revenue Code of 1986, as amended, because these scholarship programs are (or will be, when implemented) charitable activities described in section 501(c)(3) and are consistent with the Foundation's tax-exempt purposes.

Law:

IRC Sections 501(a) and (501(c)(3) provide for exemption from federal income tax for --

Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

Section 1.501(c)(3)-1(a)(1) of the Regulations states that "[i]n order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt."

Section 1.501(c)(3)-1(d)(1)(i) of the Regulations provides that exempt purposes are: (a) Religious, (b) Charitable, (c) Scientific, (d) Testing for public safety, (e) Literary, (f) Educational, or (g) Prevention of cruelty to children or animals.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations states that "[a]n 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 requirement 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, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests."

Section 1.501(c)(3)-1(d)(1)(iii) of the Regulations provides that "[s]ince each of the purposes specified in subdivision (i) of this subparagraph is an exempt purpose in itself, an organization may be exempt if it is organized and operated exclusively for any one or more of such purposes.

If, in fact, an organization is organized and operated exclusively for an exempt purpose or purposes, exemption will be granted to such an organization regardless of the purpose or purposes specified in its application for exemption. For example, if an organization claims exemption on the ground that it is educational, exemption will not be denied if, in fact, it is 'charitable'."

Section 1.501(c)(3)-1(d)(2) of the Regulations defines the term charitable, stating that "is used in section 501(c)(3) in its generally accepted legal sense and is, therefore, not to be construed as limited by the separate enumeration in section 501(c)(3) of other tax-exempt purposes which may fall within the broad outlines of 'charity' as developed by judicial decisions. Such term includes: Relief of the poor and distressed or of the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments, or works; lessening of the burdens of Government; and promotion of social welfare by organizations designed to accomplish any of the above purposes, or (i) to lessen neighborhood tensions; (ii) to eliminate prejudice and discrimination; (iii) to defend human and civil rights secured by law; or (iv) to combat community deterioration and juvenile delinquency....." (Emphasis added.)

Revenue Ruling 56-304, 1956-2 CB 306, provides that organizations privately established and funded as charitable foundations which are organized and actively operated to carry on one or more of the purposes specified in section 501(c)(3) of the Internal Revenue Code of 1954, and which otherwise meet the requirements for exemption from Federal income tax are not precluded from making distributions of their funds to individuals, provided such distributions are made on a true charitable basis in furtherance of the purposes for which they are organized. However, organizations of this character which make such distributions should maintain adequate records and case histories to show the name and address of each recipient of aid; the amount distributed to each; the purpose for which the aid was given; the manner in which the recipient was selected and the relationship, if any, between the recipient and (1) members, officers, or trustees of the organization, (2) a grantor or substantial contributor to the organization or a member of the family of either, and (3) a corporation controlled by a grantor or substantial contributor, in order that any or all distributions made to individuals can be substantiated upon request by the Internal Revenue Service.

In Revenue Ruling 66-103, 1966-1 CB 134, a nonprofit organization providing awards and grants, including scholarships and fellowship grants, to needy individuals to enable them to continue their work in the creative arts, as well as to continue their education and studies, with no monetary benefit to the donor organization, is entitled to exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954. Thus, scholarships based on need are deemed to be charitable.

In Revenue Ruling 69-257, 1969-1 CB 151, the Service ruled that a nonprofit organization that awards scholarships to individuals on the basis of scholastic ability rather than financial need qualifies for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954. The organization was formed and is operated to award scholarships to students for educational studies in institutions of higher learning. The recipients are selected from a broad class of applicants on the basis of scholastic standing only. The organization is supported by grants and contributions. The revenue ruling held that 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(d)(2) of the Income Tax Regulations provides that the term 'charitable' is used in section 501(c)(3) in its generally accepted legal sense. Therefore, it includes advancement of education, and the organization qualified for exemption.

Analysis:

Foundation maintains a need and merit-based scholarship program for college juniors and seniors pursuing a sport management curriculum for the sport at issue at one of nineteen U.S. colleges and universities. Under Code section 501(c)(3) and Section 1.501(c)(3)-1(d)(2) of the Regulations, Foundation's scholarship program is charitable in nature, as it both advances education and assists those in financial need.

The Foundation's three new scholarship programs, two of which target individuals based on both financial need and ability, and one of which targets mainly minorities and women based on scholastic and sport ability, are scholarships that are charitable based on financial need and/or scholastic ability as described in Revenue Ruling 66-103, 1966-1 CB 134 and Revenue Ruling 69-257, 1969-1 CB 151.

All of the scholarship programs benefit a charitable class that is large and indefinite, so the scholarships are not targeted to pre-selected individuals. Scholarship criteria are objective and members of the Foundation Selection Committee must recuse themselves from considering family members for a Foundation scholarship. The Foundation complies with the recordkeeping requirements of Revenue Ruling 56-304, 1956-2 CB 306 in making grants to individuals.

Conclusion:

The continued operation by the Foundation of the existing sport management scholarship program and the adoption and implementation of the three proposed additional scholarship programs as described will not adversely affect the Foundation's status as a tax-exempt charity described in sections 170(b)(1)(A)(vi), 501(c)(3), and 509(a)(1) of the Internal Revenue Code of 1986, as amended. These scholarship programs are (or will be, when implemented) charitable activities described in section 501(c)(3) and are consistent with the Foundation's tax-exempt purposes.

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