

ers, motor homes, boats, and cars in some of its buildings for a fee. The IRS, not surprisingly, ruled that this storage activity for members of the general public is an unrelated business (see the August issue) (Tech. Adv. Mem. 9822006). The exclusion for rent was found to be unavailable because services are provided to the occupants. The exclusion for volunteer labor-supported activities was held inapplicable, because the activity performed by the volunteers is not a material income-producing factor in carrying on the activity. [27.1(h), 27.2(a)]

■ A tax-exempt charitable organization has as its primary function the promotion of the provision of high-quality health care and related services to a community through the most economical, efficient, and coordinated means possible. A health care system is used for this purpose. An organization that provides low-cost health care services to patients in their homes, and at a reduced rate, is being added to the system. Its activities were found to be related ones, so that this augmentation of the system will not adversely affect its tax-exempt or public charity status (Priv. Ltr. Rul. 9822039). [26.5(b)(i)]

■ A private foundation with a program of making grants to individuals waited four years before submitting its request for approval of the program to the IRS. This was held to be a violation of the requirement for advance approval of a grant-making program of a private foundation (IRC § 4945(g)(1)) (Tech. Adv. Mem. 9825004). The foundation also did not conform to the IRS's guidelines for employer-related grant programs (Rev. Rul. 76-47). The rules as to an independent selection committee and continuance of a grant in which the parent or guardian terminates employment were not followed and also various other tests were failed. The IRS concluded that the excise tax for taxable expenditures should be imposed. [11.4(e)]

■ The Internal Revenue Code provides a procedure for litigating an organization's tax-exempt status in court. This procedure, however, must be invoked by the organization whose exempt status is at issue. This type of litigation may not be initiated by the director of an organization; an individual in that capacity lacks standing to

bring the suit (*Fondel v. Commissioner*). [24.6(b)]

■ The American Medical Association has settled its dispute with Sunbeam Corp. Originally, the AMA agreed to endorse some of the company's various products in exchange for millions of dollars in royalties. But the AMA backed out of the arrangement after criticism as to the ethics of it; the deal was said to be the doing of the staff, unknown to the AMA board. The settlement calls for payment to Sunbeam of \$7.9 million in damages and about \$2 million in expenses, including legal fees. (Associated Press)

Quote of the Month: "Both 'gifts' and 'charitable contributions' involve the concept of donation, or the giving of something to accomplish charitable purposes." This from the Supreme Court of Appeals for West Virginia, in rejecting the argument of the state's tax commissioner that, for sales tax exemption purposes, a "subsidy" provided by the federal government to provide decent and affordable housing to low-income elderly individuals is not a "grant" (*Kings Daughters Housing, Inc. v. Paige*). Sometimes a return to basics is necessary.

ANNOUNCEMENT

Each article in the newsletter on a tax-exempt organizations topic ends with a citation to the appropriate subchapter(s) in *Hopkins, The Law of Tax-Exempt Organizations*, Seventh Edition (Wiley, 1998). This is being done to provide access to additional background information concerning these articles. For example, underlying information concerning the front-page article in this issue is available in Chapter 19 § 11 and thus is referenced as [19.11].

The newsletter is a stand-alone publication. At the same time, for those with the book, it also serves as a monthly update. As with prior editions, the book will be supplemented annually.