



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

Number: **200536024**

Release Date: 9/9/05

Date: 06/16/05

Uniform Issue List Numbers: 501.07-00  
513.00-00

Contact Person:

Telephone Number:

Employer Identification Number:

Legend:

Taxpayer:  
Golf Course A:  
Foundation N:  
County Q:  
City R:

Dear :

This is in reference to a letter and subsequent correspondence submitted on your behalf by your authorized representative requesting certain rulings regarding the tax consequences of your proposed operation of a Golf Course A, an 18 hole golf course facility.

You (Taxpayer) are an organization that is exempt from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3). Your principal activity is the teaching of life skills to young people using the game of golf as a tool to achieve this purpose. You have advised us that you intend to file an amendment to your specific exempt purpose to the following: "providing youth of County Q access and exposure to the sport of golf, including coaching and training about the game rules, etiquette, safety and fundamentals; teaching life skills to youth

(target ages 8 – 18) using the game of golf and the positive values it encourages; and providing and promoting accessible and affordable recreational golf and ancillary facilities for people of all social strata within County Q.”

You are a local chapter of Foundation N. The mission of Foundation N’s program is to impact the lives of young people by providing learning facilities and educational programs that promote character-development and life-enhancing values through the game of golf. Foundation N through its life skills program is designed to promote a sense of personal control and confidence in youth and to aid in making good decisions on the golf course, in their lives and about their futures. Participants in the Foundation N program are given a curriculum that helps them learn and understand the rules of golf, etiquette, safety of the game and fundamental playing skills. An important result of this program is that kids who have not previously had (and would likely not have) exposure to the game and its positive values are given access to affordable golf facilities.

Foundation N’s programs have been recognized by the Senate of the United States for providing young people of all backgrounds an opportunity to develop, through golf and character education, life-enhancing values such as honor, integrity, and sportsmanship. There are currently more than 150 local chapters of Foundation N operating throughout the United States. As a local chapter, Taxpayer is authorized to use Foundation N’s program curriculum and training guidelines, certification program, trademarks and merchandising guidelines.

You conduct (or plan to conduct) the following activities in furtherance of your exempt purposes:

1. Provide youth of County Q access and exposure to the sport of golf. Taxpayer intends to carry out this activity by sponsoring golf clinics, lessons, and youth tournaments. One of your core purposes is to teach life skills to youth (target ages 8-18) using the game of golf. By sponsoring golf clinics, lessons and youth tournaments, you will provide an opportunity to teach youth to be responsible, active community citizens. You expect that nearly all of the participants of the program will be County Q residents due to the geographic location of their proposed sites; however, participation will not be limited to County Q residents.

Your youth programs will not be denied to any youth on the basis of their ability to pay. The anticipated fee for participation in your youth programs is nominal. Youth who cannot afford to pay for the program services will receive scholarships or pay reduced fees to allow their participation, subject to program availability. Scholarships will generally be awarded based upon financial needs as represented to you by the participant’s parents. Each youth participating in the program (whether or not they are able to pay the annual fee) will receive the national golf foundation card showing their

picture and reflecting their progress through the program levels.

In addition, you will also operate and conduct a national golf tournament which will include professionals playing with invited youth players (boys and girls), some of which have been participants of the national golf foundation programs from other regions of the United States. Proceeds from the event will be used to support your exempt purposes.

2. Provide and promote accessible recreational golf for people of all social strata within County Q. You intend to carry out this activity by operating and maintaining Golf Course A, an existing 9-hole golf course and ancillary on-site facilities (e.g. range, club house, pro shop, etc.) currently operated and maintained by the R City. When the golf course and facilities are not used for the youth programs described above, they will serve the entire general public.

As part of its operation, you will encourage the parents of your youth program participants to play golf with their children and other family members. In addition, the course will be available for high school golf practices and tournament play for free or for a nominal charge. Other tax exempt organizations are expected to participate in the youth programs without charge and will be provided equipment at no cost, as needed. Members of these groups will also receive discounted rates for course play of outside the youth program. You also intend to conduct an outreach for physically challenged persons (adults and youths) to involve them in your programs and for course play.

The Golf Course A property is owned by County Q and leased to City R. You will sublease the property from City R. City R has required as a condition in the lease that all revenue from the golf course operation be used to support Taxpayer's youth programs or otherwise in a manner consistent with Taxpayer's status as a 501(c)(3) entity. The facility is within a densely populated, lower income and high crime rate area of the City. The facility is also within close proximity to numerous schools.

City R constructed and financed the construction of the Golf Course A in . Since its construction, Golf Course A has operated at a financial loss. To make up for these losses and to satisfy City R's financing obligations, City R has been forced to use general fund monies impacting City R's ability to provide other City services. Under the sublease, you will make payments to City R sufficient for City R to cover its financing obligations with regards to Golf Course A. Without this lease, City R would be forced to decide whether Golf Course A should be closed, whether green fees should be significantly raised to cover losses, and/or whether other City R services should be reduced or eliminated in order to reduce operating costs. Green fees for Golf Course A are significantly lower than other golf courses that are open to the public in County Q. You intend to maintain the current green fee rates at Golf Course A.

Your pro forma operating budget for the Golf Course A project includes revenue from green fees, range fees, pro shop, cart fees, and lessons ). Total projected revenue is . You anticipate that you will be able to make lease payments to City R but will operate at a net loss. You intend to charge the general public range ball fees comparable to those at the City R municipal course. Participants of the national golf foundation youth program will receive discounts on range fees. The food/snack bar will be initially operated by City R's current concessionaire under terms similar to those already in place. No part of your net income will inure to the benefit of any private individual. In the event of your dissolution, the assets of the organization will be turned over to one or more recognized charitable organizations.

You have requested the following rulings:

1. That the programs you propose to carry out in providing youth of County Q access and exposure to the sport of golf, including coaching and training; and the provision of accessible recreational golf and ancillary facilities for people of all social strata within County Q" will not adversely affect your exemption from federal tax under section 501(a) of the Code as an organization described in section 501(c)(3) of the Code.
2. That your proposed operation of Golf Course A (exclusive of the operation of the pro shop and the food/snack bar) for youth programs and for the general public course play are substantially related to your exempt purpose and therefore would not constitute an "unrelated trade or business" as defined in Section 513 and would not be subject to taxation under Section 511.

Section 501(c)(3) of the Code provides, in part, for the exemption from federal income tax of organizations organized and operated exclusively for charitable, educational, or scientific purposes.

Section 511(a) of the Code imposes a tax on the unrelated business taxable income of an organization which qualifies for an exemption from federal income taxation.

Section 512(a) of the Code defines "unrelated business taxable income" as the gross income derived by any organization from any unrelated trade or business (as defined in section 513) regularly carried on by it, less the allowable deductions which are directly connected with the carrying on of such trade or business.

Section 513(a) of the Code provides, in part, that any trade or business activity which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501 is an unrelated trade or business.

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, specifically including “the promotion of the social welfare.”

Section 1.501(c)(3)-1(d)(3) provides that the term “educational” relates to the instruction or training of the individual for the purpose of improving or developing his capabilities.

Section 1.513-1(a) of the Income Tax Regulations provides, in pertinent part, that unless one of the specific exceptions of Section 512 or 513 is applicable, gross income of an exempt organization subject to the tax imposed by section 511 is includible in the computation of unrelated business taxable income if: (1) it is income from trade or business; (2) such trade or business is regularly carried on by the organization; and (3) the conduct of such trade or business is not substantially related (other than through the production of funds) to the organization's performance of its exempt function.

Section 1.513-1(b) of the Income Tax Regulations provides, in part, that a trade or business is an activity that is carried on for the production of income from the sale of goods or services.

Section 1.513-1(c) of the Income Tax Regulations provides, in part, that the frequency and continuity of the activities are factors in determining whether it constitutes a trade or business. Business activities will ordinarily be deemed to be “regularly carried on” if they manifest a frequency and continuity, and are pursued in a manner, generally similar to comparable commercial activities of nonexempt organizations.

Section 1.513-1(d)(1) of the regulations provides that gross income derives from “unrelated trade or business,” within the meaning of section 513(a), if the conduct of the trade or business which produces the income is not substantially related (other than through the production of funds) to the purposes for which exemption is granted. The presence of this requirement necessitates an examination of the relationship between the business activities which generate the particular income in question -- the activities, that is, of producing or distributing the goods or performing the services involved -- and the accomplishment of the organization's exempt purposes.

Section 1.513-1(d)(2) of the Income Tax Regulations provides, in part, that a trade or business is “related” to exempt purposes if the conduct of the business activities has a causal relationship to the achievement of the exempt purposes. It is determined to be “substantially related” if the causal relationship is a substantial one.

Section 1.513-1(d)(4)(iii) of the Income Tax Regulations provides, in part, that the mere fact of the use of the asset or facility in exempt functions does not, by itself, make the income from commercial endeavor gross income from a trade or business. Instead, the

test is whether the activities productive of the income contribute importantly to the accomplishment of exempt purposes.

*Hutchinson Baseball Enterprises, Inc. v. Commissioner*, (1982) 696 F.2d 757, provides that an organization which is purposed to further recreational and amateur sports qualifies within the broad outline of “charity” and should be classified a “charitable organization” under section 501(c)(3).

In *Isabel Peters v. Commissioner*, (1953) 21 T.C. 55, the Tax Court held that providing convenient swimming and recreation facilities for all persons residing in the particular school district and especially those who could not afford to acquire and maintain such facilities was “charitable” as defined under section 501(c)(3) since it promoted the social welfare of the community.

*Columbia Park and Recreation Association, Inc. v. Comm.*, (1988) 838 F.2d 465, holds that an organization providing residents of a private real estate development special benefits is not exclusively organized for a public purpose as required by §501(c)(3).

*Wayne Baseball, Inc. v. Comm.*, (1999) T.C. Memo 1999-304, holds that an organization does not qualify for tax exempt status as a charitable organization because it does not benefit the community. Instead, the court determined that the primary beneficiaries of the organization’s activities are the individual team participants.

*Media Sports League, Inc. v. Comm.*, (1986) T.C. Memo 1986-568, holds that an organization does not qualify for tax exempt status as a charitable organization if its purpose was to further the recreational interests of its members.

Rev. Rul. 59-310, acquiescing to the holding of *Isabel Peters v. Comm.*, provides that the definition of “charity” includes benefits which are for an indefinite number of persons and are for erecting or maintaining public buildings or works or otherwise lessening the burdens of government. The ruling further provides that a nonprofit corporation organized for the purpose of establishing, maintaining and operating a public swimming pool, playground and other recreation facilities for the children and other residents of a community is exempt from Federal income tax under section 501(a) of the Internal Revenue Code of 1954 as a charitable organization described in section 501(c)(3) thereof.

Rev. Rul. 67-325 provides that organizations providing recreational facilities without charge to residents of a township is not organized and operated exclusively for charitable purposes where the basis for charitable qualification is dedication of the facilities involved to community use and the use of the facilities is restricted to less than the entire community on the basis of race.

Rev. Rul. 70-186 provides that a nonprofit organization formed to preserve and improve a lake used extensively as a public recreational facility qualifies for exemption under section 501(c)(3) of the Code.

Rev. Rul. 78-98 provides that an organization's operation of a ski facility for recreational purposes to the general public at commercially comparable slope and ski lift fees was unrelated to the organization's exempt educational purpose and constituted an unrelated trade or business under section 513.

Rev. Rul. 79-360 provides that an organization's operation of a health club program in a commercial manner was unrelated to the organization's exempt purpose of providing for the welfare of young people and constituted an unrelated trade or business under section 513. The operation of the health club did not contribute importantly to the organization's exempt purpose (a general youth fitness program) because the health club dues were sufficiently high to restrict the health club's use to a limited number of members of the community.

Rev. Rul. 79-361 provides that an organization's operation of a miniature golf course in a commercial manner by an organization exempt from tax under section 501(c)(3) of the Code was unrelated to the organization's exempt purpose to provide for the welfare of young people and constituted an unrelated trade or business under section 513.

Your first question is whether the activities you propose will have an adverse effect on your status as an organization that is exempt under section 501(c)(3) of the Code. In order to qualify, or continue to qualify for exemption under Section 501(c)(3) of the Code, an organization must be organized and operated exclusively for charitable, educational or scientific purposes. You propose to:

- 1) Provide youth of County Q access and exposure to the sport of golf, including coaching, and teaching life skills to youth (target ages 8 – 18) ; and
- 2) Provide and promote accessible recreational golf and ancillary facilities for people of all social strata within County Q."

You have identified an educational purpose as defined by section 1.501(c)(3)-1(d)(3) of the Regulations in stating your plan to teach youth about a sport using a curriculum and training materials designed for that purpose. Although you will charge a nominal fee to participants, you will also offer scholarships on a non-discriminatory basis for youth of families who lack the financial resources to pay. Your only criterion for participation in the program is the youth's willingness to participate in the programs.

You have also identified a charitable purpose within the definition of section 1.501(c)(3)-1(d)(2). You intend to offer recreational golf to all members of the general public in a non-discriminatory manner by leasing and operating a facility from City R. Such lease

will lessen the financial burden of City R which otherwise might be forced to close the facility or raise the fees, which would result in less accessibility to the public. You do not intend to restrict the use of the facilities to any particular membership, race or segment of the community. Instead, all members of the community will be encouraged to participate in the game of golf.

As the court determined in *Hutchinson*, supra, an organization which is purposed to further recreational and amateur sports qualifies within the broad definition of “charitable.” Furthermore, as the Tax Court determined in *Isabel Peters*, supra, and as the IRS recognized in Rev. Rul. 59-310, the definition of “charity” includes benefits which are for an indefinite number of persons. By encouraging the general public to participate in the recreational sport of golf, by lessening a financial burden from the City, by providing accessible facilities, and by providing below-commercial level green fee rates to insure the facility is accessible to all, you seek to promote the social welfare of the community.

Your proposed activities are therefore exempt educational and charitable activities within the meaning of section 501(c)(3) of the Code.

The remaining issue is whether the operation of the golf course, exclusive of the pro shop and snack bar, is substantially related to your exempt purpose so as not to be an unrelated trade or business. Section 513 of the Code provides that any trade or business activity which is not substantially related to the performance of the organization’s exempt purpose is an unrelated trade or business. According to Reg. 1.513-1(b) and (c), a “trade or business” is an activity that is carried on for the production of income from the sale of goods or services. In evaluating these factors, a comparison is often made between the organization’s activities and the activities of a nonexempt enterprise.

According to Reg. 1.513-1(d)(2), a trade or business is “related” if the conduct of the business activities has a causal relationship to the achievement of the exempt purpose. In this situation, without the operation of the golf courses, you would not be able to fulfill your exempt purpose of providing accessible and affordable recreational golf to the general public of County Q. The operation of the golf course supports your exempt educational purpose. By maintaining green fee rates below those otherwise commercially available, you will be able to achieve its purpose of providing and promoting accessible and affordable recreational golf. Unlike the taxpayers in Rev. Rul. 78-98, 79-360 and 79-361, you intend to make your operations available to the general public at rates that are below those that are commercially available. There is a substantial causal relationship between your exempt purpose and the operation of Golf Course A, exclusive of the pro shop and the snack bar. Therefore, the proposed activities of Taxpayer are not an “unrelated trade or business” as defined by section 513 of the Code, and not subject to tax under Section 511 of the Code.



Accordingly, based on the fact and information submitted and the representations made, we rule that:

1. Your specific purposes of “providing youth of County Q access and exposure to the sport of golf, including coaching and training about the game rules, etiquette, safety and fundamentals; teaching life skills to youth (target ages 8 – 18) using the game of golf and the positive values it encourages; and providing and promoting accessible recreational golf and ancillary facilities for people of all social strata within County Q” would qualify as educational and charitable purposes under Section 501(c)(3). Therefore, such activities would not adversely affect your tax exempt status under Section 501(a).

2. Your operation of Golf Course A, as described is substantially related to your exempt purpose so as not to constitute an “unrelated trade or business” as defined in Section 513 and would not be subject to taxation under Section 511.

The ruling set forth in paragraph 2 above is limited to the operations of the Taxpayer at the Golf Course A other than the operation of the pro shop and food/snack bar.

This ruling is based on the understanding that there will be no material changes in the facts and representations upon which it is based. Except as we have ruled herein, we express no opinion as to the tax consequences of the transactions described above under any other provision of the Code.

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.

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

This ruling is directed only to the organization that requested it. Section 6110(k) (3) of the Internal Revenue Code provides that this ruling may not be used or cited as precedent.

Sincerely yours,

Jane Baniewicz  
Manager, Exempt Organizations  
Technical Group 2