



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Number: **201428011**
Release Date: 7/11/2014

Date: April 18, 2014

UIL: 501.13-00

Contact Person:

Identification Number:

Telephone Number:

Employer Identification Number:

Legend:

X =
Trust A =
Trust B =

Dear :

We have considered your ruling request dated December 16, 2013, requesting a ruling under Internal Revenue Code (I.R.C.) § 501(c)(13).

FACTS

You are a non-profit association that operates a cemetery and are recognized as exempt from federal income tax under § 501(c)(13). Your sole activity is the care and maintenance of a family cemetery for the lineal descendants (and their spouses) of X, a historical figure. Your cemetery is located in close proximity to the historic X family residence, contains the X family remains, and is of historical significance to your State.

You intend to acquire approximately 5 acres of undeveloped property adjacent to your existing property. Two trusts currently own the property as tenants in common. Trust A owns an undivided two-thirds interest in the property. Trust B owns an undivided one-third interest in the property. Your board members include several beneficiaries of one or both trusts. The trusts will sell you the property at its current fair market value. You state that, to achieve this result, you will obtain an independent third party appraisal (MAI) from the American Institute of Real Estate Appraisers.

You explain that the purpose of the acquisition is to:

- Provide a land buffer between your existing cemetery property and nearby residential and commercial property thereby acting as a deterrent to vandalism;
- Promote and preserve a sense of peace and tranquility in the cemetery;
- Preserve your historical connection to the surrounding land; and

- Provide additional space for memorial or contemplative gardens for the cemetery.

RULING REQUESTED

The acquisition of the undeveloped property is consistent with, and will not adversely affect, your tax-exempt status as a cemetery company described in § 501(c)(13).

LAW

I.R.C. § 501(c)(13) provides an exemption from federal income tax for cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for the purpose of the disposal of bodies by burial or cremation which is not permitted by its charter to engage in any business not necessarily incidental to that purpose, provided no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

Rev. Rul. 76-91, 1976-1 C.B. 150, held that an organization will not jeopardize its exemption under § 501(c)(3), even though it deals with related parties in a commercial context, as long as the dealings are at arm's length and prices are set by qualified and independent appraisers.

ANALYSIS

Section 501(c)(13) prohibits cemetery companies from operating for any purpose other than the disposal of bodies. You operate for the sole purpose of caring for and maintaining a family cemetery for the lineal descendants (and their spouses) of X. Acquisition of the undeveloped property will further this purpose by: (1) providing a land buffer between your existing cemetery property and nearby residential and commercial property thereby acting as a deterrent to vandalism; (2) promoting and preserving a sense of peace and tranquility in the cemetery; (3) preserving your historical connection to the surrounding land; and (4) providing additional space for memorial or contemplative gardens for the cemetery. For these reasons, acquisition of the undeveloped property is directly related to your holding and use of the land as burial ground.

Further, § 501(c)(13) prohibits cemetery companies from allowing net earnings to inure to the benefit of any private shareholder or individual. You intend to purchase undeveloped property from two trusts—Trust A and Trust B—the beneficiaries of which include several of your board members. Accordingly, the purchase of the undeveloped property will result in private inurement unless the dealings are at arm's length and the prices are set by qualified independent appraisers. Rev. Rul. 76-91. In this case, you state that the trusts will sell you the property at its current fair market value and that you will obtain an independent third party appraisal (MAI) to ensure that you pay no more than fair market value for the property. Therefore, no private inurement results from your purchase of the undeveloped property.

CONCLUSION

Based on the foregoing, we rule that the acquisition of the undeveloped property is consistent with, and will not adversely affect, your tax-exempt status as a cemetery company described in § 501(c)(13).

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,

Michael Seto
Manager, EO Technical

Enclosure
Notice 437