



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

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Contact Person:

Identification Number:

Telephone Number:

Uniform Issue List:
501.03-05
512.01-01

Employer Identification Number:

Legend:

Corporation	=
Property	=
Donor	=
X	=
Y	=

Dear :

We have considered the ruling request of Corporation dated May 10, 2006, and supplemental letter dated August 7, 2006, regarding the retention of Corporation's tax exempt status under section 501(c)(3) of the Internal Revenue Code, and the application of the unrelated business income tax provisions of section 513 of the Code to the proposed transaction described below.

Corporation was formed over twenty years ago and has been recognized by the Internal Revenue Service as exempt from federal income tax as an organization described in section 501(c)(3) of the Code. Corporation was further determined not to be a private foundation within the meaning of section 509(a) of the Code, because Corporation is an organization described in sections 170(b)(1)(A)(vi) and 509(a)(1) of the Code.

Corporation's articles of incorporation state that it is organized exclusively for charitable, educational, scientific and wildlife preservation purposes, including but not limited to the following:

- (1) Promote conservation of naturally occurring species of raptors and other wildlife.
- (2) Educate the public of the benefits of raptors and other wildlife and the need to preserve and to protect these species rather than to kill them or to destroy their habitat.

- (3) Educate the public on methods and means of conservation of raptors and other wildlife.
- (4) Provide medical and other treatment and other technical assistance to individuals, groups or zoos holding in custody raptors and other wildlife.
- (5) Conduct medical and rehabilitation treatment to sick, injured or orphaned raptors and other wildlife.
- (6) Create, maintain and operate protective refugees for raptors and other wildlife.
- (7) Publish scientific papers on research conducted by the corporation in fulfilling the above purposes.

Donor desires to donate the Property to the Corporation. The Property located in X consists of rolling hills, vast open fields, valleys, wild streams and one of the most famous landmarks in X. A portion of the Property is leased for agricultural purposes such as raising and selling cattle, sheep, goats and crops. Another portion of the Property is leased for agricultural and wildlife management purposes, including wild game hunting leases.

X's natural habitat is being destroyed because it is rapidly being commercially developed. This development reduces the amount of natural habitat for wildlife. Donor desires to donate the Property to Corporation to preserve the Property as a natural habitat for wildlife.

Corporation represents that, upon acceptance of the Property, it will preserve the Property as a natural habitat for wildlife and prevent it from being commercially developed. This goal would further Corporation's charitable purposes to create, maintain and operate protective refuges for raptors and other wildlife. Corporation also desires to use the Property to conduct rehabilitation of raptors, educational seminars, and for other useful purposes consistent with the Corporation's articles.

Corporation also desires to maintain the agricultural character of a portion of the Property to establish a natural research laboratory for studying the interaction of wild species and domesticated lands, as well as "boundary conditions" between wild lands and domesticated lands. Such studies will further the public understanding of raptors, conservation techniques, and environmental science.

The Property currently produces approximately Y in income. This consists of income derived from the wildlife management operations (deer hunting leases) and from agricultural leases. Corporation represents that the annual Property expenses are equal to or greater than the annual income from the Property.

Corporation will accept the donation of the Property if it is determined that the acceptance of the Property will not jeopardize its exempt status and will not be considered an unrelated trade or business.

Rulings Requested:

Corporation requested the following rulings:

- (1) That the use of the Property as stated above will not jeopardize Corporation's

exemption from federal income tax as an organization described in section 501(c)(3) of the Code.

- (2) That the contemplated use of the property is not an unrelated trade or business under section 513 of the Code.

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations that are organized and operated "exclusively" for charitable, religious, educational, or other specified exempt purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations ("regulations") provides that in order to qualify for exemption under Code section 501(c)(3), an organization must be both organized and operated exclusively for one or more exempt purposes.

Section 1.501(c)(3)-1(b)(1)(i) of the regulations provides that, in general, an organization is organized exclusively for one or more exempt purposes only if its articles of organization limit the purposes of such organization to one or more exempt purposes, and do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(c)(1) of the regulations 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 exempt purposes under section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(c)(2) of the regulations provides that an organization is not organized and 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.

Section 1.501(c)(3)-1(e)(1) of the regulations provides that an organization may meet the requirements of section 501(c)(3) of the Code although it operates a trade or business as a substantial part of its activities, if the operation of such trade or business is in furtherance of the organization's exempt purpose or purposes and if the organization is not organized and operated for the primary purpose of carrying on an unrelated trade or business, as defined in section 513. In determining the existence or nonexistence of such primary purpose, all the circumstances must be considered, including the size and extent of the trade or business and the size and extent of the activities which are in furtherance of one or more exempt purposes.

Section 511 of the Code imposes a normal tax and a surtax on the unrelated business taxable income (defined in section 512) of organizations exempt from tax under section 501(c)(3) of the Code.

Section 512(a)(1) of the Code provides that the term "unrelated business taxable income" means the gross income derived by any organization from any unrelated trade or business (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 512(b)(3)(A)(i) of Code excludes from the definition of unrelated business taxable income all rents from real property (including property described in section 1245(a)(3)(C)).

Section 513(a) of the Code provides that the term "unrelated trade or business" means, in the case of any organization subject to the tax imposed by section 511, any trade or business the conduct of which is not substantially related to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption.

Section 1.513-1(d)(2) of the regulations provides that a trade or business is "related" to exempt purposes only where the conduct of the business activities has causal relationship to the achievement of exempt purposes (other than through the production of income). Further, it is "substantially related", for purposes of section 513, only if the causal relationship is a substantial one. For this relationship to exist, the production or the performance of the service from which the gross income is derived must contribute importantly to the accomplishment of exempt purposes. Whether the activities productive of gross income contribute importantly to such purposes depends in each case upon the facts and circumstances involved.

Corporation represents and warrants that the Property and its uses will be dedicated to furthering the organization's exempt purpose of creating, maintaining, and operating protective refugees for raptors and other wildlife. The Corporation also represents and warrants that it will preserve the Property as a natural habitat for wildlife and prevent it from being commercially developed. The Corporation in furthering its exempt purpose, represents and warrants that it will use the Property as a place to conduct rehabilitation of raptors. Therefore, the use of the Property by the Corporation as described above furthers the Corporation's charitable purposes and the acceptance of the Property will not jeopardize its exempt status.

The term "unrelated trade or business" means, in the case of any organization subject to the tax imposed by section 511, any trade or business the conduct of which is not substantially related to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption. The use of the Property as represented and warranted above by the Corporation is substantially related to the exercise and performance of Corporation's charitable exempt purposes. Any rental income received by Corporation under the leases described above is excluded from unrelated business income under section 512(b)(3) of the Code.

Accordingly, we conclude that:

- (1) the use of the Property as stated above will not jeopardize Corporation's exemption from federal income tax as an organization described in section 501(c)(3) of the Code.
- (2) the contemplated use of the property is not an unrelated trade or business under section 513 of the Code.

This ruling will be made available for public inspection under section 6100 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 this ruling may not be used or cited by others as precedent.

This ruling is based on the understanding that there will be no material changes in the facts upon which it is based.

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.

Sincerely,

Robert C. Harper, Jr.
Manager, Exempt Organizations
Technical Group 3

Encl: Notice 437, *Notice of Intention to Disclose*