

## Internal Revenue Service

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Date:  
December 21, 2017

### Legend

Authority =

Act =

State =

County =

Dear :

This letter is in response to your letter dated August 4, 2017, as revised by subsequent correspondence, for rulings on behalf of the Authority and a trust. The Authority requested that it is a political subdivision as defined in § 1.103-1(b) of the Income Tax Regulations, which we referred to the Bonds Branch for technical assistance. This ruling is solely addressed to the Authority and the ruling it requested. We will address the other issues in another letter, in response to the trust's separate request for rulings.

### **Facts and Representations**

The Authority is a public corporation formed pursuant to the Act, a law of the State, for the purposes enumerated in the Act, including provision of health care services within the County. The Authority's bylaws state that promotion of the general health of the community is an objective of the Authority. The Act states that the Authority is deemed to exercise public and essential governmental functions.

The Act authorizes the Authority to acquire by the exercise of the right of eminent domain any property essential to the purposes of the Authority. This authorization to exercise the sovereign power of eminent domain comes with no special restrictions and is subject only to the same general rules applicable to any exercise of eminent domain by the State or an agency of the State.

The County's governing board appoints all members and fills all vacancies on the Authority's governing board. The Act instructs the Authority to provide to the County's governing board an annual report setting forth the activities and budget of the Authority. The Act also requires that an annual audit of the Authority's financial affairs, books, and records be conducted and filed with the clerk of the superior court in the County.

### **Law and Analysis**

The Internal Revenue Code ("Code") does not define the term "political subdivision." Section 1.103-1(b) provides that the term "political subdivision" denotes any division of any state or local governmental unit that is a municipal corporation or that has been delegated the right to exercise part of the sovereign power of the unit. As thus defined, a political subdivision of any state or local governmental unit may or may not, for purposes of this section, include special assessment districts such as road, water, sewer, gas, light, reclamation, drainage, irrigation, levee, school, harbor, port improvement, and similar districts and divisions of these units.

The three generally acknowledged sovereign powers of states are the power to tax, the power of eminent domain, and the police power. *Commissioner v. Estate of Alexander v. Shamberg*, 3 T.C. 131 (1944), *acq.* 1945 C.B. 6, *aff'd*, 144 F.2d 998 (2d Cir. 1944), *cert. denied*, 323 U.S. 792, 65 S. Ct. 433, 89 L. Ed. 631 (1945). It is not necessary that all three of these powers be delegated in order to treat an entity as a political subdivision for purposes of the Code. However, possession of only an insubstantial amount of any or all of the sovereign powers is not sufficient. All of the facts and circumstances must be taken into consideration, including the public purposes of the entity and its control by a government. Rev. Rul. 77-164, 1977-1 C.B. 20.

The Authority was formed as a public corporation pursuant to a State law. The Authority's purpose is to provide health care services and to promote general health within the County. The Act authorizes the Authority to exercise a substantial amount of the sovereign power of eminent domain. The Authority's governing board is controlled by the County and must report on the Authority's activities, budget, and financial affairs. Based on these facts, we conclude that the Authority is a division of a state or local governmental unit that has been delegated the right to exercise part of the sovereign power of that unit, as provided in § 1.103-1(b).

### **Conclusion**

We conclude that the Authority is a political subdivision as defined in § 1.103-1(b) of the Income Tax Regulations.

The ruling contained in this letter is based upon information and representations submitted by or on behalf of the Authority and accompanied by a penalty of perjury statement executed by an appropriate party, as specified in Rev. Proc. 2017-1, 2017-1 I.R.B. 1, section 7.01(15)(b). This office has not verified any of the material submitted in

support of the request for ruling, and such material is subject to verification on examination. Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

The Associate Office will revoke or modify a letter ruling and apply the revocation retroactively if: (1) there has been a misstatement or omission of controlling facts; (2) the facts at the time of the transaction are materially different from the controlling facts on which the ruling is based; or (3) the transaction involves a continuing action or series of actions and the controlling facts change during the course of the transaction. See Rev. Proc. 2017-1, section 11.05.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Sincerely,

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David L. Marshall  
Assistant Branch Chief, Exempt Organizations  
Branch 1 (Exempt Organizations/Employment  
Tax/Government Entities)  
(TEGE Associate Chief Counsel)