



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

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

Number: **200528030**

Release Date: 7/15/2005

234526/TEGE:EO

Date: 04/21/05

Contact Person:

Identification Number:

Telephone Number:

Employer Identification Number:

**Legend:**

P =

S =

Dear :

Uniform Issue List Nos.: 509.02-02, 513.00-00, 501.03-02

El #:

Dear :

This is in reply to your ruling request of January 16, 2004, concerning P's proposed transfer to S, its own supporting organization, of endowment assets (composed of cash, publicly held stock, securities, mutual funds) and unencumbered real estate.

**Facts**

P and S are exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code. P is not a private foundation under section 509(a) of the Code because P is a publicly supported organization under sections 509(a)(1) and 170(b)(1)(A)(vi) of the Code. P provides foster care residential programs for children who are minors. P

has three group homes and active parent ministry. It also provides assistance to displaced single parent families.

S is not a private foundation under section 509(a) of the Code because S is a supporting organization for the benefit of P under section 509(a)(3) of the Code. S was formed as a fundraiser for P, and also to manage endowment, investment, and real property supporting P's activities.

P proposes to gratuitously transfer to S endowment assets composed of cash, publicly held stock, securities, mutual funds and unencumbered real estate. After these transfers, P will continue to carry on the charitable activities described above.

The purpose of the proposed transfers is to segregate the assets of P to protect them from potential litigation, and to allow S to provide investment management of the transferred assets.

### **Rulings Requested**

1. P's gratuitous transfer to S of endowment assets composed of cash, publicly held stock, securities, mutual funds and unencumbered real estate will not adversely affect the current status of S as an organization described in section 501(c)(3) of the Code or its current classification as a public charity described in sections 509(a)(3) and 170(b)(1)(A)(vi).
2. P's gratuitous transfer to S of endowment assets composed of cash, publicly held stock, securities, mutual funds and unencumbered real estate will not result in unrelated business taxable income to S under section 512 of the Code subject to income tax under section 511.

### **Law**

Section 501(c)(3) of the Code provides for the exemption from federal income tax of nonprofit organizations organized and operated exclusively for the charitable and/or other exempt purposes stated in that section.

Section 509(a) of the Code describes organizations exempt from federal income tax under section 501(c)(3) of the Code are private foundations subject to the provisions of Chapter 42 of the Code.

Section 509(a)(1) of the Code provides that an organization that is financially publicly supported under section 170(b)(1)(A)(vi) of the Code is not a private foundation.

Section 509(a)(3) of the Code and section 1.509(a)-4(g) of the Income Tax Regulations provide that a "supporting organization" under those sections is not a private foundation.

Section 511 of the Code provide for the imposition of income tax on the unrelated business taxable income, as defined in section 512 of the Code, that an organization, otherwise exempt from income tax, derives from any unrelated trade or business, as defined in section 513.

Section 512 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, as defined in section 513.

Section 513 of the Code provides that the term “unrelated trade or business” means any trade or business the conduct of 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.

## **Analysis**

P proposes to gratuitously transfer to S endowment assets composed of cash, publicly held stock, securities, mutual funds and unencumbered real estate. After these transfers, P will continue to carry on its current charitable activities. The purpose of the proposed transfers is to segregate the assets of P to protect them from potential litigation and to allow S to provide investment management of the transferred assets. Therefore, the proposed transfers will neither adversely affect S’s current status as an organization described in section 501(c)(3) of the Code nor adversely affect S’s current classification as a public charity described in sections 509(a)(3) and 170(b)(1)(A)(vi).

S’s receipt of the transferred assets from P do not constitute a trade or business. Furthermore, the purpose of the transfer is to allow S to provide investment management of the transferred assets. Thus, the proposed transfer is substantially related to S’s exercise or performance of its charitable purpose constituting the basis for its exemption under section 501. Therefore, the proposed transfer will not result in unrelated business taxable income to S under section 512 of the Code.

## **Conclusions**

Accordingly, we rule that:

1. P’s gratuitous transfer to S of endowment assets composed of cash, publicly held stock, securities, mutual funds and unencumbered real estate will not adversely affect the current status of S as an organization described in section 501(c)(3) of the Code or its current classification as a public charity described in sections

509(a)(3) and 170(b)(1)(A)(vi).

2. P's gratuitous transfer to S of endowment assets composed of cash, publicly held stock, securities, mutual funds and unencumbered real estate will not result in unrelated business taxable income to S under section 512 of the Code subject to income tax under section 511.

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

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.

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

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 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,

Debra J. Kaweck  
Manager, Exempt Organizations  
Technical Group 1

Enclosure

Notice 437