



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

NUMBER: **200628039**

RELEASE: 7/14/06

Date: April 19, 2006

Contact Person:

Identification Number:

UIL: 501.03-15

513.04-00

Employer Identification Number:

LEGEND:

A =

B =

Dear :

This is in response to a letter from you requesting a ruling on your behalf that you will continue meeting the requirements of section 501(c)(3) of the Internal Revenue Code.

Facts

You are exempt from federal income tax under Section 501(a) of the Internal Revenue Code as an organization described in Section 501(c)(3) of the Code. By letter from the Internal Revenue Service, dated B, it was determined that you, as a newly-created organization, could reasonably expect to be a publicly supported organization described in sections 509(a)(1) and 170(b)(1)(A)(vi) of the Code, and will be treated as a publicly-supported organization during the advance ruling period.

In your application, you stated that you intend to raise funds through soliciting cash donations, and non-cash donations (e.g., food, medicine, and clothing) all of which you were going to send to the poor in A. When you filed your application, you did not intend to operate a thrift store. Therefore, you made no mention of that activity in your application. However, as a result of the continued need to assist the poor in A, it appeared that a better and more effective way to achieve this goal would be opening and operating a thrift store. You are therefore taking action to open a thrift store to achieve this goal.

You plan to operate a thrift store that will accept clothes, furniture, artwork, and household appliances. You will sell these items for cash. All work performed by your Board of Directors ("Board") and officers will be voluntary, without compensation. You will rent space for your store

from an unrelated party, and will pay fair market value as rent. The cash that you raise from the sale of goods will be used to pay your rent, and the remainder of the cash will be used to buy clothes, food, and medicine, which will be shipped to the poor and charities operating in A. You will not send cash to the poor and charities in A. You will retain control and discretion over the use of all goods sent to A, in order to ensure that they are used only for charitable purposes.

Ruling Requested

Operating a thrift store in the manner described will not adversely affect the organization's status as an organization described in section 501(c)(3) of the Internal Revenue Code.

Law

Section 501(a) of the Code provides an exemption from federal income tax for organizations described in section 501(c)(3), including organizations that are organized and operated exclusively for charitable, educational or scientific purposes. Section 6033(a)(1) generally requires the filing of annual information returns by exempt organizations.

Section 511 of the Code imposes a tax on the unrelated business taxable income of certain exempt organizations including those exempt under section 501(c)(3).

Section 513(a) of the Code defines "unrelated trade or business" as any trade or business the conduct of which is not substantially related (aside from the need of the organization for income or funds or the use it makes of the profits derived) to the exercise or performance by the organization of the purpose or function that constitutes the basis for its exemption under section 501. There are several exceptions to the term "unrelated trade or business." For example:

Section 513(a)(1) of the Code states that this term does not include any trade or business in which substantially all the work in carrying on the trade or business is performed for the organization by volunteers.

Section 513(a)(3) of the Code states that this term does not include any trade or business which is the selling of merchandise, substantially all of which the organization received as gifts or contributions.

Section 1.501(c)(3)-1(e)(1) of the regulations states 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 purposes and it is not organized or operated for the primary purpose of carrying on an unrelated trade or business.

Section 1.513-1(e)(3) of the regulations provides that section 513(a) of the Code specifically states that the term "unrelated trade or business" does not include any trade or business which consists of selling merchandise, substantially all of which has been received by the organization as gifts or contributions. This exception applies to so called "thrift shops" operated by a tax exempt organization where those desiring to benefit such organization contribute old clothes, books, furniture, etc. to be sold to the public with the proceeds going to the exempt organization.

Analysis

The Internal Revenue Service has determined that you are exempt from federal income tax under section 501(c)(3) of the Code and are classified as a publicly supported organization described in sections 509(a)(1) and 170(b)(1)(A)(vi) of the Code. You wish to change your activity by operating a thrift store to raise funds for your charitable purposes. You will use these funds to buy clothes, food, and medicine, which will be shipped to the poor and charities operating in A. You will retain control and discretion over the use of all goods sent to A, in order to ensure that they are used only for charitable purposes. Your Board and officers will not receive compensation for operating your thrift store, or for any other reason.

Selling donated items to raise funds to purchase clothes, food and medicine constitutes a trade or business. However, this activity furthers your exempt purpose to provide aid to the poor. In addition, this activity does not constitute an unrelated trade or business because it meets the exception under section 513(a)(1) of the Code, since your organization is operated entirely by volunteers, and because you meet the exception in section 513(a)(3) and section 1.513-1(e)(3) of the regulations, since substantially all of your sales consists of donated merchandise.

Ruling

Operating a thrift store in the manner described will not adversely affect the organization's status as an organization described in section 501(c)(3) of the Internal Revenue Code.

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.

Please keep a copy of this ruling in your permanent records.

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

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 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.

Thank you for your cooperation.

Sincerely yours,

Steven B. Grodnitzky
Acting Manager
Exempt Organizations
Technical Group 1

Enclosure
Notice 437