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

200124021

Date: MAR 1 2 2001

Contact Person:

ID Number:

Telephone Number:

T:EO:B1

Employer identification Number:
Area Manager:

Legend:

A =
B =
C =

Dear Sir or Madam:

This is in response to letters from your authorized representative requesting a series of rulings on your behalf regarding the tax consequences associated with the transactions described below.

A serves as the parent and is the sole member of B and C. It has provided strategic planning, financing and marketing services, as well as overall direction, to B and C. A is exempt from federal income tax under section 501 (c)(3) of the Internal Revenue Code and is classified as a nonprivate foundation under section 509(a)(3).

B, an acute care hospital, is exempt from federal income tax under section 501 (c)(3) and is classified as a nonprivate foundation under sections 509(a)(l) and 170(b)(1)(A)(iii).

C conducts fundraising and handles investments for B and is exempt from federal income tax under section 501(c)(3) and is classified as a nonprivate foundation under section 509(a)(3).

You propose to merge A and C with and into B, which shall be the surviving corporation. You have stated that the corporate existence of B with all of its purposes, powers and objects, shall continue unaffected and unimpaired by the merger.

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Upon the effective date of the merger, the separate corporate existence of A and C shall cease and thereupon A, B and C shall be a single corporation, B, which shall continue to be governed by state nonprofit corporation law. The name of B will be changed to A and all assets and liabilities of A and C will be transferred to B. The Articles of Incorporation and Bylaws of B will be amended as of the date of the merger to state a number of nonsubstantive amendments, including the name change.

You have requested the following rulings in connection with these transactions:

1. The proposed merger and amendments will not adversely affect the tax exempt status of A, B or C under section 501(c)(3) of the Code.

2. The proposed merger and amendments will not adversely affect the nonprivate foundation status of A, B or C under section 509(a) of the Code.

3. The transfer of assets and liabilities from A and C to B pursuant to the merger will not result in gain or loss being recognized by A, B or C under sections 511 through 514 of the Code.

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 1.501 (c)(3)-1 (d)(2) of the Income Tax Regulations provides that the term "charitable" is used in section 501 (c)(3) of the Code in its generally accepted legal sense. Rev. Rul. 69545, 1969-2 C.B. 117, acknowledges that the promotion of health is a charitable purpose, and that promoting the health of the general community constitutes a sufficient basis for tax-exempt status within the meaning of section 501 (c)(3).

Section 509(a) of the Code provides that all organizations described in section 501 (c)(3) are private foundations except those described in paragraphs (1) through (4) of section 509(a).

Section 509(a)(l) of the Code provides that the term "private foundation" means a domestic or foreign organization described in section 501 (c)(3) other than an organization described in section 170(b)(l)(A) (other than in clauses (vii) and (viii)).

Section 170(b)(1)(A)(iii) of the Code refers to an organization whose principal purpose or function is the providing of medical or hospital care.

Section 509(a)(3) of the Code provides that the term "private foundation" does not include an organization which is organized and operated exclusively for the benefit of an organization described in section 509(a)(l).

Section 511 (a) of the Code imposes a tax on the unrelated business income of organizations described in section 501 (c).

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Section 512(a)(l) of the Code defines "unrelated business taxable income" as the gross income derived by an organization from any unrelated trade or business regularly carried on by it, less the allowable deductions which are directly connected with the carrying on of the trade or business, with certain modifications.

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 its exempt purpose or function.

Section 513(a)(2) of the Code provides, in part, that the term "unrelated trade or business" does not include any trade or business which is carried on in the case of an organization described in section 501(c)(3) by the organization primarily for the convenience of its employees.

Section 1.513-1(d)(2) of the regulations provides, in part, that a trade or business is related to exempt purposes only where the conduct of the business activities has a causal relationship to the achievement of exempt purposes; and it is substantially related for purposes of section 513 of the Code only if the causal relationship is a substantial one. Thus, for the conduct of trade or business from which a particular amount of gross income is derived to be substantially related to purposes for which exemption is granted, the production or distribution of the goods or the performance of the services from which the gross income is derived must contribute importantly to the accomplishment of exempt purposes.

Section 514(a)(l) of the Code includes as an item of gross income derived from a trade or business a certain percentage of the income derived from or on account of each debt-financed property.

Section 514(b)(l)(A) of the Code provides, in part, that "debt-financed" property does not include any property substantially all the use of which is substantially related to the exercise or performance by such organization of its charitable or other purpose constituting the basis for its exemption under section 501.

A, B and C will not adversely affect their tax exempt status under section 501 (c)(3) of the Code or their nonprivate foundation status under section 509(a) by the proposed merger and amendments as the surviving corporation, B, will continue to promote health within the meaning of Revenue Ruling 69-545, and the basis for its classification as a nonprivate foundation will not change.

Contributions to organizations exempt from federal income tax under section 501(c)(3) of the Code do not fall within the definition of unrelated business taxable income under section 512, nor create taxable gain or loss to the transferor or transferee. Therefore, the transfer of assets and liabilities from A and C to B will not result in gain or loss being recognized by A, B or C under sections 511 through 514 of the Code.

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Accordingly, based on all the facts and circumstances described above, we rule:

1. The proposed merger and amendments will not adversely affect the tax exempt status of A, B or C under section 501 (c)(3) of the Code.

2. The proposed merger and amendments will not adversely affect the nonprivate foundation status of A, B or C under section 509(a) of the Code.

3. The transfer of assets and liabilities from A and C to B pursuant to the merger will not result in gain or loss being recognized by A, B or C under sections 511 through 514 of the Code.

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 as precedent.

We are informing your Exempt Organizations Area Manager of this action. Please keep a copy of this letter 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

Sincerely,

/S/

Marvin Frieblander
Manager, Exempt Organizations
Technical Group 1

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