



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

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

Number: **201222042**  
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Contact Person:

Identification Number:

Telephone Number:

Employer Identification No:

UIL: 509.02-02 Supporting Organizations

UIL: 513.00-00 Unrelated v. Not Unrelated Trade or Business

Legend:

Parent =

You =

Dear :

You request a ruling concerning certain consequences under Sections 501, 509 and 511-514 of the Internal Revenue Code (the "Code") relating to the proposed transfer of assets described below.

**FACTS:**

You are recognized as exempt under §501(c)(3) and classified as a non-private foundation under §509(a)(1). Parent, the supporting organization that is your sole member has been recognized as exempt under §501(c)(3) and a non-private foundation under §509(a)(3).

You operate a retirement community that provides housing, health care and other services to serve the special needs of the aged within the standards of Revenue Rulings 72-124 and 79-18. Your Parent has the authority to appoint three directors to your board, all of whom may also be directors on its board.

You have a self-perpetuating board of directors. One member of your board is a resident in your community. At least one of your directors will serve on the board of your Parent.

Your Parent is a supporting organization that provides executive, administrative, financial, and policy setting, planning and other functions for you, and its other supported

retirement communities within the system. It develops policies for standards of care and operation. It carries out various functions for its supported retirement communities, coordinates activities by or among them and supervises overall policy and planning. The Parent performs functions for your benefit and for the benefit of each retirement community in the system--functions that you and each retirement community would otherwise be required to perform.

You and the other retirement communities in the system, have transferred a pro rata amount of funds to your Parent to fund its start-up and initial working capital requirements. You, and the other supported retirement communities in the system make regular contributions communities to support its on-going operations.

In addition to start-up and on-going operational costs, in the future, there may be additional sharing of funds, assets, services and personnel throughout the system determined on a case by case basis and only as needed to support the exempt purposes of any retirement community or the retirement community system as a whole. This may be accomplished through formal execution of contracts or other less formal arrangements, a combination of gratuitous transfers, sales, leases or charges for services, all as the individual facts and circumstances warrant, and to ensure that each entity is fully capable of fulfilling its respective exempt purpose. Funds may be transferred to and from the Parent and you and the other retirement communities.

#### Rulings Requested:

1. Transfers, contributions or sharing of assets, personnel, facilities and services, including the execution of contracts for the sharing of assets and services between you and Parent shall, to the extent related to your exempt purposes, not jeopardize your tax-exempt status.
2. Transfers, contributions or sharing of assets, personnel, facilities and services, including the execution of contracts for the sharing of assets and services between you and Parent shall, to the extent related to your exempt purposes, not give rise to any unrelated business income under §§511 through 514 to you.

#### LAW:

Section 501(c)(3) of the Code describes organizations that are organized and operated exclusively for charitable purposes.

Section 509(a) provides that a §501(c)(3) organization shall be a private foundation unless it is described in §§509(a)(1) through 509(a)(4).

Section 509(a)(3)(A) describes an organization that is organized and operated to support or benefit one or more specified §§509(a)(1) or (2) organizations which have a degree of control or supervision over the supporting organization.

Section 509(a)(3)(B) sets forth three different types of relationships, one of which must be met in order for a §501(c)(3) organization to qualify under the provisions of §509(a)(3). A supporting organization may be:

1. operated, supervised, or controlled by,
2. supervised or controlled in connection with, or

3. operated in connection with, one or more publicly supported organizations.

Section 511 imposes a tax on unrelated business taxable income of organizations exempt from federal income tax under §§501(a) and 501(c)(3).

Section 512(a)(1) defines "unrelated business taxable income" as the gross income derived by any organization from any unrelated trade or business regularly carried on by it, less allowable deductions and computed with modifications in §512(b).

Section 513(a) defines the term "unrelated trade or business" as any trade or business which is not substantially related (aside from the need of such organization for income or funds or the use it makes of profits derived) to the exercise or performance by such organization of the purposes or function constituting the basis for its exemption under §501.

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

Section 1.513-1(b) provides that the term "trade or business" has the same meaning as in §162, and generally includes any activity carried on for the production of income from the sale of goods or the performance of services.

Section 1.513-1(d)(1) provides that gross income derives from "unrelated trade or business," within the meaning of §513(a), if the conduct of the trade or business which produces the income is not substantially related (other than through the production of funds) to the purposes for which exemption is granted. This requirement necessitates an examination of the relationship between the business activities which generate the particular income in question and the accomplishment of the organization's exempt purposes.

Section 1.513-1(d)(2) provides that to be "substantially related" to the exempt purposes of the organization, the business activity must have a causal relationship to the achievement of exempt purposes, and it must contribute importantly to the accomplishment of those purposes; and it is substantially related for purposes of §513 only if the causal relationship is a substantial one. Thus, for the conduct of a 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.

Rev. Ruls. 72-124, 1972-1 C.B. 145, and 79-18, 1979-1 C.B. 194, hold that providing housing for the elderly can be a charitable purpose within the meaning of §501(c)(3) if it is specially designed for the elderly, provides for their health, emotional, social and recreational needs, is built at the lowest feasible cost, is priced within the financial reach of a significant segment of the community served, and if the organization maintains residents who become unable to pay.

Rev. Rul. 77-72, 1977-1 C.B. 157, holds that inter-organizational indebtedness between a parent and its wholly owned subsidiary is not acquisition indebtedness within the meaning of §514(c), but merely a matter of accounting between related organizations.

Rev. Rul. 78-41, 1978-1 C.B. 148, holds that when a trust performs a function that the hospital could carry out itself in the performance of its exempt purpose such as the payment of malpractice claims against the hospital, the trust's performance of an integral part of the hospital's function was also exempt under §501(c)(3).

#### ANALYSIS:

You and Parent function to meet the housing, health, and financial needs of elderly persons which is considered a charitable purpose within the meaning of §501(c)(3). Rev. Ruls. 72-124 and 79-18. The relationship between you and Parent advances your charitable purposes.

By providing overall policy and planning guidance, coordinating activities and assuming various functions that you would otherwise conduct, Parent enhances your ability to serve the special needs of the aged of your particular community. It relieves you of administrative and other burdens and allows you to focus on providing housing, health care and services for your residents. Because they advance your exempt purposes, transfers of assets for such exempt purposes will not adversely affect your tax-exempt purpose.

You have represented that these activities are related to your tax-exempt purposes and those of your Parent because the transfers of cash, assets and personnel, and the sharing of personnel, services, facilities and expenses permit you to carry out your tax-exempt operations more efficiently. You have only requested a ruling on those transfers that are related to your exempt purpose. Transfers that are related to your exempt purpose will not result in unrelated business activity. Transfers between closely related exempt organizations for their exempt purposes are regarded as matters of accounting. Rev. Rul. 77-72. Furthermore, such transfers are generally not regarded as trades or businesses regularly carried on for the production of income. Section 1.513-1(b) of the regulations. Thus, the transfers will not give rise to unrelated business taxable income under §§511 through 514.

#### RULINGS:

1. Transfers, contributions or sharing of assets, personnel, facilities and services, including the execution of contracts for the sharing of assets and services between you and Parent shall, to the extent related to your exempt purposes, not jeopardize your tax-exempt status.
2. Transfers, contributions or sharing of assets, personnel, facilities and services, including the execution of contracts for the sharing of assets and services between you and Parent shall, to the extent related to your exempt purposes, not give rise to any unrelated business income under §§511 through 514 to you.

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.

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 is based on the facts as they were presented and on the understanding that there will be no material changes in these facts. 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. Because it could help resolve questions concerning your federal income tax status, this ruling should be kept 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.

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 representatives.

Sincerely,

Ronald Shoemaker  
Manager Technical Group 2

Enclosure:

Notice 437