



TAX EXEMPT AND
GOVERNMENT ENTITIES

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

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Contact Person:

ID Number:

Telephone Number:

UIL: 501-03-00

LEGEND

M =

N =

P =

Dear _____ :

This is in response to M's ruling request under section 501(c)(3) of the Internal Revenue Code.

FACTS

M is exempt under section 501(c)(3) of the Code and is described in sections 509(a)(1) and 170(b)(1)(A)(vi). M's activities are as follows: (1) sponsoring and encouraging research, publications, and forums for the furtherance of justice under the law; (2) establishing scholarships, promoting the study of law and research, and the continuing education of lawyers; (3) instituting and maintaining legal aid facilities for the indigent; (4) preserving historical structures; (5) displaying historical memorabilia and conducting historical observances; and (6) accepting aid, donations, and grants from government and private sources.

N is a trade association exempt under section 501(c)(6) of the Code. N is organized for the protection and advancement of the professional interests of persons licensed to practice law, the advancement of cordial intercourse among lawyers and the improvement of the relations between courts, lawyers and the public; to acquire, preserve and maintain law libraries and periodicals of interest to lawyers; and to adopt codes of ethics and standards of conduct governing the members of N.

Since 1980, M has leased real property ("Property") to N. The Property serves as both M and N's headquarters. N operates the Property for legal education activities, bar and committee meetings, other bar association and bar-related activities, conducting public

tours, providing office space and accounting, legal and other administrative services, and receptions and other similar functions. N pays annual rent and all taxes, insurance premiums, repairs and replacements.

M and N would like to amend their leasing agreement ("Lease Amendment") because the Property is being expanded to include a ballroom, pavilion, parking, kitchen facilities, and several new meeting facilities. M states the expansion is necessary to accommodate the tremendous growth in membership, the number of committees and increased size of continuing legal education ("CLE") programs offered to N's members. In particular, M states the expansion of the parking and kitchen facilities serves to support the more numerous and larger CLE programs.

The expansion will increase the square footage of the Property from its current size of approximately 18,400 square feet to approximately 40,000 square feet. M states the annual rent will increase proportionately. Additionally, N's obligations for taxes, insurance, maintenance and repairs to the Property will also increase.

You state, N will continue to utilize the Property in the same manner as it has since 1980, with one exception: the original lease provided P would maintain a public law library on the Property. In 1980, when the lease was entered into, P had limited space of its own for law library facilities. By 1989, P had more space available and concluded the separate law library at the Property was not an efficient use of P's funds. Consequently, P closed the library on M's premises and moved it to a larger building. The Lease Amendment will consequently delete the provisions dealing with P's use for a public law library.

RULING REQUESTED

The transactions described above, including the execution and performance of the Lease Amendment, will not adversely affect the status of M as a charitable organization described in section 501(c)(3) of the Code.

LAW

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for charitable, religious, or educational purposes, no part of whose net earnings inures to any private individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations states, in order to be exempt as an organization described in section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(c)(1) of the regulations provides an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(c)(2) of the regulations provides an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals. The section cross-references the definition of private shareholder which is contained in section 1.501(a)-1(c). That

section provides the words private shareholder or individual in section 501 refers to person having a personal and private interest in the activities of the organization.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations states an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, to meet the requirements of this subsection, it is necessary for an organization to establish it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

In Kentucky Bar Foundation, Inc. v. Commissioner, 78 T.C. 921 (1982), the Kentucky Bar Foundation (“KBF”) was an organization described in section 501(c)(3) of the Code. It was organized and operated to carry on educational, literary, scientific and charitable purposes. KBF was located in the State Capitol Building; but once it expanded its duties, KBF, along with its tenant, Kentucky Bar Association (“KBA”), an organization described in section 501(c)(6) of the Code, accumulated funds to construct the Kentucky Bar Center Headquarters, where KBA, KBF, a public law library and other public areas would be permanently located. The Tax Court concluded that KBF is operating exclusively for exempt purposes based on the activities of KBA and “any private or nonexempt purpose resulting from these efforts clearly is insignificant and tenuous.”

In Kentucky Bar Foundation, KBF was raising money to construct a bar center. The money raised and the tax-exempt status was dependent on a number of activities conducted at the bar center. KBA, through its agreement with KBF, was implementing (1) a CLE program, (2) a public law library, (3) publication of the “Kentucky Bench and Bar,” (4) a Client Security Fund, (5) an Inquiry Tribunal, (6) a Fee Arbitration Plan, and (7) a Lawyer Referral Service. The Service agreed that activities (1), (2) and (3) served an exempt purpose, but argued the remaining activities served a substantial nonexempt purpose by “promoting, protecting, and enhancing the legal profession.” The Tax Court disagreed and concluded that the activities are devoted to improving the administration of justice. Any private or nonexempt purpose is incidental to the charitable purpose served. Consequently, the construction of a bar center in order for KBA and KBF to carry out the purposes listed above fulfilled KBF’s tax-exempt purposes.

ANALYSIS

M is expanding the Property used by N to include a ballroom, pavilion, parking, kitchen facilities, and new meeting facilities. M states the additional space will be used for legal educational and bar-related activities. Like the organization described in the Kentucky Bar Foundation, N’s activities help M fulfill its tax-exempt purpose. Since M states all of the additional facilities are being used in connection with its exempt purpose of promoting the research and study of law, providing continuing education for lawyers, and improving the administration of justice, N’s operations are similar to KBA’s activities in that they further M’s exempt purposes. Even though there will not be a public law library on the premises, N continues to help M perform its exempt activities. Therefore, the Lease Amendment will not adversely affect M’s exempt status.

CONCLUSION

Based on the facts and information submitted, the execution and performance of the Lease Amendment will not adversely affect the status of M as a charitable organization described in section 501(c)(3) of the Code.

Pursuant to a power of attorney on file with this office, a copy of this letter is being sent to your authorized representative. You should keep a copy of this letter in your permanent records.

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.

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.

This ruling is directed only to the organizations that requested them. Section 6110(k)(3) of the Code provides that they may not be used or cited as precedent.

Sincerely yours,

Debra J. Kawecki
Manager, EO Technical
Technical Group 1

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