



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Number: **200819023**

Release Date: 5/9/2008

Date: February 14, 2008

SIN: 501.03-25

238170

Contact Person:

Identification Number:

Telephone Number:

Employer Identification Number:

Legend:

L =

City =

Dear _____ :

This is in reply to your request for private letter rulings initially submitted on October 27, 2006 and amended by letters of August 24, and November 27, 2007.

Facts:

You are a not-for-profit corporation organized under the laws of the State of L. The Internal Revenue Service has recognized you as an organization described in section 501(c)(3) of the Internal Revenue Code. You are also recognized as an organization of the type described in sections 170(b)(1)(A)(vi) and 509(a)(1) and treated as an organization that is not a private foundation.

Your purposes include funding, assisting and undertaking programs and activities designed to strengthen the services, organization, performance, competence and professionalism of the Police Department of the City and its officers and members. In addition, you may pursue independent research, studies, projects and programs to assist and improve the Police Department and its facilities, operations, effectiveness, membership and the public understanding thereof. You carry on this charitable mission through many programs, such as supplying equipment and other critical resources to specialty units of the Police Department, fostering a wide array of police and community partnerships, and providing support to a comprehensive counter-terrorism training program. In addition, you operate programs that serve to improve the health and well-being of Police Department personnel and their families with health services such as assistance in accessing health-related resources, a bullet proof vest program and a suicide awareness program.

Although you generally carry out your charitable mission in conjunction with the Police Department or the City, you are wholly independent of each. You are governed by a Board of

Directors consisting of 34 civic leaders and a small executive staff. Police officers are employees of the City and you do not employ or otherwise control them.

You state that recently the City has been challenged to ensure public safety in the face of reduced anti-terrorism funding and other financial and budget constrains. You have submitted evidence that residents of the City consider crime and terrorist attacks two of their greatest concerns. You have also submitted information supporting your assertion that the cost of living in the City continues to be exceptionally high and that budget pressures have caused the starting salaries of police officers to be cut. You are concerned that unexpected events, such as illness or job loss by a family member, can result in extreme financial hardship for police officers. In addition, you are concerned that the reduced salaries of police officers will discourage highly qualified potential applicants from applying to the Police Department and will pose an unreasonable financial burden on first-year officers.

To relieve unexpected financial hardship suffered by officers, you propose to adopt a Hardship Program under which any current or retired Police Department officer or their survivors may submit an application for financial assistance. Eligible recipients will be current or retired officers or their survivors, who demonstrate financial need and meet other eligibility criteria.

The application will ask about income and financial resources of the applicant and dependents, and their monthly expenditures for food, housing, medical care and other essentials. Applications will be reviewed by an independent selection committee which will make all final decisions based on an objective determination of need. Support payments will be awarded consistent with your financial resources ranging in amount from \$500 to \$2000. An applicant may not submit additional applications for temporary financial assistance within 12 months of the date of a payment. No grantee or members of a grantee's family will perform any services for, or provide benefits to, you or anyone else as a condition of receiving a support payment.

You also propose to adopt two programs to assist the City in recruiting and retaining qualified police officers. You state that the Incentive Program will specifically address the financial burden placed on first-year officers while the College Loan Reimbursement Program will attract more highly qualified individuals to pursue a career with the Police Department.

You plan to publicize and make the Incentive Program known to potential officers by (i) announcing it a press conference specifically held to raise awareness of the effort, (ii) incorporating the program information into the Department's print and radio advertising campaign, (iii) providing program information to potential officers at recruiting events, and (iv) calling potential officers and describing the program to them.

Qualifying officers receiving an award under the Incentive Program will receive the award in three equal installments of \$500. The installments will be made on an annual basis beginning after the Qualifying officer has completed 30 days continuous enrollment in the City Police Academy. Qualifying officers will receive each annual installment only if he or she is employed by, and in good standing with, the Police Department at the time of the annual payment. These payments will be made directly to the officer. You indicate that the award was structured in this manner to maximize its potential to retain candidates over a number of years.

You indicate that the Police Department keeps statistics on recruitment goals, the number of applicants, and the success rates. To evaluate the effectiveness of the Incentive Program, you plan to coordinate with the Police Department to analyze the empirical effect of the payments on recruitment and retention goals within two years of its implementation. You will discontinue the program if it is not effective.

The College Loan Reimbursement Program, recently announced via a press release, is specifically designed to recruit and retain highly qualified applicants. Under this Program, an "Eligible Officer" will be any graduate of the Police Academy who received an Associate Degree or a degree level of Bachelor of Arts, Bachelor of Science, or higher prior to enrollment in the Police Academy. You indicate that the requirement that an Eligible Officer hold the degree prior to enrollment specifically targets highly qualified applicants and will attract potential officers who, through their ability to successfully complete a college degree program, have demonstrated intelligence, maturity and resolve. You believe this Program will result in an increase in applications by highly qualified individuals and help alleviate the current recruitment crisis in the Department.

Under this Program, officers will be eligible to receive up to \$3000 per year for a five year period to reduce or eliminate their college loan burdens. The total grant may not exceed \$15,000. Payments will be made directly to the holder of the student loan debt not to exceed the amount of the debt. If an officer receiving Loan Payments ceases to be employed by the Department, payments will terminate.

Applications for the Loan Reimbursement Program will gather information regarding the applicant's student loans, degrees held and the dates conferred, the names of institutions awarding the degree and a copy of all transcripts. Applications will be reviewed by an independent selection committee that will take into consideration all information submitted.

You have already announced the College Loan Reimbursement Program by press release and will further publicize it to potential officers by (i) sending an email regarding the Program to all applicants registered for the applicable Civil Service examination, (ii) distributing promotional flyers at police entry exams held at various universities, and (iii) sending letters including printouts and links of websites describing the Program to applicants who pass the Civil Service exam.

To evaluate the effectiveness of the College Loan Reimbursement Program as a recruiting tool, you plan to coordinate with the Police Department to analyze the empirical data after two full Academy sessions to see if the number of highly qualified applicants increased by a statistically meaningful amount. You plan to discontinue the Program if it is not effective.

Rulings Requested:

1. Your operation of the Hardship Program will not jeopardize your tax exempt status under section 501(c)(3) of the Code.

2. Your operation of the Incentive Program will not jeopardize your tax exempt status under section 501(c)(3) of the Code.
3. Your operation of the College Loan Reimbursement Program will not jeopardize your tax exempt status under section 501(c)(3) of the Code.
4. You have asked for additional rulings regarding the treatment of payments under these programs by individual officers and your responsibility for withholding or information reporting requirements other than those required by Form 990.

Law:

Section 501(c)(3) of the Code describes organizations that are organized and operated exclusively for certain purposes, such as religious, charitable, scientific or educational.

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that 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 the exempt purposes specified in section 501(c)(3) of the Code. But 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(d)(1) of the regulations provides that an organization may be exempt as an organization described in section 501(c)(3) of the Code if it is operated exclusively for one or more of these purposes, including charitable purposes.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that 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 that 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.

Section 1.501(c)(3)-1(d)(2) of the regulations provides that the term "charitable" is used in section 501(c)(3) of the Code in its generally accepted legal and is, therefore, not to be construed as limited by the separate enumeration in section 501(c)(3) of other tax-exempt purposes which may fall within the broad outlines of "charity" as developed by judicial decisions. Such term includes: Relief of the poor and distressed or of the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments, or works; lessening of the burdens of Government; and promotion of social welfare by organizations designed to accomplish any of the above purposes, or (i) to lessen neighborhood tensions; (ii) to eliminate prejudice and discrimination; (iii) to defend human and civil rights secured by law; or (iv) to combat community deterioration and juvenile delinquency.

Rev. Rul. 55-406, 1955-1 C.B. 73, holds that an organization providing financial assistance to widows and orphans of police officers and firefighters killed in the line of duty qualifies for

exemption under section 501(c)(3) because it is charitable. The financial assistance was provided at the complete discretion of the organization's board of directors.

Rev. Rul. 67-138, 1967-1 C.B. 129, holds that one basis for finding an organization created to provide instruction and guidance to low income families in need of adequate housing and selling them building sites at cost is exempt under section 501(c)(3) is that the organization's activities are "charitable" since they provide relief to the poor and underprivileged.

Rev. Rul. 69-441, 1969-2 C.B. 115, holds that one basis for finding an organization created to reduce the incidence of personal bankruptcy among low income individuals and families with financial problems was exempt under section 501(c)(3) of the Code is that its activities were relieving the poor and distressed.

Rev. Rul. 72-559, 1972-2 C.B. 247, holds that an organization that subsidized recent law graduates during the first three years of their practice to enable them to establish legal practices in economically depressed communities that have a shortage of available legal services, and to provide free legal services to needy members of the community, qualifies for exemption under section 501(c)(3) of the Code. Although the recipients of the subsidies were not members of a charitable class, the resulting benefit to them did not detract from the charitable purpose. The young lawyers were merely the instruments by which the organization accomplished the charitable purpose of providing free legal services for those unable to pay for, or obtain, such services.

Rev. Rul. 74-587, 1974-2 C.B. 162, holds that an organization providing low-cost and long-term loans to, or equity investments in, businesses operating in economically depressed areas qualifies for exemption under section 501(c)(3). The organization provided financial assistance only to businesses that were unable to obtain funds from conventional sources, and gave preference to businesses that would provide training and employment opportunities for unemployed or under-employed area residents. Although some of the individual business owners receiving financial assistance from the organization were not members of a charitable class, the benefit to them did not detract from the charitable character of the organization's program. As in Rev. Rul. 72-559, the recipients of aid were the instruments for accomplishing the organization's charitable purposes.

Analysis: Ruling No. 1

The regulations under section 501(c)(3) of the Code provide that an organization will be regarded as operated exclusively for one or more exempt purposes if it engages primarily in activities that accomplish such exempt purposes and will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. Relief of the poor and distressed is among the most traditional of charitable purposes as that term is generally used.

The Hardship Program is intended to relieve unexpected financial distress of police officers and their families by providing financial assistance to members of this charitable class. The potential pool of applicants for support payments is an open ended class consisting of any current or

retired police officer employed and or formerly employed by the City or their survivors. To be eligible for assistance, recipients are required to demonstrate actual financial need. Your operations are similar to those recognized as charitable in Rev. Ruls. 55-406, 67-138, and 69-441, supra, since they provide direct relief to the poor and distressed. In addition, recipients of your assistance are selected by an Independent Selection Committee having no connection with the Police Department or the Grantees.

Based on the above, we have determined that your Hardship Program furthers your charitable purposes within the meaning of section 501(c)(3) of the Code by providing direct relief to the poor and distressed. It also furthers your social welfare purposes of funding, assisting and undertaking programs and activities designed to strengthen the Police Department of the City and its officers and members. In addition, it is not operated in a manner that will result in more than incidental private benefit. Accordingly, it will not jeopardize your exempt status under section 501(c)(3) of the Code.

Analysis: Ruling No. 2

Included in the purview of charitable purposes enumerated in section 1.501(c)(3)-1(d)(2) of the regulations is the promotion of social welfare. You believe that the City has been hampered in its ability to attract and retain bright and dedicated police officers because of budgetary cuts necessitating a reduction in compensation for first-year officers. Your purpose in offering an Incentive Award is to help ameliorate the financial distress of these officers, thereby assisting the City in maintaining public safety by attracting and retaining qualified police officers.

You plan to evaluate the effectiveness of the Program within two years of its implementation by coordinating with the Police Department to analyze the empirical effect of the payments on recruitment and retention goals. You will discontinue the Program if you determine it is not effective.

The making of payments to individuals that are not themselves members of a charitable class may further the exempt purpose of promoting social welfare within the meaning of section 501(c)(3) of the Code. In Rev. Rul. 72-559, supra, for instance, we determined that the subsidy being offered as an incentive to recent law graduates willing to set up a practice in an economically disadvantaged area and provide free legal services for needy members of the community achieved an exempt purpose. The recipients of the subsidies were not members of a charitable class. They were, however, the instruments by which the organization accomplished its charitable purpose of providing free legal services for those unable to pay for them. Similarly, in Rev. Rul. 74-587, supra, we held that providing loans to attract businesses willing to locate in an economically depressed area and provide training and employment opportunities for unemployed or under-employed area residents was a reasonable means of furthering exempt social welfare purposes. The individual business owners, although not members of a charitable class, were the instruments for accomplishing the organization's charitable purposes.

Based on the above, we have determined that your Incentive Program furthers your section 501(c)(3) social welfare purposes of funding, assisting and undertaking programs and activities

designed to strengthen the Police Department of the City and its officers and members. In addition, it is not operated in a manner that will result in more than incidental private benefit. Accordingly, it will not jeopardize your exempt status under section 501(c)(3) of the Code.

Analysis: Ruling No. 3

Your operation of the College Loan Reimbursement Program is also designed to attract and retain highly qualified police officers thereby assisting the City in maintaining public safety. You plan to evaluate the effectiveness of this Program as a recruiting tool after two years by coordinating with the Police Department to analyze the empirical data to see if the number of highly qualified applicants increased by a statistically meaningful amount. If the program doesn't work, you plan to discontinue it.

For the reasons stated above, we have determined that this Program also furthers your section 501(c)(3) social welfare purposes of funding, assisting and undertaking programs and activities designed to strengthen the Police Department of the City and its officers and members. In addition, it is not operated in a manner that will result in more than incidental private benefit. Accordingly, it will not jeopardize your exempt status under section 501(c)(3) of the Code.

Analysis: Ruling No. 4

These issues are not within the jurisdiction of the Tax Exempt and Government Entities Division and will not be discussed here.

Rulings:

1. Your operation of the Hardship Program will not jeopardize your tax exempt status under section 501(c)(3) of the Code.
2. Your operation of the Incentive Program will not jeopardize your tax exempt status under section 501(c)(3) of the Code.
3. Your operation of the College Loan Reimbursement Program will not jeopardize your tax exempt status under section 501(c)(3) of the Code.

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 resolved 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 representative.

Sincerely,

Steven Grodnitzky
Manager, Exempt Organizations
Technical Group 1

Enclosure
Notice 437