



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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Number: **201044015**
Release Date: 11/5/2010

Date: August 10, 2010

Contact Person:

Identification Number:

Telephone Number:

Employer Identification Number:

UIL: 501.03-23

Legend:

The X Church =
The Association =
Date 1 =
Corporation =
X =
Y =

Dear _____ :

This is in response to your ruling request dated March 10, 2010 that certain proposed transactions will not adversely affect your exempt status under section 501(c)(3) of the Internal Revenue Code (the Code).

The information provided indicates that you are exempt under section 501(c)(3) of the Code and classified as other than a private foundation described in sections 509(a)(1) and 170(b)(1)(A)(ii). Your Articles of Incorporation provides that your purpose is "to establish and maintain a school of the Bible to educate and train laymen and full-time Christian workers for Christian ministries through a program of Biblical and theological studies, and professional studies in evangelism, Christian Education, the pastoral ministry, world missions, music and church vocational areas deemed desirable."

Since inception, you have been a membership organization consisting of the members of the X Church. Also, since inception you have been governed by a Board of Trustees elected by the members of the X Church. In addition to the above, your unique relationship with the X Church include the following: the requirement that 12 of your 21 trustees be members of the X Church; approval by the Fellowship of Deacons of the X Church prior to submission of any item of business for action by Membership; requirement of prior approval by the Membership on any sale, transfer, conveyance, encumbrance or hypothecation of any of your campus real property; and the occupation of the position of your Chancellor by the presiding Pastor of the X Church

without the necessity of an election whose tenure in such office is to coincide with his tenure as Pastor.

Your operation is separated into two divisions: Academic and Communication. The Academic Division conducts the educational program in providing biblical, theological, professional, and applied higher education on both the undergraduate and graduate levels. You employ a full-time faculty (in addition to adjunct professors) and since inception have experienced significant increases in enrollment size, academic credit hours and course offerings. Since 19 , you have been accredited by the Commission on Colleges of the Association.

The Communications Division offers students training and real world experience in broadcast radio ministry through its operation of your radio stations and its affiliates. You are the current holder of certain licenses issued by the Federal Communications Commission for the operation of non-commercial radio stations and own assets related to their operations.

Plan of Separation & Reorganization

You and the X Church discussed and negotiated a mutually agreeable plan of separation of the entities and a reorganization transitioning you from a membership organization to an independent educational institution without members that will be governed by an independent twenty-one person Board of Trustees (the Plan of Separation). The Plan of Separation arose from your growth and desire to have more control of your activities and operations, as well as admonition from your accrediting agency that a change in governance to a self-perpetuating Board that is not subject to control by an outside organization such as the X Church would be necessary for continued accreditation.

By various resolutions, you and the X Church approved the Plan of Separation and a formal Separation and Contribution Agreement was executed on Date 1. As part of the Plan of Separation, you have approved a restated Certificate of Formation reflecting your shift to a non-member organization, but continuing to operate for educational, religious, charitable purposes, restricting activities not permitted under section 501(c)(3) of the Code, and containing a proper dissolution clause. The new Restated Certificate of Formation continues to state that the purpose of the organization is for the "establishment and maintenance of a school of the Bible to educate and train laypeople and full-time Christian workers for Christian ministries through a program of Biblical and theological studies, professional studies in evangelism, Christian Education, the pastoral ministry, world missions, music, media communications and church vocational areas deemed desirable, and to implement such programs by means of radio, television, publications and other methods of communication." Also, your Bylaws will be amended to reflect your separation from the X Church and the management of your post-separation operation by your Board of Trustees, which shall be composed of twenty-one individuals plus any non-voting ex-officio trustees appointed by the Board.

Also as part of the Plan of Separation, you and the X Church created Corporation as a nonprofit organization with you and the X Church as its only members. You will transfer the FCC licenses along with certain assets related thereto to Corporation for its operation of your radio ministry and other exempt activities. In its operation, Corporation will provide you with monthly support payment of \$x for a period not to exceed y years.

Pursuant to the Plan of Separation, the FCC licenses may only be transferred to Corporation after satisfaction of certain conditions, including the approval of Association on the change of governance structure, application and approval from the FCC of the transfer of the licenses, recognition of Corporation as exempt under section 501(c)(3) of the Code, and confirmation from the Internal Revenue Service that your participation in the Plan of Separation will not affect your exempt status.

After your separation and reorganization, you will continue your educational activities as an institution of higher education.

Corporation has recently received a ruling from the Internal Revenue Service recognizing it as an organization that is exempt from federal income tax as described in section 501(c)(3) of the Code. The ruling classifies Corporation as a Type 1 supporting organization under section 509(a)(3). Corporation supports the activities and purposes of its two members, you and the X Church. Also, you have received approval of Association on the change of governance structure and from the FCC on transfer of licenses.

Law

Section 501(c)(3) of the Code provides, in part, for the exemption from federal income tax of organizations organized and operated exclusively for educational, charitable or other exempt purposes.

Section 1.501(a)-1(a)(2) of the Income Tax Regulations (the regulations) provides that an organization that has been determined to be exempt under section 501(a) may rely on that determination so long as there are no substantial changes in the organization's character, purposes, or methods of operation.

Section 1.501(c)(3)-1(a) of the regulations provides that to be eligible for recognition of exemption, an organization must be organized and operated for one or more of the exempt purposes specified in section 501(c)(3) of the Code.

Section 1.501(c)(3)-1(b)(1)(i) of the regulations provides that an organization is organized for exempt purposes if its organizational documents limit its purposes to one or more exempt purposes and do not otherwise empower the organization to engage in a more than insubstantial manner in activities which are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(b)(4) of the regulations provides that an organization is not considered organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, for example, if, upon dissolution, such assets would, by reason of a provision in the organization's articles or by operation of law, be distributed for one or more exempt purposes, or to the Federal Government, or to a State or local government, for a public purpose.

Section 1.501(c)(3)-1(c)(1) of the 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 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(d)(1)(ii) of the regulations provides that to be organized and operated for one or more exempt purposes the organization must serve a public rather than a private interest.

Section 1.501(c)(3)-1(d)(3)(i) of the regulations defines the term 'educational', as used in section 501(c)(3), as the instruction or training of the individual for the purpose of improving or developing his capabilities, or the instruction of the public on subjects useful to the individual and beneficial to the community.

Section 1.501(c)(3)-1(d)(3)(ii) of the regulations, Example (1) of educational organizations to include an organization, such as a primary or secondary school, a college, or a professional or trade school, which has a regularly scheduled curriculum, a regular faculty, and a regularly enrolled body of students in attendance at a place where the educational activities are regularly carried on.

Analysis

Your Plan of Separation provides structural changes transforming you to a non-membership organization governed by an independent twenty-one member Board of Trustees, including issuing a restatement of your creating and governing documents reflecting the change. The Plan of Separation also describes operational changes in which you will no longer operate the Communication Division to conduct a religious radio ministry. It will be taken over and continued by Corporation, a separate, but related nonprofit organization.

After your Plan of Separation, your creating document continues to provide purposes described in section 501(c)(3), to restrict activities not permitted under section 501(c)(3) and to properly dispose of assets upon your dissolution. Accordingly, you continue to be treated as organized exclusively for one or more exempt purposes pursuant to sections 1.501(c)(3)-1(b)(1)(i) and 1.501(c)(3)-1(b)(4) of the regulations. Furthermore, after the Plan of Separation, you will continue to primarily conduct educational activities, similar to the educational organization described in Example 1 of section 1.501(c)(3)-1(d)(3)(ii) of the regulations. Therefore, there are no substantial changes in your character, purposes, or methods of operation, and you continue to be organized and operated exclusively for one or more exempt purposes within the meaning of section 1.501(c)(3)-1(a) of the regulations for continued exemption under section 501(c)(3) of the Code.

Based on the foregoing and assuming there will be no changes in the facts submitted, we rule your participation in the Plan of Separation described herein shall not adversely affect your status as an organization described in 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 and specifically does not consider sections 511 – 514 of the Code. 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 representative.

Sincerely,

Ronald J. Shoemaker
Manager, Exempt Organizations
Technical Group 2

Enclosure
Notice 437