

## Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: Unrelated Taxpayer

Date of Communication: July 30, 2020

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:EEE:EOET:ET1

PLR-106123-20

Date:

July 30, 2020

In Re:

## LEGEND

Organization =

Order =

Dear :

This letter responds to your letter from your authorized representative dated February 10, 2020, and subsequent correspondence submitted on behalf of

## FACTS

The Organization is recognized by the Internal Revenue Service (Service) as a tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code<sup>1</sup> and exempt from federal income tax under section I.R.C. §501(a) and received a determination letter to that effect from the Service on . The Organization represents that all of its assets and income are dedicated to religious, charitable, and educational purposes and no part of its net earnings inures to the benefit of any individual. The Organization also represents that it is still currently recognized by the IRS as tax-exempt under I.R.C. §501(c)(3), and that such status has not been revoked. The Organization is part of the Order which are a collective group of religious, residential communities located in several states. The Members of the Organization

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<sup>1</sup> The Internal Revenue Code of 1986, as amended, to which all subsequent I.R.C. § references are made unless otherwise indicated.

(Members), as a body, commission one Member to be entrusted with the spiritual oversight of all communities, the order and authority of the church, and the proclamation of the gospel. As such, the Organization is under the control and supervision of a church or convention or association of churches. Although it is one church community, the Order is comprised of, and carries out its religious activities through a variety of legal entities including the Organization as well as two other church entities described in I.R.C. §§501(c)(3) and 170(b)(1)(A)(i). In addition, the Order includes several apostolic organizations described in I.R.C. §501(d). The Organization undertakes missionary work, Christian publishing, and other charitable outreach in accordance with Members' pledge to proclaim the gospel to all people.

Members believe that God has called on them to create a new society designed to make his justice and peace tangible. In such a society, no individual holds private property and the Members become united in a bond of solidarity and equality. Such a group of

. Like those early Christians, the Members live a communal, religious life where work, worship, mission, education, and family life are brought together.

The Members consider work to be an integral part of their faith. Going hand-in-hand with prayer, they believe that work is a form of worship since faith and daily life are inseparable. It is the concept of work that is valuable. Some members cultivate the communities' farms, which are the source of most of their food. Some Members work in the community school, kitchens, and laundry, while others care for the elderly and infirm.

. These revenues do not inure to the benefit of individual Members; they accrue to the "common purse" of the community and are used to support the Organization's religious mission and charitable activities.

All Members are prepared at any time to assist in whatever task is needed to be completed, depending on the needs of the Organization. It is not unusual for doctors to assist in the laundry. All participate in work to the extent that they are able, even the elderly and infirm. Consequently, the Organization does not emphasize efficiency in its Members' work.

All Members are required to take a vow of poverty, and, consistent with that vow, work on a voluntary basis,

. The community provides Members with necessities, including food, housing, clothing, healthcare, and other subsistence expenses (Subsistence), without cost, at the same basic standard of living regardless of their economic contribution. Families are

provided with living quarters equipped with shared dining and other facilities to facilitate the communal society. Disabled Members receive Subsistence as needed, even if they are never able to work.

Members are individuals who have completed a formal membership procedure including a period of living in the community as a novice and sign a covenant agreement. After a period of discernment and testing, which generally lasts two years, novices may become Members by taking public vows in the spirit of the traditional monastic vows of poverty, chastity, and obedience. Through these vows, Members dedicate their lives to building up church community, outreach to all people, and the proclamation of the gospel. Membership is for life, although nothing stops a Member from choosing to leave. Before taking their vows, candidates must settle their worldly affairs, dispose of all property and the right to anything they may inherit, and disclose their personal history, including all debts and outstanding commitments. Relinquishment of all private property reflects each Member's unconditional, permanent commitment to the Organization. A Member who leaves has no claim on any of the Organization's assets.

### ISSUES

1. Whether the Organization is a religious order described in Rev. Proc. 91-20, 1991-1 C.B. 524.
2. Whether the Organization's Members who perform services for it are members of a religious order as described in Rev. Proc. 91-20.
3. Whether the Subsistence provided to the Organization's Members constitutes wages for purposes of I.R.C. §§ 3121(a), 3306(b), and 3401(a).

Ruling Requests Number 1 and Number 2

### Law and Analysis

The term "religious order" is not defined in the Internal Revenue Code or regulations. Organizations and individuals may request rulings from the Service on whether they are religious orders, or members of a religious order, by following the procedures in Rev. Proc. 91-20.

Rev. Proc. 91-20 states that the Service will use these characteristics, as set forth below, in determining whether an organization is a religious order and whether an individual is a member of a religious order.

1. The organization is described in I.R.C. §501(c)(3).
2. The members of the organization vow to live under a strict set of rules requiring moral and spiritual self-sacrifice and dedication to the goals of the organization at the expense of their material well-being.
3. The members of the organization, after successful completion of the organization's training program and probationary period, make a long-term commitment to the organization (normally more than two years).
4. The organization is, directly or indirectly, under the control and supervision of a church or convention or association of churches or is significantly funded by a church or convention or association of churches.
5. The members of the organization normally live together as part of a community and are held to a significantly stricter level of moral and religious discipline than that required of lay church members.
6. The members of the organization work or serve full-time on behalf of the religious, educational, or charitable goals of the organization.
7. The members of the organization participate regularly in activities such as public or private prayer, religious study, teaching, care of the aging, missionary work, or church reform or renewal.

Generally, the presence of all the above characteristics is determinative that the organization is a religious order. On the other hand, the absence of the characteristic that the organization is an organization described in I.R.C. §501(c)(3) is determinative that the organization is not a religious order. The absence of one or more of the other enumerated characteristics is not necessarily determinative in a particular case.

The Organization satisfies the characteristics in Rev. Proc. 91-20 for a religious order, and the Members satisfy the characteristics in Rev. Proc. 91-20 for members of a religious order. Accordingly, based on our consideration of the representations made by Organization and all the facts and circumstances, we conclude that the Organization is a religious order and that the Members are members of such a religious order.

## Ruling Request Number 3

## Law and Analysis

Taxes under the Federal Insurance Contributions Act (FICA) apply to remuneration for employment as defined in I.R.C. §3121(b). I.R.C. §3121(b)(8)(A) excepts from employments, for FICA tax purposes, service performed by a member of a religious order in the exercise of duties required by such order.

In this case, we have determined that the Organization is a religious order and that the Members are members of such religious order. The services performed by Members for the Organization are duties that are required by the Organization's community. Accordingly, pursuant to I.R.C. §3121(b)(8)(A), the Subsistence provided to Members for services performed by them as Members of the Organization, a religious order, does not constitute wages subject to FICA taxes.

I.R.C. §3401(a) provides that the term "wages" for income tax withholding purposes means all remuneration for service performed by an employee for his employer, with certain exceptions. I.R.C. §3401(a)(9) excepts from the definition of wages, for income tax withholding purposes, remuneration for services performed by a member of a religious order in the exercise of duties required by such order. Consequently, pursuant to I.R.C. §3401(a)(9), the Subsistence provided to Members for services performed by them as Members of the Organization, a religious order, does not constitute wages subject to federal income tax withholding.

I.R.C. §3306(b) provides that the term "wages" for purposes of the taxes imposed under the Federal Unemployment Compensation Act (FUTA) means all remuneration for employment, with certain exceptions. I.R.C. §3306(c)(8) excepts from the definition of "employment", for FUTA tax purposes, any service performed in the employ of a religious, charitable, educational, or other organization described in I.R.C. §501(c)(3) that is exempt from federal income tax under I.R.C. §501(a). Therefore, because the Organization is described in I.R.C. §501(c)(3) and is exempt from federal income tax under I.R.C. §501(a), pursuant to I.R.C. §3306(c)(8), the Subsistence provided to Members performed by them as Members of the Organization, a religious order, is not subject to FUTA tax.

This ruling is directed only to the taxpayer requesting it. I.R.C. §6110(k)(3) provides that it may not be used or cited as precedent.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Sincerely,

Sydney Gernstein

cc: