



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

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513.00-00

Contact Person:

Identification Number:

Telephone Number:

Employer Identification Number:

**Legend:**

Company =

Country =

University =

Program1 =

Program2 =

Foundation =

X =

Dear :

This is in response to your letter in which you requested certain rulings with respect to §§ 501(c)(3), 170(b)(1)(A)(ii), and 511

**Background:**

You are an organization described in § 501(c)(3) and classified as a public charity under §§ 509(a)(1) and 170(b)(1)(A)(ii). You were originally founded by Company, a for-profit company founded in Country, but Company no longer maintains control over you, though its employees do constitute a minority of your board. Your mission is "to contribute to human and economic development by educating and training individuals to be effective knowledge-based leaders in an increasingly interdependent global economy."

In addition to your programming in conjunction with University, one of two primary programs you offer, you also offer independent classes and seminars open to the general public or to organizational clients seeking programs for its employees. Your other primary program is Program1, a three month global business curriculum delivered at your facilities. You are responsible for the admission policy, candidate selection, and tuition collection as well as choosing the instructors and curriculum for the program.

You are now hoping to alter the structure of Program1 such that it will now be Program2. Program2 will be a three-plus month, multi-network program that will be delivered twice a year on campuses in four countries. Program2 will be headquartered and managed by Foundation, a foreign non-profit organization that is controlled by Company. Foundation's employees will be mostly employees seconded from Company. Students in Program2 will spend six weeks of the

program at your facilities where you will be responsible for the curriculum, the professors, the materials for each course, and the grading of the students for the portion of the overall program that is conducted by you. For these activities Foundation will pay you \$x per student that is enrolled in the program. The admission criteria, student selection, and tuition collection will all be handled by Foundation.

**Rulings Requested:**

1. Following the operational modifications outlined above, you will continue to be exempt from taxation under § 501(c)(3).
2. Following the operational modifications outlined above, you will continue to qualify as an educational organization under § 170(b)(1)(A)(ii) and therefore a public charity under § 509(a)(1).
3. Following the operational modifications outlined above, amounts received by you from Foundation in connection with Program2 will not constitute unrelated business taxable income under § 511.

**Law:**

I.R.C. § 170(b)(1)(A)(ii) describes an educational organization that normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.

I.R.C. § 501(c)(3) provides that organizations may be exempted from tax if they are organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes and "no part of the net earnings of which inures to the benefit of any private shareholder or individual."

I.R.C. § 509(a)(1) states that an organization described in 501(c)(3) is a private foundation unless it is described in Section 170(b)(1)(A).

I.R.C. § 511 imposes a tax on unrelated business taxable income of every organization described in § 501(c).

I.R.C. § 512 defines unrelated business taxable income as the gross income derived from any unrelated trade or business that is regularly carried on by an organization.

I.R.C. § 513 defines unrelated trade or business as any trade or business the conduct of which is not substantially related (aside from the need for income or funds or the use made of the profits derived) to the exercise or performance by an organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under § 501.

Treas. Reg. § 1.170-2(b)(3)(i) defines educational organization as one "whose primary function is the presentation of formal instruction and which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on."

Treas. Reg. § 1.501(c)(3)-1(c)(1) states 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. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Treas. Reg. § 1.501(c)(3)-1(d)(3) defines educational as the instruction or training of the individual for the purpose of improving or developing his capabilities, and the instruction of the public on subjects useful to the individual and beneficial to the community.

Treas. Reg. § 1.501(c)(3)-1(d)(3)(ii), Example (1) states that an organization such as a primary or secondary 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 is an educational organization.

Treas. Reg. § 1.513-1(b) provides that for purposes of § 513 the term trade or business has the same meaning it has in § 162, and generally includes any activity carried on for the production of income from the sale of goods or performance of services. Also, producing or distributing goods or performing services from which a particular amount of gross income is derived do not lose identity as trade or business merely because they are carried on within a larger aggregate of similar activities or within a larger complex of other endeavors which may, or may not, be related to the exempt purposes of the organization.

Treas. Reg. § 1.513-1(c) provides that specific business activities of an exempt organization will ordinarily be deemed to be regularly carried on if they manifest a frequency and continuity, and are pursued in a manner, generally similar to comparable commercial activities of nonexempt organizations.

Treas. Reg. § 1.513-1(d)(2) provides that a trade or business is "related" in the relevant sense only where the conduct of the business activities has causal relationship to the achievement of exempt purpose, and the relationship to be substantial the performance of the trade or business must contribute importantly to the accomplishment of the organization's exempt purpose.

Treas. Reg. § 1.513-1(d)(3) provides that in determining whether an activity contributes importantly to the accomplishment of an exempt purpose, the size and extent of the activities involved must be considered in relation to the nature and extent of the exempt function which the organization purports to serve.

Revenue Ruling 73-434, 1973-2 C.B. 71, describes an organization whose only activity was the conducting of courses designed to teach young people how to survive in a natural environment. The courses are conducted on an island and most of the classes are conducted out-of-doors rather than in classrooms. A regularly enrolled student body attends the courses. The organization conducts 12 courses a year and each class term lasts for a period of 26 days. The organization has a faculty of full-time instructors who present a course of instruction in survival skills through lectures, demonstrations, and various practical exercises. Instruction is given in such subjects as water survival, seamanship, first aid, fire fighting, climbing, and rescue operations. The organization's income is from contributions and tuition payments and its expenditures are for the operation of the school. The ruling concludes that this organization is an educational organization described in § 170(b)(1)(A)(ii).

**Analysis:****RULINGS 1 AND 2**

In order to be operated for an exempt purpose you must not have as part of your operations a substantial non-exempt purpose. Section 1.501(c)(3)-1(c)(1). Your primary purpose is educational. Education is an exempt purpose and is defined in the Internal Revenue Code as the instruction or training of individuals for the purpose of improving or developing an individual's capabilities. Section 1.501(c)(3)-1(d)(3). Additionally, the examples in the regulations provide that an educational organization is an organization similar to 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. Section 1.501(c)(3)-1(d)(3)(ii), *Example (1)*. Your new program, Program2, anticipates continuing your mission for global learning in order to create "knowledge-based" leaders. The program will consist of traditional in-person classes where one of your instructors will teach a curriculum determined by you in order to advance the student's leadership and management skills. Program2 furthers your educational purpose.

Program2 does not alter your similarity to the organization described in § 1.501(c)(3)-1(d)(3)(ii), *Example (1)*, in that you will continue to be an organization described in § 170(b)(1)(A)(ii). Section 170(b)(1)(A)(ii) requires that an organization be one where its primary function is the presentation of formal instruction and which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. Section 1.170-2(b)(3)(i). In addition to your other educational programs, Program2 will provide formal courses taking place within a classroom with all participants present in a building rented by you. You are in charge of the curriculum, instructors, and grading for the portion of Program2 that will occur at your facilities. Additionally, the instructors for your courses are your employees. Also, admission to the program will be open to the general public and students will enroll for the entire program requiring attendance at each session. The fact that the students only participate in your section of the program for six weeks and complete the entire program over four countries does not remove you from being described in § 170(b)(1)(A)(ii). Rev. Rul. 73-434, *supra*. With the addition of Program2 you will continue to be described within § 170(b)(1)(A)(ii).

**RULING 3**

Section 512 provides that unrelated taxable income is the gross income from an unrelated trade or business as defined in § 513. Section 513 provides that an unrelated trade or business is any trade or business that is actively carried on and is not substantially related to the exempt purpose of the organization. The regulations under § 513 provide that a trade or business is an activity that is carried on for the production of income and which otherwise possesses the characteristics required to be a "trade or business" under § 162. Section 1.513-1(b). A trade or business does not lose its character as such even if it is an aggregate of some larger activity. *Id.* A trade or business will be considered to be regularly carried on if it manifests a frequency and continuity, and is pursued in a manner similar to comparable commercial activities of non-exempt organizations. Section 1.513-1(c). Finally, a trade or business will be considered to be substantially related only where the conduct of the business activities has a causal relationship to the achievement of exempt purpose, and for the relationship to be substantial the

performance of the trade or business must contribute importantly to the accomplishment of the organization's exempt purpose. Section 1.513-1(d)(2).

Program2 will be conducted as a portion of a larger program conducted by Foundation. In return for the portion of the program under your control you will be compensated by Foundation per each student that is enrolled in the program. Even if we consider your program to be a regularly carried-on trade or business within the meaning of § 513 you are not conducting an unrelated trade or business since Program2 is substantially related to your educational purpose. Your mission is to provide a global perspective within creating "knowledge-based" leadership. Program2 will further this exempt purpose by providing a traditional educational program with a curriculum designed by you and taught by your instructors. Since Program2 furthers your exempt purpose, the money received in the performance of Program2 is not unrelated business taxable income. Sections 1.513-1(d)(2) and (3).

**Ruling:**

1. Following the operational modifications outlined above, you will continue to be exempt from taxation under § 501(c)(3).
2. Following the operational modifications outlined above, you will continue to qualify as an educational organization under § 170(b)(1)(A)(ii) and therefore a public charity under § 509(a)(1).
3. Following the operational modifications outlined above, amounts received by you from Foundation in connection with Program2 will not constitute unrelated business taxable income under § 511.

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. Specifically, this ruling does not address any private benefit concerns that may be present with your operations. 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 Shoemaker  
Manager, Exempt Organizations  
Technical Group 2

Enclosure  
Notice 437