

LEADERSHIP INSTITUTE FOR ECOLOGY AND THE ECONOMY

**TIME BANK
FEDERAL TAX ISSUES**

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This document was prepared as part of a Leadership Institute for Ecology and the Economy 2012 class project on Time Banking. It is based exclusively on free publicly available research resources, and is intended to be a lay survey of the U.S. federal tax issues relating to Time Banking. It is not to be used as legal advice, and any Time Bank affected by these issues should confer with legal counsel to obtain current and qualified legal advice on these questions.

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INTRODUCTION

Operation of a Time Bank raises at least three federal tax issues:

1. Whether the Time Bank is required to file a tax return as a barter exchange;
2. Whether the recipient of services through the Time Bank must report these services as income; and
3. Whether the Time Bank qualifies as a tax exempt nonprofit organization.

Each of these issues will be addressed in this paper.

BARTER EXCHANGE

The Statutes and Regulations

Relevant Provisions

Section 6045(a) of the Internal Revenue code (“IRC” or “the Code”) provides that any person doing business as a broker may be required to file a return with the Internal Revenue Service (“IRS” or “Service”) that includes *the identification of each customer and the gross proceeds of the transactions*. Section 6045(c)(1)(B) provides that the term “broker” includes a “barter exchange.” The latter term is defined in section 6045(c)(3) of the Code:

The term “barter exchange” means any organization of members providing property or services who *jointly contract* to trade or barter such property or services. 26 U.S.C. §4065(c)(3) (*emphasis added*).

The definition of a barter exchange is further clarified in section 1.6045-1(a)(4) of the Income Tax Regulations (“the Regulations”):

The term barter exchange means any person with members or clients that *contract either with each other or with such person* to trade or barter property or services either directly or through such person. The term does not include arrangements that provide solely for the informal exchange of similar services on a noncommercial basis. 26 C.F.R. §1.6045-1(a)(4) (*emphasis added*).

Section 1.6045-1(b) contains examples of a barter exchange, including the following:

Example 4. X is an organization whose members include retail merchants, wholesale merchants, and persons in the trade or business of performing services. X's members exchange property and services among themselves using credits on the books of X as a medium of exchange. Each exchange through X is reflected on the books of X by crediting the account of the member providing property or services and debiting the account of the member receiving such property or services. X also provides information to its members concerning property and services available for exchange through X. X charges its members a commission on each transaction in which credits on its books are used as a medium of exchange. X is a barter exchange within the meaning of paragraph (a)(4) of this section. 26 C.F.R. 1.6045-1(b).

Summary - Statutes and Regulations

To avoid classification as a barter exchange, a Time Bank should meet the conditions of the explicit exception in the above regulatory definition of a barter exchange. This requires that:

1. The exchange of services be conducted informally;
2. The exchange involves services that are similar; and
3. The exchange is carried out on a noncommercial basis.

These requirements are further clarified by the IRS private letter rulings that are discussed in the next section.

The statutory definition of barter exchange refers to “members,” and the regulatory definition talks about “members or clients.” In addition, the regulatory example of a barter exchange refers to members who are “in the trade or business of performing services” and the payment of a “commission” to the barter organization. Accordingly, a Time Bank might strengthen its case that it is not a barter exchange by:

1. Avoiding a strict membership structure;
2. Avoiding or minimizing participation by persons engaged in the trade or business of the type of services that they provide through the Time Bank; and
3. Barring the payment of any commission or fee in connection with the exchange of services.

Regulatory Rulings

There does not appear to be any case law that deals with these issues. In addition, the IRS apparently has not issued any binding guidance or interpretations. The IRS, however, has issued three relevant private letter rulings that deal with the barter exchange issue for Time Banks. The Service describes [private letter rulings](#)¹ as follows:

A private letter ruling, or PLR, is a written statement issued to a taxpayer that interprets and applies tax laws to the taxpayer's specific set of facts. A PLR is issued to establish with certainty the federal tax consequences of a particular transaction before the transaction is consummated or before the taxpayer's return is filed. A PLR is issued in response to a written request submitted by a taxpayer and is binding on the IRS if the taxpayer fully and accurately described the proposed transaction in the request and *carries out the transaction as described*. A PLR may not be relied on as precedent by other taxpayers or IRS personnel. PLRs are generally made public after all information has been removed that could identify the taxpayer to whom it was issued. (*emphasis added*).

A private letter ruling thus applies only to the party that requested the ruling, and then only if all of the elements of the description of the transaction as well as all IRS imposed conditions are fully met. Private letter rulings may not be cited as precedent, but they do reveal at least the then current thinking of the IRS. That thinking, however, may change at any time, and the IRS would not be bound by any views expressed in earlier private letter rulings.

¹ <http://www.irs.gov/irs/article/0,,id=101102,00.html>

For ease of reference, the conditions that are imposed by the IRS in its rationale for the conclusion in the private letter ruling will be called “Express Conditions,” whereas the elements of the description of the transaction in the ruling will be called “Other Conditions.” In the case of the latter, there is some uncertainty as to the significance of these conditions since the IRS does not comment on them in the ruling, but nevertheless insists that the applicant comply with them in carrying out the transaction.

Written Determination 8536060

The first document is a written determination, designated by number 8536060. It is attached as Attachment 1, and is dated June 12, 1985. It concludes that the applicant Time Bank is not a barter exchange. In reaching this conclusion, the IRS relies on the contracting requirement in both the statutory and regulatory definitions of the term “barter exchange.” The IRS points out that this requires an arrangement similar to the above quoted example 4 in the regulations, where the members have *jointly contracted* to exchange property and services among themselves using credits on the books of the entity as a medium of exchange, i.e. a cash substitute. In distinguishing the applicant Time Bank, the IRS points out that:

1. The credits posted to the volunteers’ accounts have no monetary value - they serve merely as a means to motivate the volunteers to continue their community service; and
2. The service recipients do not incur any contractual liability, and the service providers do not incur any contractual right to receive services or any other compensation.

For ease of reference, these conditions that are explicitly identified by the IRS in the rationale for its ruling will be called “Express Conditions.”

As indicated above, private letter rulings are effective only if the applicant implements the transaction strictly in accordance with the description contained in the ruling. Accordingly, it is necessary to identify the elements of the description that the IRS is likely to consider as additional conditions for the ruling to apply. These conditions will be referred to as “Other Conditions.”

Private letter ruling 8536060 contains the following Other Conditions in addition to the two Express Conditions above:

1. The applying entity is a not-for-profit;
2. It supervises a community self-help program;
3. The program is operated by volunteers – volunteers maintain the file of individuals with specific skills and abilities, and volunteers link the skilled individuals with those needing assistance;
4. Volunteers commonly provide housekeeping and babysitting services, but they also provide more skilled services such as house painting – anyone can become a volunteer and *there is thus no limit on the range of services that can be provided*;
5. The records of services provided are kept in the form of a double-entry bookkeeping system;
6. The continued effectiveness of the program depends on the volunteers perceiving the value of their efforts to the community; the Time Bank hopes that knowledge of the number of hours each volunteer accrues and the comparison with the hours of others will instill pride

in the volunteers;

7. The Time Bank may choose not to link service providers with service recipients in unusual circumstances, such as when the recipient has accumulated a large account debit balance – in those cases, however, the Time Bank will not deny such an individual assistance under other programs that it administers.

The first of these Other Conditions is that the Time Bank be a nonprofit organization. This condition finds its origin in section 1.6045-1(a)(4) of the Regulations, which requires that the exchange of services be “on a noncommercial basis.” If the Time Bank were structured as a for profit entity, its operations would be commercial and it would not qualify for the barter exchange exemption. The requirement for nonprofit status may be one of the practically most challenging conditions, and is discussed in part three of this paper.

Most of the above Other Conditions are restrictive, but two may enhance a Time Bank’s flexibility. The first is number four, which provides a very expansive definition of the type of services that are within the proper scope of a Time Bank. The second is number seven, which allows a Time Bank to deny access to a person with an excessive debit balance. In such a case, however, the Time Bank may not deny that individual assistance under other programs that it administers.

Private Letter Ruling 9608009

The second document is a private letter ruling, and is dated November 9, 1995. It also concludes that the time dollar program in question is not a barter exchange. In this case, the IRS relies for its conclusion on all three factors in the exception language of the regulatory definition of a barter exchange, i.e., that the term does not include arrangements that provide solely for the (1) informal exchange of (2) similar services on (3) a noncommercial basis.

Similar Services

The IRS notes that the exchanged services are primarily domestic or personal services, and therefore concludes that the Time Bank facilitates the exchange of similar services. This factor is thus an Express Condition:

1. The services are primarily domestic or personal services and are therefore similar services.

Noncommercial

In finding that the time dollar exchange is a noncommercial operation, the IRS cites a number of factors or Express Conditions:

2. All services are valued solely on the number of hours of service without regard to the type of service;
3. The service provider does not accrue any contractual right to receive services from the Time Bank or any member;
4. There is no limit on the time for receiving services, i.e., there could be a gap of several years between the time that a member provides services and the time when the member first receives services;

5. A member can not assign (except to family or household members) the points received for services rendered;
6. The time dollar exchange is a community organization whose members consist primarily of individuals living in the X area;
7. The time dollar exchange does not charge a fee for participation or membership in the program; and
8. The records of the time dollar exchange show significant disparities in members' accounts as to the number of hours of services provided and the number of hours of services received (at one point in time, over 25% of the active membership had performed services but not received any services in return).

Informal

The IRS also concluded that the time dollar exchange transactions were informal, and did so based on the following Express Conditions:

9. The time dollar exchange simply links potential service providers and users, and it is up to the members (rather than the Time Bank) to determine whether any services will be performed and the time and place of any services, and to ensure that the services are satisfactorily performed;
10. The time dollar exchange does not have any responsibility to record the services performed unless a member first contacts the Time Bank with the relevant information, and such contact may be made informally through a phone call or postcard.

Based on the fact that all three elements of the exception in section 1-6045-1(a)(4) are met, the IRS concludes that the applicant time dollar exchange is not a barter exchange.

Like the first private letter ruling, this ruling also contains a number of Other Conditions. They are:

1. The time dollar exchange is a nonprofit corporation;
2. It supports and coordinates the exchange of services among residents in the X neighborhood and surrounding neighborhoods;
3. The purpose of the exchange is to strengthen the community and to increase access to services and resources for all in the community;
4. Participants commonly provide services such as housekeeping, babysitting, gardening, and errand running;
5. A member of the exchange is a participant who has completed the application, interview, orientation, and reference check process;
6. Members may earn points, within limits, for work in operating the program;
7. The exchange does not have a staff person who receives monetary compensation;
8. The exchange may deny a request for service from a participant with a debit balance of 26 good neighbor points or more;
9. Nonprofit community groups approved to participate in the program may receive good neighbor points for hours of service provided by the group's members and use those points to obtain services;
10. Members who are self-employed cannot use points to obtain services for their businesses.

The Express Condition eight may be of particular significance. It notes the disparities in debits and credits in members' accounts and the fact that more than a quarter of the members at one point had performed services but had not received any. The IRS may regard these statistics as a measure of a Time Bank's rating as a volunteer driven agency, in contrast to a market based, or commercial, system where people tend to trade credits more promptly.

Some of the Other Conditions in this letter ruling also may expand the flexibility of a Time Bank. Whereas Other Condition seven prohibits monetary compensation of staff members, condition six allows staff members to earn credits (within unspecified limits) for their work in operating the program. Other Condition eight reaffirms the right of the Time Bank to deny service to persons with excessive debit balances. Other Condition nine addresses the important question of

relationships with other nonprofits. It allows participating nonprofit groups to receive credits for services provided by their members and to use those credits to obtain services. This permits exchanges the flexibility of expanding through this form of affiliation with existing nonprofit organizations. It should be noted, however, that this Other Condition seems inconsistent with Express Condition five in this private letter ruling, which provides that credits may be assigned only to family or household members.

Private Letter Ruling 200724006

This most recent ruling is dated February 20, 2007. In this case, the IRS concludes that the organization is not a barter exchange exclusively on the basis that the organization facilitates the exchange of services on a noncommercial basis. In support of that conclusion, the IRS cites the following factors or Express Conditions:

1. The exchange does not charge a fee for participation or membership;
2. All services receive a point value based solely on the number of hours of service provided without regard to the type of service;
3. Service recipients do not incur a contractual liability upon the receipt of services, and service providers do not earn a contractual right to receive services (or any other compensation) when they perform services; and
4. The credits serve merely as a means to motivate the volunteers to continue their community service.

Private letter ruling 200724006 cites the following Other Conditions in addition to the above four Express Conditions:

1. The exchange is an exempt public charity under section 510(c)(3);
2. It serves as record keeper and coordinator for the exchange of *goods* and services between community members;
3. The purpose of the exchange is to strengthen relationships between neighbors and members of the community based on reciprocity and equality;
4. Membership is open to anyone who completes an application, interviews, attends an orientation, and submits to a background check, all conducted by the exchange;
5. There is no fee assessed to join the exchange, and it receives no compensation or other fee for providing the record keeping service;
6. Upon completion of services or the *exchange of goods*, the member providing the goods or services will contact the exchange to enter the appropriate debit and credit;
7. Members provide services such as childcare, housecleaning, home maintenance, music lessons, or other personal services, including medical consultations and exams, massage, and other holistic treatments;
8. Some members also offer tangible items, tickets, or discounts from menu items at certain restaurants for which hour credits can be exchanged; and
9. Members may donate points to other members.

Discussion

Other Condition 9 of ruling 200724006 permits donation of points to other members. This is less restrictive than Express Condition 5 in letter ruling 9608009, which allows donations of

credits only to family and household members. Another relevant consideration is Other Condition 9 in ruling 9608009, which implicitly recognizes the ability to donate hours to nonprofit organizations, at least by its members. The more expansive reading of allowing unrestricted assignment of credits to members is in the most recent ruling. On the other hand, the IRS may give more weight to Express Conditions than Other Conditions, and may in the end take a more restrictive view with respect to the assignability of credits.

Private letter ruling 200724006 also seems to expand substantially the scope of operations of a Time Bank. Other Conditions 2, 6, and 8 deal with the exchange of goods as well as services, and include tangible items, tickets, and menu discounts. In addition, Other Condition 7 is more expansive than private letter ruling 9608009 in its view of “similar services” by including music lessons, and other personal services such as medical consultations and exams, massage, and other holistic treatments. On the other hand, it is not as broad as private letter ruling 8536060, which stated that there is no limit on the range of services that can be provided .

There is some uncertainty as to the size of the geographic area that may be served by a Time Bank. Other Condition 2 of ruling 8536060 characterizes the bank as supervising a *community* self-help program. Express condition six of ruling 9608009 states that the Time Bank is a *community* organization whose members consist primarily of individuals living in the X area. Other Condition 2 of the same ruling refers to residents of the X *neighborhood* and surrounding neighborhoods. The purpose of the bank in the same ruling is stated to be the strengthening of the *community* and to increase access to services and resources for all in the *community* (Other Condition 3). Similarly, in Other Condition 3 of letter ruling 200724006, the purpose is stated to be the strengthening of the relationships between *neighbors* and members of the *community* based on reciprocity and equality. It is not clear from these rulings at what point an area becomes too large to qualify as a community. It is also not clear whether that area may be expanded by reciprocal arrangements between Time Banks.

Another area of uncertainty is the scope of the exchanges that a Time Bank may facilitate. Section 1.6045-1(a)(4) requires that the services that are exchanged be “similar.” Other Condition 4 of letter ruling 8536060, however, states that there is no limit on the range of services that may be provided. Express Condition 1 of ruling 9608009 notes that the services are primarily domestic or personal services, and concludes that they therefore are similar. In contrast, Other Conditions two, six, and eight of ruling 200724006 include goods, tangible items, tickets and menu discounts. Finally, Other Condition 10 of ruling 9608009 prohibits self-employed individuals from using their credits to obtain services for their businesses. Given these conditions and the consistent themes of volunteerism and community self-help, these rulings may stand for the proposition that the services should primarily be domestic and personal services and exclude services that would directly support commercial activities. The exchange of goods would raise questions concerning valuation in light of the consistent condition in the rulings that exchanges be hour for hour. This principle could be honored if the goods are produced by a participant and the exchange is based on the number of hours of labor plus a payment in dollars for the cost of the materials.

In addition, there is uncertainty concerning the assignability of the time credits. Other Condition 9 of the most recent ruling, 200724006, provides that members may donate credits to other members. Other Condition 9 of letter ruling 9608009 implicitly permits credit assignments to nonprofit organizations by its members. Express Condition 5 of ruling 9608009, however, provides that credits may be assigned only to members of the family or household. While the more

expansive reading of assignability is contained in the most recent ruling, the IRS may take the view that Express Conditions trump Other Conditions with the result that assignment would be permitted only between family and household members.

The rulings also raise some questions regarding the source and use of funding by a Time Bank. Express Condition seven of ruling 9608009 provides that the bank does not charge a fee for participation in the program. Express Condition three of ruling 8536060 provides that the program is operated by volunteers – volunteers maintain the file of individuals with specific skills and abilities, and volunteers link the skilled individuals with those needing assistance. Other Condition seven of the same ruling provides that the Time Bank does not have a staff person who receives monetary compensation. These conditions may limit the need for financial resources, but may not eliminate them. If the bank is a charitable nonprofit organization, it will be able to receive tax deductible donations of goods, services, and money from the general public to meet its organizational needs. It is not clear whether the bank could suggest that participants in service exchanges make a donation, and if so, whether that suggestion could include a range of dollar value. Regardless of the source of funding, the bank would still be precluded from paying a staff person or the volunteers who administer the actual exchanges.

Summary - Regulatory Rulings

In applying the statutory and regulatory provisions relating to barter exchanges to Time Banks, the three IRS private letter rulings expressly impose a number of conditions for a Time Bank to be exempt from the barter exchange filing obligations. These Express Conditions may be summarized as follows:

1. The Time Bank credits have no monetary value and are merely motivational to promote community service;
2. No contractual right or obligations are created by the Time Bank exchanges;
3. The services that are exchanged are all similar;
4. All services are valued solely based on the number of hours of service regardless of the type of service;
5. There is no time limit on the service credits;
6. Credits can not be assigned except to family or household members;
7. The Time Bank is a community organization serving primarily a given area or a certain neighborhood and surrounding neighborhoods;
8. No fee is charged for participation in the program;
9. Participants do not use all their accrued credits promptly when earned, and a significant number of participants perform more services than they receive;
10. The Time Bank merely links service providers and users, and they decide whether, when, and how any services are performed; and
11. The credits are recorded only at the request of the participants, and this request may be conveyed informally.

Private letter rulings require that the covered transactions be carried out in strict accordance with the descriptions contained in the letter rulings. As a result, the facts and circumstances cited in the rulings effectively impose additional conditions for a Time Bank to qualify for the exemption from barter exchange filing requirements. These Other Conditions may be summarized as follows:

1. The Time Bank entity is a nonprofit;
2. It supervises a community self-help program;
3. It is operated by volunteers who maintain the list of services and link providers with users;
4. The records of services provided are in double entry book keeping form;
5. The continued effectiveness of the program depends on the volunteers perceiving the value of their efforts to the community through the credit system;
6. The Time Bank will not deny an individual assistance under its other programs based on an excessive Time Bank debit balance;
7. The purpose of the Time Bank organization is to strengthen the community based on reciprocity and equality and to increase access to services and resources for all in the community;
8. Participants may be required to complete an application, interview, orientation, and reference check, and membership is open to anyone who successfully completes that process;
9. No staff person receives monetary compensation;
10. Members who are self-employed can not use their credits to obtain services for their businesses.

Some uncertainties remain as to the size of the geographic area that may be served by a Time Bank, the scope of the exchanges that a Time Bank may facilitate, the assignability of the time credits, and the source and use of funding by a Time Bank.

NONPROFIT STATUS

If a Time Bank qualifies as a nonprofit organization under federal tax laws, it would enjoy several benefits. First, its income would not be taxable. Second, if it qualifies as a particular form of nonprofit, i.e., a charitable/educational nonprofit, donations to the Time Bank would be tax deductible to the donor, which would greatly facilitate fund raising. Third, the Time Bank would strengthen its case that it is not a barter exchange, thereby avoiding the requirement for the Time Bank to file a return with the Internal Revenue Service. This memorandum will address the requirements for a Time Bank to qualify as a nonprofit, and ***assumes that neither the Time Bank nor any of its programs or activities will engage in legislative or political activities.***

The Statutes and Regulations

Tax Exemption

This section will summarize the portions of the statutes and regulations that are relevant to the issue of tax exemption. Section 501(a) of the Internal Revenue Code provides that certain nonprofit organizations are exempt from federal income tax:

An organization described in subsection (c) ... shall be exempt from taxation under this subtitle ... 26 U.S.C. §501(a)².

² Subsection 501(b) provides that the exemption does not apply to the extent that the organization is found to be a private foundation (sections 507-509) or has unrelated business income, i.e.,

Subsection (c) contains a long list of the types of organizations that qualify. The relevant categories are contained in subsections (c)(3) and (c)(4):

(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for ..., charitable, ... or educational purposes, ... no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

(4) (A) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare,

(B) Subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual. 26 U.S.C. §501(c)(3)-(4).

The regulations further clarify the requirements that must be met for nonprofit status. Section 1.501(a)-1 of the regulations deals with the exemption in general, and contains the following relevant provisions:

(a)(2) An organization ... is not exempt from tax merely because it is not organized and operated for profit. In order to establish its exemption, it is necessary that every such organization claiming exemption file an application form as set forth below with the district director for the internal revenue district in which is located the principal place of business or principal office of the organization. Subject only to the Commissioner's inherent power to revoke rulings because of a change in the law or regulations or for other good cause, an organization that has been determined by the Commissioner or the district director to be exempt under section 501(a) or the corresponding provision of prior law may rely upon such determination *so long as there are no substantial changes in the organization's character, purposes, or methods of operation.* ...

(c) Private shareholder or individual defined. The words *private shareholder or individual* in section 501 refer to persons having a personal and private interest in the activities of the organization. 26 C.F.R. §1.501(a)-1 (Emphasis added).

Charitable and Educational Organizations

The specific requirements for charitable and educational organizations are detailed in section 1.501(c)(3) of the regulations:

(a) Organizational and operational tests. (1) In order to be exempt as an _____ generally income unrelated to the basis on which it qualified for tax exempt status (sections 511-515).

organization described in section 501(c)(3), 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.

(2) The term *exempt purpose or purposes*, as used in this section, means any purpose or purposes specified in section 501(c)(3), as defined and elaborated in paragraph (d) of this section.

(b) Organizational test—(1) In general.

(i) An organization is organized exclusively for one or more exempt purposes only if its articles of organization (referred to in this section as its *articles*) as defined in subparagraph (2) of this paragraph:

(A) Limit the purposes of such organization to one or more exempt purposes; and

(B) Do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

(ii) In meeting the organizational test, the organization's purposes, as stated in its articles, may be as broad as, or more specific than, the purposes stated in section 501(c)(3). ... if the articles state that the organization is formed for *charitable purposes*, such articles ordinarily shall be sufficient for purposes of the organizational test (see subparagraph (5) of this paragraph for rules relating to construction of terms).

(iii) An organization is not organized exclusively for one or more exempt purposes if its articles expressly empower it to carry on, otherwise than as an *insubstantial* part of its activities, activities which are not in furtherance of one or more exempt purposes, even though such organization is, by the terms of such articles, created for a purpose that is no broader than the purposes specified in section 501(c)(3). Thus, an organization that is empowered by its articles to engage in a manufacturing business, or to *engage in the operation of a social club* does not meet the organizational test regardless of the fact that its articles may state that such organization is created for charitable purposes within the meaning of section 501(c)(3) of the Code.

(iv) In no case shall an organization be considered to be organized exclusively for one or more exempt purposes, if, by the terms of its articles, the purposes for which such organization is created are broader than the purposes specified in section 501(c)(3). The fact that the actual operations of such an organization have been exclusively in furtherance of one or more exempt purposes shall not be sufficient to permit the organization to meet the organizational test. Similarly, such an organization will not meet the organizational test as a result of statements or other evidence that the members thereof intend to operate only in furtherance of one or more exempt purposes.

...

(4) Distribution of assets on dissolution. An organization is not 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, or would be distributed by a court to another organization to be used in such manner as in the judgment of the court will best accomplish the general purposes for which the dissolved organization was organized. However, an organization does not meet the organizational test if its articles or the law of the State in which it was created provide that its assets would, upon dissolution, be distributed to its members or shareholders. ...

(c) Operational test—(1) Primary activities. 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.

(2) Distribution of earnings. 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. ...

...

(d) Exempt purposes—(1) In general. (i) An organization may be exempt as an organization described in section 501(c)(3) if it is organized and operated exclusively for one or more of the following purposes:

(b) Charitable, ...

(f) Educational

(ii) An organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (i) of this subparagraph unless it *serves a public rather than a private interest*. Thus, to meet the requirement of this subdivision, 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.

...

(2) Charitable defined. The term *charitable* is used in section 501(c)(3) in its generally accepted legal sense 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. The fact that an organization which is organized and operated for the relief of indigent persons may receive voluntary contributions from the persons intended to be relieved will not necessarily prevent such organization from being exempt as an organization organized and operated exclusively for charitable purposes. The fact that an organization, in carrying out its primary purpose, advocates social or civic changes or presents opinion on controversial issues with the intention of molding public opinion or creating public sentiment to an acceptance of its views does not preclude such organization from qualifying under section 501(c)(3) so long as it is not [engaged in certain legislative or political activities].

(3) Educational defined—(i) In general. The term *educational*, as used in section 501(c)(3), relates to:

(a) The instruction or training of the individual *for the purpose of improving or developing his capabilities*; or

(b) The *instruction of the public on subjects useful to the individual and beneficial to the community.*

An organization may be educational even though it advocates a particular position or viewpoint so long as it presents a sufficiently full and fair exposition of the pertinent facts as to permit an individual or the public to form an independent opinion or conclusion. On the other hand, an organization is not educational if its principal function is the mere presentation of unsupported opinion.

...

(e) Organizations carrying on trade or business—(1) In general. An organization may meet the requirements of section 501(c)(3) although it operates a trade or business as a substantial part of its activities, if the operation of such trade or business is *in furtherance of the organization's exempt purpose or purposes* and if the organization is not organized or operated for the *primary* purpose of carrying on an unrelated trade or business, as defined in section 513. In determining the existence or nonexistence of such primary purpose, all the circumstances must be considered, including the size and extent of the trade or business and the size and extent of the activities which are in furtherance of one or more exempt purposes. ...

...

26 .C.F.R. §1.501(a)-1 (Emphasis in text and underlining of titles added).

Civic Organizations

The requirements for civic organizations to qualify for tax exempt nonprofit status are contained in section 1.501(c)(4) of the regulations:

(a) Civic organizations—(1) In general. A civic league or organization may be exempt as an organization described in section 501(c)(4) if—

(i) It is not organized or operated for profit; and

(ii) It is operated exclusively for the *promotion of social welfare*.

(2) Promotion of social welfare—(i) In general. An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way *the common good and general welfare of the people of the community*. An organization embraced within this section is one which is operated primarily for the purpose of bringing about *civic betterments and social improvements*. A social welfare organization will qualify for exemption as a charitable organization if it falls within the definition of charitable set forth in paragraph (d)(2) of § 1.501(c)(3)-1 and is not [engaged in certain legislative or political activities].

(ii) Political or social activities. The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. Nor is an organization operated primarily for the promotion of social welfare if its *primary* activity is operating a *social club* for the benefit, pleasure, or recreation of its members, or is carrying on a business with the general public in a manner similar to organizations which are operated for profit. ... A social welfare organization that is not, at any time after October 4, 1976, exempt from taxation as an organization described in section 501(c)(3) may qualify under section 501(c)(4) even though it [engages in certain legislative activities], if it otherwise qualifies under this section. ... 26 C.F.R. §1.501(c)(4)-1 (Emphasis in text and underlining of titles added).

Tax Deduction

Charitable and Educational Organizations

Donations to a charitable/educational nonprofit, i.e., a nonprofit that qualifies under section 501(c)(3), are tax deductible to the donor pursuant to section 170 of the Internal Revenue Code. The relevant portions of this section read as follows:

(a) Allowance of deduction

(1) General rule

There shall be allowed as a deduction any charitable contribution (as defined in subsection (c)) payment of which is made within the taxable year. A charitable contribution shall be allowable as a deduction only if verified under regulations prescribed by the Secretary.

...

(c) Charitable contribution defined

For purposes of this section, the term “charitable contribution” means a contribution or gift to or for the use of—

...

(2) A corporation, trust, or community chest, fund, or foundation—

(A) created or organized in the United States or in any possession thereof, or under the law of the United States, any State, the District of Columbia, or any possession of the United States;

(B) organized and operated exclusively for ... charitable, ... or educational purposes...;

(C) no part of the net earnings of which inures to the benefit of any private shareholder or individual; and

(D) which is not disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office. 26 U.S.C. §170.

These deductions are subject to a complex set of limitations and restrictions that are beyond the scope of this memorandum.

Civic Organizations

There is no corresponding provision in the Internal Revenue Code for the deductibility of donations or contributions to civic organizations, i.e., nonprofits that qualify for tax exempt status under section 501(c)(4). Donations to these organizations are not tax deductible to the donor.

Summary - Statutes and Regulations

Tax Exemption

The relevant provisions of the statute and the regulations indicate that the following are important elements for a Time Bank, or any other organization, to qualify for tax exempt status.

Charitable/Educational Nonprofit - Section 501(c)(3)

In the case of charitable/educational nonprofits, these elements may be summarized as follows:

1. The Time Bank is organized and operated exclusively for charitable or educational purposes;
2. Charitable purposes include relief of the poor and distressed or of the underprivileged, advancement of education, lessening of the burdens of government, the promotion of social welfare by organizations designed to accomplish the foregoing purposes or to lessen neighborhood tensions, eliminate prejudice and discrimination, defend human and civil rights secured by law, or to combat community deterioration and juvenile delinquency;
3. Educational purposes includes the instruction or training of an individual for the purpose of improving or developing his/her capabilities, and the instruction of the public on subjects useful to the individual and beneficial to the community;
4. Its articles of incorporation limit its purposes to charitable and educational purposes, and do not expressly empower it to engage, other than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of these purposes;
5. Its articles of incorporation do *not* include the operation of a social club;
6. Its articles of incorporation provide that upon dissolution, its assets will be distributed for one or more exempt purposes;
7. No part of the net earnings of the Time Bank inure to the benefit of any private shareholder or individual; and

8. It serves a public rather than a private interest, i.e., it is not organized for the benefit of private interests, such as designated individuals.

Civic Organizations - Section 501(c)(4)

For civic organizations, the qualifying elements may be summarized as follows:

1. The Time Bank is not organized or operated for profit; and
2. It is operated exclusively for the promotion of social welfare, i.e., it is primarily engaged in promoting the common good and general welfare of the people in the community;
3. Its primary activity is not the operation of a social club for the benefit of its members; and
4. It does not carry on a business with the general public in a manner similar to organizations which are operated for profit.

If the Time Bank qualifies for tax exempt status as a charitable/educational organization, it should also be able to qualify as a tax exempt civic organization. However, donations to the Time Bank in the latter case would not be tax deductible to the donor.

Tax Deduction

Charitable/Educational Nonprofit - Section 501(c)(3)

The requirements for a donation to a charitable/educational organization to be tax deductible to the donor are:

1. The organization is a corporation, trust, or community chest, fund, or foundation created or organized in the United States or in any possession thereof, or under the law of the United States, any State, the District of Columbia, or any possession of the United States, and is organized and operated exclusively for charitable or educational purposes;
2. No part of its net earnings inures to the benefit of any private shareholder or individual;
3. It is not disqualified for tax exempt status under section 501(c)(3) by reason of legislative or political activity; and
4. The contribution is verified under regulations that have been promulgated by the Secretary of the Treasury.

All of these elements, except the last, are also required for tax exempt status under section 501(c)(3). Accordingly, the only additional requirement is that the donation must be verifiable under the applicable regulations. This is a matter for the donor, and is thus not a requirement that must be met by the Time Bank.

Civic Organization

Donations to a civic organization do not qualify for a tax deduction.

Regulatory Rulings

There does not appear to be any case law that deals specifically with the tax exempt status of Time Banks. In addition, the IRS apparently has not issued any binding guidance or interpretations. There are, however, two IRS documents that shed some light on these issues. The first is a letter determination, and the second is a private letter ruling. As stated above, private letter rulings apply only to the party that requested the ruling, and then only if the transaction is completed in strict accordance with all of the aspects of the description of the transaction as well as the conditions imposed by the IRS. Private letter rulings may not be cited as precedent, but they do reveal the then current thinking of the IRS.

Letter Determination - 1985

The oldest relevant IRS document that has been located was issued in 1985, and found that the tax exempt status of a charitable organization that previously qualified under section 501(c)(3) would not be adversely affected by its proposed operation of a Time Bank.³ The principal lesson from this decision may be that achieving tax exempt status for a Time Bank may be significantly facilitated by operating the bank in the context of a larger organization that has clear and well recognized charitable purposes.

The IRS characterized the Time Bank as “a volunteers’ computerized services exchange accounting system in connection with a community self-help program and [a] part of your general charitable program activities.” The organization represented that the purpose of the Time Bank was to streamline its charitable program activities and to more effectively match those in need of a particular service with those who could provide it. It also noted in its application that it was not a barter exchange, and was issued a contemporaneous ruling by the IRS to that effect.

The IRS explicitly conditioned its conclusion that the organization’s tax exempt status would not be adversely affected on the proviso:

“that those persons receiving services are or can be considered members of a charitable class of individuals which your general programs are designed to assist, or your program [the Time Bank] itself is, or has been considered to be, a charitable activity.”

In sum, the letter basically states that the operation of the Time Bank will not affect the tax exempt status of the organization if the bank serves the charitable purposes that formed the basis for the organization’s original exemption or if the Time Bank itself qualifies as a charitable activity. This decision suggests that it may be preferable to start a Time Bank as a program of an existing nonprofit organization rather than as an independent entity, as long as the Time Bank serves the

³ A copy of this letter is attached as Attachment 4. The requesting organization is the Consolidated Neighborhood Services, Inc. of St. Louis Missouri, and the Time Bank is the Member Organized Resources Exchange. The letter and an accompanying barter exchange private letter ruling that was issued to this organization can be found on the FAQ page of the Dane County TimeBank website under the heading “Are TimeBank Hours taxable?” at <http://www.danecountytimebank.org/faq.html>. The copy of the barter exchange ruling most likely was obtained from the requester of the ruling since it contains identifying information that is normally redacted by the IRS. The private letter ruling is listed anonymously in the IRS materials as Written Determination number 8536060, June 12, 1985, at <http://www.legalbitstream.com/scripts/isyswebext.dll?op=get&uri=/isysquery/irl970f/1/doc>. That document, however, does not include the letter on the nonprofit issue.

same charitable class of individuals.

Private Letter Ruling 201042040

This Private Letter Ruling finds that the applicant Time Bank does *not* qualify for tax exempt status under section 501(c)(3). The original adverse determination is dated May 20, 2010. The applicant did not avail itself of the opportunity to appeal that initial determination, and the IRS issued its final adverse decision by letter dated July 27, 2010. A copy of this ruling is attached as Attachment 5.

The IRS bases its decision on the ground that the Time Bank is not organized and operated exclusively for charitable, educational, or other exempt purposes. Specifically, the Service finds that:

1. “[your] purposes as stated are broader than described in the regulations. Your Articles of Incorporation state, ‘Our mission is to create (a) caring community, value every individual equally, and share our time, our services, and community.’”⁴ See, section 1.501(c)(3)-1(b)(1)(i);
2. “you are formed and operated for the reciprocal exchange of services among your members similar to a barter exchange. Therefore, ... a substantial part of your activities serves the private interests of your members rather than the general public.” See section 1.501(c)(3)-1(d)(1)(ii);
3. “you... were formed for nonexempt purposes. Your main activity is to coordinate various services amongst your members based on their needs. The main beneficiaries of your operation are your members rather than the general public. Any community services that you may have are insubstantial and secondary to your main purpose that is to provide a medium for members to barter services.” See section 1.501(c)(3)-1(b)(1)(i).⁵

In sum, the position of the IRS in this ruling is that an organization does not qualify for tax exempt status as a charitable/educational organization when a substantial part of its activities is the operation of a Time Bank exchange of services for its members because this serves private rather than public interests.

In the course of its decision, the IRS cites *Revenue Ruling 78-132* and finds that the applicant Time Bank is similar to the organization described in that ruling. Revenue Ruling 78-132 found that a community cooperative organization that was formed to facilitate the exchange of personal services among its members was not entitled to tax exempt status as a social welfare organization because it was not operated exclusively for social welfare. The IRS found that the cooperative was operated primarily for the benefit of its members. In that regard, the two decisions are similar. There are, however, two aspects of Revenue Ruling 78-132 that are noteworthy.

⁴ It should be noted that, in its rationale, the IRS quoted only a part of the Time Bank’s statement of purpose from its Articles of Incorporation. In the IRS statement of the facts, it quotes a *part* of the Articles as “*C is an all-ages, skills-sharing program. Our mission is to create caring community, value every individual equally, and share out time, our services, and community.*” (Emphasis added.)

⁵ The IRS also points out that the Time Bank’s articles of incorporation do not contain an adequate dissolution clause. That issue is easily remedied by the use of acceptable language.

The first is that the cooperative may not have valued each hour of service equally as is the case for a Time Bank. Revenue Ruling 78-132 states that “the service is *evaluated* in terms of credit hours” by the participants to the exchange. This would seem to indicate that the participants could exercise their judgment rather than simply counting the number of hours. In the private rulings relating to the barter exchange issue, the IRS has considered the hour for hour exchange to be a very significant factor. In Revenue Ruling 78-132, however, the Service did not address that factor. Instead, it focused exclusively on the economic benefit to the recipient, stating:

The fact that payments for the services are made in kind and do not involve a monetary exchange does not derogate from the economic benefit accruing to members.

This approach is consistent with the IRS statements (discussed below) in the present Time Bank ruling that the service credits are taxable to the recipient. In both the 1978 Revenue Ruling and the 2010 Private Letter Ruling, the IRS focuses on the economic benefit to the service recipient whereas it did not do so in the intervening Private Letter Rulings relating to the barter exchange issue.

The second is that the IRS considered the relative benefits to the members and to the community, and found that:

Any benefits to the community are not sufficient to meet the requirement of the regulations that the organization be operated primarily for the common good and general welfare of the people in the community.

The IRS reached this conclusion despite the fact that membership in the cooperative was open to all individuals in the community. Revenue Ruling 78-132 relates to a 501(c)(4) social welfare organization, whereas a Time Bank is more likely to seek 501(c)(3) status as a charitable/educational organization. Although the applicable requirements differ, the distinction between private and public interests is common to both. Accordingly, the IRS could apply a similar rationale to a Time Bank, and it may not be sufficient to open membership to all in the community. It may be necessary to show that the operations of the Time Bank actually result in widespread benefit to the community or the charitable target group.

Two additional aspects of the present Time Bank ruling should be noted. First, in one part of the decision, the IRS asserts that “you are a bartering exchange that coordinates the bartering services of your members.” That finding is inconsistent with the earlier IRS rulings on that specific issue that were discussed under the “bartering exchange” heading above.

Second, the IRS addresses the Time Bank members’ income tax reporting obligation twice in this ruling. It states:

You provide an opportunity for your members to exchange services without exchange money (sic). The fair market value of services received in exchange for services would have been considered income to your members.

In response to the Time Bank’s argument that it does not charge in connection with the services

and that the services are provided by members as volunteers on a reciprocal basis, the IRS states that:

Providing a medium for members to exchange services that they would otherwise have to pay or to report income (sic) does not equate to charitable within the meaning of section 501(c)(3) even if you do not charge for services.

Unlike in the earlier barter exchange rulings, the IRS in this case focuses on the economic benefit of the services to the recipient, and concludes that the services are taxable income.

The initial adverse ruling was not appealed to counter the IRS arguments that the Time Bank did qualify for nonprofit status. As a result, it is now not clear whether the final ruling constitutes an isolated case, or whether the IRS has more recently adopted a drastically different approach to these issues that would consider Time Banks to be barter exchanges that are not entitled to tax exempt status and that would subject their members to income tax liability.

Summary - Regulatory Rulings

The conclusions of the regulatory rulings may be summarized as follows:

1. Operation of a Time Bank as a program within an existing nonprofit organization will not affect the nonprofit status of the organization if the bank serves the charitable purposes that formed the basis for the original tax exemption or if the Time Bank itself qualifies for exempt status. This would seem to favor operating a Time Bank as a program of an existing nonprofit organization rather than as a new independent organization.
2. An organization will not qualify for tax exempt status if a substantial part of its activities consist of the exchange of services among its members because this serves private rather than public interests. This favors both (1) the operation of a Time Bank in the context of a broader based nonprofit organization to reduce the risk that service exchanges would be considered a substantial part of the overall activities, and (2) the operation of a Time Bank that is totally open to the public rather than adopting a membership structure.
3. It may not be sufficient to open the Time Bank to participation by all in the community. It may be necessary to show actual widespread benefit to the community or the charitable group.
4. The IRS may focus on the economic benefit of the services to the recipient, and find them to be taxable.

CONCLUSION

The statutes, regulations, and IRS rulings provide important guidance concerning the federal tax treatment of Time Banks. However, substantial areas of uncertainty remain. This is particularly true in light of the facts that the IRS rulings are few in number, may not be cited as precedent, and are not always consistent. Whereas the statutory and regulatory law seems to be fairly settled, the same can not be said of the IRS interpretation of that body of law. Rather drastic changes in that interpretation can be seen in the IRS ruling that are discussed in this paper, and it is

possible that the IRS may adopt a fundamentally different approach to Time Banks at any time.

ATTACHMENTS - TEXT OF IRS RULINGS

ATTACHMENT 1

Written Determination

Number: 8536060

Internal Revenue Service

June 12, 1985

Symbol: CC:IND:S:1:3-4L2913

This is in reply to your letter dated December 14, 1984, in which we are requested to rule that Taxpayer is not a barter exchange for purposes of section 6045 of the Internal Revenue Code and the regulations thereunder.

Taxpayer is a not-for-profit organization that currently supervises a community self-help program. The program, operated by volunteers, maintains a file of individuals with specific skills and abilities. Volunteers link these skilled individuals with individuals needing assistance. The assistance provided is entirely voluntary, with no contractual obligations incurred.

Volunteers in Taxpayer's program commonly provide housekeeping and babysitting services. However, they also provide more skilled services such as house painting. As anyone can become a volunteer, there is no limit to the range of services that can be provided under Taxpayer's program.

Taxpayer plans to computerize its file of skilled individuals to enable it to better match individuals desiring assistance with those willing and able to provide assistance. Taxpayer also plans to establish computerized records of services provided and received through its program. The basis of the records will be hours spent performing services.

The records will be kept in the form of a double-entry bookkeeping system. When a volunteer performs a service, Taxpayer credits the hours spent to the volunteer's account, and debits the hours to the service recipient's account.

The credits posted to the volunteers' accounts serve merely as a means to motivate the volunteers. The continued effectiveness of Taxpayer's program depends on the volunteers perceiving the value of their efforts to the community. Taxpayer hopes that knowledge of the amount of hours they provide, and of how their account credit balances compare to others, will instill pride in the volunteers.

These credits, however, have no monetary value. Service recipients do not incur a contractual liability upon the receipt of services under Taxpayer's program. Service providers do not earn a contractual right to receive services when they perform services. Taxpayer, however, will attempt to link service providers with other volunteers if the service providers require assistance.

In unusual circumstances, Taxpayer may choose not to link service providers with service recipients under the program. This could occur when an individual receives a great deal of

assistance from volunteers and thus runs up a large account debit balance. In this situation, however, Taxpayer will not deny such an individual assistance under other programs which it administers.

Section 6045(a) of the Internal Revenue Code provides the general rule that every person doing business as a broker shall, when required by the Secretary, make a return, in accordance with such regulations as the Secretary may prescribe, showing the name and address of each customer, with such details regarding gross proceeds and such other information as the Secretary may by forms or regulations require with respect to such business.

Section 6045(c)(1)(B) of the Code provides that the term "broker" includes a barter exchange. Section 6045(c)(3) of the Code defines the term "barter exchange" as any organization of members providing property or services who jointly contract to trade or barter such property or services.

Section 1.6045-1(a)(4) of the Income Tax Regulations further clarifies the term "barter exchange" by providing that it means any person with members or clients that contract either with each other or with such person to trade or barter property or services either directly or through such person. The term does not include arrangements that provide solely for the informal exchange of similar services on a noncommercial basis.

Section 1.6045-1(b) Ex. (4) of the Regulations provides:

X is an organization whose members include retail merchants, wholesale merchants, and persons in the trade or business of performing services. X's members exchange property and services among themselves using credits on the books of X as a medium of exchange. Each exchange through X is reflected on the books of X by crediting the account of the member providing property or services and debiting the account of the member receiving such property or services. X also provides information to its members concerning property and services available for exchange through X. X charges its members a commission on each transaction in which credits on its books are used as a medium of exchange. X is a barter exchange within the meaning of paragraph (a)(4) of this section.

Although Taxpayer's self-help community program has some similarity to a barter exchange (e.g., similar bookkeeping procedures and listings of services available), it is not a barter exchange within the meaning of section 6045(c)(3) of the Code. Section 6045(c)(3) defines "barter exchange" as any organization of members providing property or services who jointly contract to trade or barter such property or services. This definition envisions an arrangement similar to that described in example (4) of section 1.6045-1(b) of the Regulations. In that example, X's members have jointly contracted to exchange property and services among themselves using credits on the books of X as a medium of exchange (i.e., the credits serve as a cash substitute).

Under Taxpayer's program, however, the credits posted to the volunteers' accounts have no monetary value. Service recipients do not incur a contractual liability upon the receipt of services. Service providers do not earn a contractual right to receive services (or any other compensation) when they perform services. The credits serve merely as a means to motivate the volunteers to continue their community service.

Accordingly, Taxpayer is not a barter exchange for purposes of section 6045 of the Code and

the regulations thereunder as a result of its above described community self-help program.

This ruling is directed only to the taxpayer who requested it. Section 6110(j)(3) of the Internal Revenue Code provides that it may not be used or cited as precedent.

<http://www.legalbitstream.com/scripts/isyswebext.dll?op=get&uri=/isysquery/irle3d9/1/doc>

ATTACHMENT 2

Private Letter Ruling
Number: 9608009
Internal Revenue Service

November 9, 1995

Internal Revenue Service
Department of the Treasury
Washington, DC 20224

Index Number: 6045.00-00

Dear *****:

This ruling is in response to the request for a ruling dated June 20, 1995, concerning whether X, which sponsors a time dollar program, is a barter exchange under section 6045 of the Internal Revenue Code and section 1.6045-1(a)(4) of the Income Tax Regulations.

X is a nonprofit corporation that sponsors a time dollar program through which it supports and coordinates the exchange of services among residents in the Y neighborhood and surrounding neighborhoods. The purpose of the program is to strengthen the community and to increase access to services and resources for all in the community.

X maintains a file of services that members are willing to provide, matches service providers and service recipients, and maintains accounts of hours of service provided under the program. All services are valued equally under the program: one hour of service equals one good neighbor point. Participants in the program commonly provide services such as housekeeping, babysitting, gardening, and errand running.

The definition of a member of the program is a participant who has completed the application, interview, orientation, and reference check process. X does not charge a fee for participation or membership in the program. Members may earn points, within limits, for work in operating the program. X does not have a staff person that receives monetary compensation.

A person may request services through the program by calling or visiting X's office. After X receives a request for services, it looks for a match based on the service requested, time needed, proximity, and other factors. X then contacts a potential provider for availability. Upon accepting a referral, the service provider is responsible for calling the service recipient and arranging the time and place of service. After the service is provided, either the service provider or the service recipient reports the hours of service to X. X then credits the provider's account and debits the recipient's account for the hours of service.

Although a member may use accumulated points at any time, X encourages members to use their points when needed. The taxpayer does not guarantee that a member will be able to receive services for accumulated points. Members cannot transfer points or sell points except that members

may donate points to other members in the member's immediate family or household. In unusual circumstances, X may deny a request for service from a participant with a debit balance of 26 good neighbor points or more. Nonprofit community groups approved to participate in the program may receive good neighbor points for hours of service provided by the group's members and use those points to obtain services. Members who are self-employed cannot use points to obtain services for their businesses.

Section 6045 of the Internal Revenue Code states the general rule that every person doing business as a broker shall, when required by the Secretary, make a return, in accordance with such regulations as the Secretary may prescribe, showing the name and address of each customer, with such details regarding gross proceeds and such other information as the Secretary may by forms or regulations require with respect to such business.

Section 6045(c)(1)(B) of the Code states that the term "broker" includes a barter exchange.

Section 6045(c)(3) of the Code defines the term "barter exchange" as any organization of members providing property or services who jointly contract to trade or barter such property or services.

Section 1.6045-1(a)(4) of the Income Tax Regulations states that the term "barter exchange" means any person with members or clients that contract either with each other or with such person to trade or barter property or services either directly or through such person. The term does not include arrangements that provide solely for the informal exchange of similar services on a noncommercial basis.

As explained below, we conclude that X is not a barter exchange within the meaning of section 6045(c)(3) because X's operations provide a means for the informal exchange of similar services on a noncommercial basis and do not result in the creation of contractual rights and obligations among members (or between members and X) for the exchange of property or services.

One element to be considered in determining whether an organization is a barter exchange is the types of services provided by the organization's members. See section 1.6045-1(a)(4). In the present case, the services provided by X's members are primarily domestic or personal services. Thus, X's operations facilitate the exchange of similar services in accordance with section 1.6045-1(a)(4).

Other elements to be considered in determining whether an organization is a barter exchange are whether services are exchanged on a commercial or noncommercial basis and whether the exchange of services is formal or informal. See section 1.6045-1(a)(4). The application of these criteria to X is discussed below.

X facilitates the exchange of services on a noncommercial basis as evidenced by the following considerations. First, all services receive a point value based solely on the number of hours of service provided without regard to the type of service. Second, a member who has performed services does not thereby have a contractual right to receive any services from X or from X's members. Third, the organization does not place any limits on when services must be received. Thus, there could be a gap of several years between the time when a member provides

services and the time when the member first receives services. Fourth, a member cannot assign (except to family or household members) the points that he or she has accumulated for services performed. Fifth, X is a community organization whose membership consists primarily of individuals living in the Y area. Sixth, X does not charge a fee for participation or membership in the program. Seventh, the records maintained by X show significant disparities in members' accounts as to the number of hours of services provided and the number of hours of services received. Some members typically receive many more hours of services than they provide, while other members--who are apparently motivated by a desire to serve the community--typically provide many more hours of services than they receive. Based on X's records as of July, 1995, there were at that time approximately a active participants over 25 percent of which have performed services but have not received any services in return.

The informal nature of the exchange of services is also evident. X simply links members in need of services with other members who are potential providers of services. It is up to the members, rather than X, to determine whether any services will be performed, to determine the time and place for performance of the services, and to ensure that the services are satisfactorily performed. Also, X does not have any responsibility for crediting the account of the service provider or debiting the account of the service recipient unless a member first contacts X and indicates the number of hours of service provided. Moreover, either member (the service provider or the service recipient) can contact X to indicate the number of hours of service provided, and this information may be provided to X informally through a phone call or postcard.

This ruling is directed only to the taxpayer who requested it. Section 6110(j)(3) of the Code provides that it may not be used or cited as precedent.

No opinion is expressed about the tax consequences of the program under any other provision of the Code. Specifically, no opinion is expressed concerning whether a member earns income as a result of the member's participation in the program.

Sincerely yours,

Assistant Chief Counsel (Income Tax & Accounting)
John Coulter, Jr.
Senior Technician Reviewer

<http://www.legalbitstream.com/scripts/isyswebext.dll?op=get&uri=/isysquery/irle3e1/1/doc>

ATTACHMENT 3

Private Letter Ruling
Number: 200724006
Internal Revenue Service

February 20, 2007

Internal Revenue Service
Department of the Treasury
Washington, DC 20224

Number: 200724006
Release Date: 6/15/2007
Index Number: 6045.00-00
Third Party Communication: None
Date of Communication
Person To Contact:
Telephone Number:
Refer Reply To:
CC:PA:APJP:01
PLR-139766-06
Date: February 20, 2007

Dear ***** :

This responds to your request for ruling received August 28, 2006, concerning whether X is a barter exchange under section 6045 of the Internal Revenue Code and section 1.6045-1(a)(4) of the Income Tax Regulations.

FACTS

X is an exempt public charity under section 501(c)(3) that serves as a recordkeeper and coordinator for the exchange of goods and services between community members (Exchange). The purpose of the Exchange is to strengthen relationships between neighbors and members of the community based on reciprocity and equality.

Membership in X is open to anyone who completes an application, interviews, attends an orientation, and submits to a background check, all conducted by X. There is no fee assessed to join and X receives no compensation or other fee for providing the recordkeeping service. X provides a membership directory, which lists the members' names and services offered.

X maintains a computerized file of services that members are willing to provide, provides the names of service providers to service recipients when asked, and maintains accounts of hours of service provided under the program. All services are valued equally under the Exchange: one hour of service equals one unit of credit, referred to as T. Upon completion of services or the exchange of goods, the member providing the goods or service will contact X. X will enter a credit on the account of the member providing the goods or service and enter a debit on the account of the recipient.

Members in the Exchange commonly provide services such as childcare, housecleaning, home maintenance, music lessons, or other personal services, including medical consultations and exams, massage, and other holistic treatments. Some members also offer tangible items, tickets, or discounts from menu items at certain restaurants for which T can be exchanged. X does not

guarantee that a member will be able to use accumulated T or receive any goods or services. Members may donate points to other members

LAW AND ANALYSIS

Section 6045 of the Internal Revenue Code states the general rule that every person doing business as a broker shall, when required by the Secretary, make a return, in accordance with such regulations as the Secretary may prescribe, showing the name and address of each customer, with such details regarding gross proceeds and such other information as the Secretary may by forms or regulations require with respect to such business.

Section 6045(c)(1)(B) states that the term "broker" includes a barter exchange.

Section 6045(c)(3) defines the term "barter exchange" as any organization of members providing property or services who jointly contract to trade or barter such property or services.

Section 1.6045-1(a)(4) of the regulations states that the term "barter exchange" means any person with members or clients that contract either with each other or with such person to trade or barter property or services either directly or through such person. The term does not include arrangements that provide solely for the informal exchange of similar services on a noncommercial basis.

X facilitates the exchange of services on a noncommercial basis. Although X's exchange has some similarity to a barter exchange (e.g., similar bookkeeping procedures and listings of services available), it is not a barter exchange within the meaning of section 6045(c)(3). Under the Exchange, X does not charge a fee for participation or membership in the exchange; all services receive a point value based solely on the number of hours of service provided without regard to the type of service; service recipients do not incur a contractual liability upon the receipt of services; service providers do not earn a contractual right to receive services (or any other compensation) when they perform services. The credits serve merely as a means to motivate the volunteers to continue their community service.

Accordingly, X is not a barter exchange for purposes of section 6045 and the regulations thereunder as a result of its above described Exchange.

This ruling is directed only to the taxpayer who requested it, and it is limited to the facts as represented. Section 6110(k)(3) provides that it may not be used or cited as precedent. No opinion is expressed about the tax consequences of the Exchange under any other provision of the Code. Specifically, no opinion is expressed concerning whether a member earns income as a result of the member's participation in the program.

Sincerely,

James C. Gibbons
Branch Chief,

Administrative Provisions
& Judicial Practice, Branch 1
(Procedure and Administration)

<http://www.legalbitstream.com/scripts/isyswebext.dll?op=get&uri=/isysquery/irle451/1/doc>

ATTACHMENT 4

Internal Revenue Service Department of the Treasury Washington, DC 20224

This is in response to the request of December 14, 1984, from your accountants, in which a ruling was requested on the effect on your tax-exempt status under section 501(c)(3) of the Internal Revenue Code, of the operation of a volunteers' computerized services exchange accounting system in connection with a community self-help program and as a part of your general charitable program activities.

You indicate that the purpose of operating this system is to streamline your charitable program activities and more effectively serve the St. Louis community, and coordinate the work of volunteers. Recipients of services under these programs have no obligation to perform compensating services. The purpose of the system is to more effectively match those in need of a particular service, with those who are able to provide the service. You indicate that this activity is not a barter exchange within the meaning of section 6045 of the Code.

Based upon the information provided, we conclude that your exempt status under section 501(c)(3) of the Code will not be adversely affected by the operation of this computerized services exchange system, provided, however, that those persons receiving services are or can be considered members of a charitable class of individuals which your general programs are designed to assist, or your program itself is, or has been considered to be, a charitable activity.

This is not a ruling under section 6045 of the Code, which will be the subject of a separate communication.

Because this letter could help resolve questions with regard to your federal income tax status, please keep it in your permanent records. We are informing your key District Director of this action.

Sincerely yours,

J. E. Griffith Chief, Exempt Organizations Rulings Branch

<http://www.danecountytimebank.org/faq.html>.

ATTACHMENT 5

Private Letter Ruling
Number: 201042040
Internal Revenue Service
July 27, 2010

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

TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

Number: 201042040
Release Date: 10/22/2010

Date: July 27, 2010

UIL: 501.03-30; 501.33-00; 501.35-00

Contact Person:
Identification Number:
Contact Number:
Employer Identification Number:
Form Required To Be Filed: 1120
Tax Years: All
Dear *****:

This is our final determination that you do not qualify for exemption from Federal income tax as an organization described in Internal Revenue Code section 501(c)(3). Recently, we sent you a letter in response to your application that proposed an adverse determination. The letter explained the facts, law and rationale, and gave you 30 days to file a protest. Since we did not receive a protest within the requisite 30 days, the proposed adverse determination is now final.

Since you do not qualify for exemption as an organization described in Code section 501(c)(3), donors may not deduct contributions to you under Code section 170. You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, you should follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

In accordance with Code section 6104(c), we will notify the appropriate State officials of our

determination by sending them a copy of this final letter and the proposed adverse letter. You should contact your State officials if you have any questions about how this determination may affect your State responsibilities and requirements.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at 1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Rob Choi
Director, Exempt Organizations
Rulings & Agreements

Enclosure
Notice 437
Redacted Proposed Adverse Determination Letter
Redacted Final Adverse Determination Letter

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

TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

Date: May 20, 2010
Contact Person:
Identification Number:
Contact Number:
FAX Number:
Employer Identification Number:

UIL #'s:
501.03-30
501.33-00
501.35-00

LEGEND:
A = State of Incorporation
B = Date of Incorporation
C = Name of Organization

D = Applicant's County

Dear *****:

We have considered your application for recognition of exemption from Federal income tax under Internal Revenue Code section 501(a). Based on the information provided, we have concluded that you do not qualify for exemption under Code section 501(c)(3). The basis for our conclusion is set forth below.

Issue 1:

Do you, C, pass the organizational test of section 501(c)(3) of the Internal Revenue Code?

Issue 2:

Do you, C, pass the operational test of section 501(c)(3) of the Internal Revenue Code?

Facts:

You, C, were incorporated under the laws of the State of A on date B. Your Articles of Incorporation provides, in part, that your purposes are the following:

C is an all-ages, skills-sharing program. Our mission is to create caring community, value every individual equally, and share our time, our services and community.

The Bylaws, Articles 2.2 and 2.1 state, in part, respectively:

C is a charitable organization as defined by Section 501c3 of the Internal Revenue Code, or correspondence section of any future code.

In the event of dissolution of this organization, and after discharge of all its liabilities, the remaining assets shall be given to a non-profit organization which qualifies for tax exempt status under Section 501c3 of the Internal Revenue Code. Such organization shall have as its purpose a purpose similar to or consistent with C.

Your Bylaws state that application for membership is open to any community member in the D area and surrounding towns. Your membership application gathers basic personal information plus requests the prospective members to indicate five services they would be willing to provide to existing members as well as five services they wish to receive from existing members. Each membership application is processed by the coordinator, whose duties will be further described below. The coordinator meets with each prospective member to clarify any issues that need clarifying and conducts an orientation for the new member. Results of a background check would be the determining factor in denying membership. You state that no applicant has been turned down to date and that you currently have about 150 members. An effort is made by the coordinator to connect each new member immediately with someone who can provide a service that the new members want. You state that no voting rights are afforded to members but members may address issues by contacting your coordinator or any board member. Your Bylaws state that all members are invited to attend the annual meeting but are silent on whether members can vote on any matters

discussed at the annual meeting.

Your Form 1023 indicates that you provide services to members. You coordinate various services amongst your members based on the needs of your members. Members may conduct services on personal property or at other arranged locations. Examples of services exchanged between members are transportation, minor home repair, raking, snow shoveling, tutoring, massage, data entry, helping with a move, computer assistance, cooking, yard work, mending, painting, teaching a class, making phone calls, meal preparation and various others. Services are exchanged between members on a volunteer basis and are based on a time sharing program. One hour of exchange service performed equals one hour of exchange service to be received. Members may deem it necessary to cover overhead and other miscellaneous expenses incurred from any services rendered to other members. For example, the receiver of a service will voluntarily offer to pay the provider for gas, but not to pay for the transportation service itself.

Your flyer also states, "C is a network of people who help each other while earning credits towards services for themselves. Once you are a member, for every hour of service you provide to another member, you earn one "share" which is "banked", or credited to your account on the C computer. The account of the person who received the service is debited. Then each of you continue to earn or spend with other members. An hour of service is equal to an hour of service."

In your response to our information request you stated that members will be the primary beneficiaries of all services rendered. You occasionally participate in community wide activities that may involve your members and other members of your community. You further stated that members can refer and network amongst each other and can access information about services provided by other members via a membership directory. The membership directory lists all services that members can provide to existing members. You indicated that you will conduct quarterly potluck dinners to provide members with the opportunity to interact with each other and arrange for the reciprocal exchange of member services. You maintain a database that tracks credit hours earned for the reciprocal exchange of services amongst your members. Members may log into their accounts to update and view records and account for services rendered to and received from other members.

Your response further indicated that the majority of your financial resources were spent on hiring a consultant to act as your coordinator. Duties of the coordinator include processing membership applications, helping members make connections where necessary and being responsible for infrastructure tasks such as financial management, data entry, reports, fundraising, membership recruitment, public relations and community networking among organizations.

You do not have membership fees. You are supported by gifts, grants and contributions from the general public. Your expenses are used for fundraising, miscellaneous expenses and professional fees. Professional fees account for over 90% of your budget and will be paid to a consultant who will act as the coordinator. You state that the hired consultant is a professional social worker. You state that you would hire the consultant for more time if there is more income.

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 charitable, religious or educational purposes,

no part of the net earnings of which inures to the benefit of any private shareholder or individual.

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

Section 1.501(c)(3)-1(b)(1)(i) of the Regulations states that an organization is organized exclusively for one or more exempt purposes only if its articles of organization: (a) Limit the purposes of such organization to one or more exempt purposes; and (b) Do not expressly empower the organization to engage otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(b)(4) of the Regulations states that an organization is not 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, if upon dissolution, such assets would by reason of a provision in the organization's articles of organization or by operation of law, be distributed for one or more exempt purposes.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization operates exclusively for exempt purposes only if it engages primarily in activities that accomplish exempt purposes specified in section 501(c)(3) of the Code. An organization must not engage in substantial activities that fail to further an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not operated exclusively for any of the purposes specified in section 501(c)(3) unless it serves public rather than private interests. Thus, to meet the requirement of this subdivision, 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.

Revenue Ruling 61-170, 1961-1 C.B. 112, held that an association composed of professional private duty nurses and practical nurses which supported and operated a nurses' registry primarily to afford greater employment opportunities for its members was not entitled to exemption under section 501(c)(3) of the Code. Although the public received some benefit from the organization's activities, the primary benefit of these activities was to the organization's members.

Revenue Ruling 69-175, 1969-1 C.B. 149, held that a nonprofit organization, formed by parents of pupils attending a private school to provide school bus transportation for its members' children served a private rather than a public interest and did not qualify for exemption under section 501(c)(3) of the Code.

Revenue Ruling 78-132, 1978-1 C.B. 157, held that a community cooperative organization formed to facilitate the exchange of personal services among members was operating primarily for the private benefit of its members and was not exempt from tax as a social welfare organization.

In Better Business Bureau v. United States, 326 U.S. 279 (1945), the Supreme Court stated that the presence of a single nonexempt purpose, if substantial in nature, will preclude exemption under

section 501(c)(3) of the Code, regardless of the number or importance of statutorily exempt purposes. Thus, the operational test standard prohibiting a substantial non-exempt purpose is broad enough to include inurement, private benefit, and operations that further nonprofit goals outside the scope of section 501(c)(3).

In Old Dominion Box Co. v. United States, 477 F.2d 344 (4th Cir. 1973) cert. denied 413 U.S. 910 (1973), the court held that operating for the benefit of private parties constitutes a substantial non-exempt purpose.

Application of law:

You are not described in section 501(c)(3) of the Code because you are not organized and operated exclusively for charitable, educational, or other exempt purposes.

You do not comply with section 1.501(c)(3)-1(a)(1) of the regulations because you are not organized or operated exclusively for one or more exempt purposes.

Issue 1:

You do not comply with section 1.501(c)(3)-1(b)(1)(i) of the Regulations because the purposes as stated are broader than described in the regulations. Your Articles of Incorporation state, "Our mission is to create (a) caring community, value every individual equally, and share our time, our services and community."

You do not comply with section 1.501(c)(3)-1(b)(4) of the regulations because your Articles of Incorporation do not contain an adequate dissolution clause. Therefore, your assets are not dedicated for exempt purposes and.

Issue 2:

You are not as described in section 1.501(c)(3)-1(c)(1) of the regulations because more than an insubstantial part of your activities is devoted to non-exempt purposes.

You are not described in section 1.501(c)(3)-1(d)(1)(ii) of the regulations because you are a bartering exchange that coordinates the bartering services of your membership. Therefore, you are operated for the private benefits of your members only. Your activities do not serve the general public.

You are similar to the organization described in Revenue Ruling 61-170 because substantially all of your resources, purposes and activities are used to offer your members a reciprocal exchange of services amongst each other through the use of your membership directory. You are similar to the organization described in Revenue Ruling 69-175 because you are formed and operated for the reciprocal exchange of services amongst your members similar to a barter exchange. Therefore, you are similarly structured to the organization in the above ruling in that a substantial part of your activities serves the private interests of your members rather than the public.

You are similar to the organization described in Revenue Ruling 78-132 because like it you are a community cooperative organization formed to facilitate the exchange of personal services among

members. This describes the activities of your bartering exchange.

You are similar to the organization described in Better Business Bureau v. United States, supra, because like it you too were formed for a nonexempt purpose. Your main activity is to coordinate various services amongst your members based on their needs. The main beneficiaries of your operation are your members rather than the general public. Any community services that you may have are insubstantial and secondary to your main purpose that is to provide a medium for members to barter services.

You are similar to the organization described in Old Dominion Box Co., Inc. v. United States, supra, because you too operate for a substantial non-exempt purpose. You provide an opportunity for your members to exchange services without exchange money. The fair market value of services received in exchange for services would have been considered income to your members.

Applicant's Position:

You state that you are a charitable organization. You do not charge for services. All services are done on a volunteer basis by members on a reciprocal basis.

Service Position:

Providing a medium for members to exchange services that they would otherwise have to pay or to report income does not equate to charitable within the meaning of section 501(c)(3) even if you do not charge for services.

Conclusion:

You are formed to operate a barter exchange that serves private interests of your members. Therefore, based on the information submitted, we have concluded that you are not an organization described in section 501(c)(3) of the Code because you are not organized and operated exclusively for one or more exempt purposes set forth in section 501(c)(3) of the Code or the Regulations pertaining thereto.

Appeal Rights:

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter. We will consider your statement and decide if the information affects our determination. If your statement does not provide a basis to reconsider our determination, we will forward your case to our Appeals Office. You can find more information about the role of the Appeals Office in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues* .

An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you during the appeal process. If you want representation during the appeal process, you must file a proper power of attorney, Form 2848, *Power of Attorney and Declaration of Representative* , if you have not already done so. You can find more information about representation in Publication 947, *Practice Before the IRS and Power of Attorney* . All forms

and publications mentioned in this letter can be found at www.irs.gov, Forms and Publications.

If you do not file a protest within 30 days, you will not be able to file a suit for declaratory judgment in court because the Internal Revenue Service (IRS) will consider the failure to appeal as a failure to exhaust available administrative remedies. Code section 7428(b)(2) provides, in part, that a declaratory judgment or decree shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted all of the administrative remedies available to it within the IRS.

If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848, and any supporting documents to the applicable address:

Mail to:

Internal Revenue Service
EO Determinations Quality Assurance
Room 7-008
P.O. Box 2508
Cincinnati, OH 45201

Deliver to:

Internal Revenue Service
EO Determinations Quality Assurance
550 Main Street, Room 7-008
Cincinnati, OH 45202

You may fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Robert Choi
Director, Exempt Organizations
Rulings & Agreements

Enclosure, Publication 892

<http://www.legalbitstream.com/scripts/isyswebext.dll?op=get&uri=/isysquery/irle45b/1/doc>

ATTACHMENT 6

Revenue Ruling 78-132
Internal Revenue Service
1978-1 C.B. 157

26 CFR 1.501(c)(4)-1: Civic organizations and local associations of employees.

Social welfare; personal service cooperative . A community cooperative organization formed to facilitate the exchange of personal services among members is operating primarily for the private benefit of its members and is not exempt from tax as a social welfare organization under section 501(c)(4) of the Code.

Rev. Rul. 78-132

Advice has been requested whether the nonprofit organization described below is exempt from Federal income tax under section 501(c)(4) of the Internal Revenue Code of 1954.

The organization was formed to facilitate the exchange of personal services among members. Services available to members are listed by the organization, and include home maintenance, minor repairs and transportation. Membership is open to all individuals in a particular community. Each member informs the organization of those services that he can perform. When a member needs a particular service, he contacts the organization, which provides the member with a list of other members who are capable of performing the needed service. The member needing the service selects a member to perform the service. No monetary payment is made for the service performed. Instead, the service is evaluated in terms of credit hours, and the two members inform the organization of the transaction. The organization keeps records of all transactions among members, and lists the number of credit hours earned or owed by each member.

Section 501(c)(4) of the Code provides for the exemption from Federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2) of the Income Tax Regulations states that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization coming within the scope of this section is one that is operated to bring about civic betterments and social improvements.

The organization here described is a private cooperative enterprise for the economic benefit of the members. Such organizations have been held not to be exempt as social welfare organizations. For example, Rev. Rul. 73-349, 1973-2 C.B. 179, holds that an organization formed to purchase groceries for its membership at the lowest possible prices on a cooperative basis is not exempt under section 501(c)(4) of the Code. In *Commissioner v. Lake Forest, Inc.*, 305 F.2d 814 (4th Cir. 1962), it was held that a corporation that provided housing on a cooperative basis lacked the necessary requirements of an organization described in section 501(c)(4) of the Code. The court held the operation to be a private self-help enterprise with only an incidental benefit to the community as a whole.

Similarly, in this case the organization is operated primarily for the private benefit of members. The fact that payments for services are made in kind and do not involve a monetary exchange does not derogate from the economic benefits accruing to members. Any benefits to the community are not sufficient to meet the requirement of the regulations that the organization be operated primarily for the common good and general welfare of the people of the community.

Accordingly, this organization is not exempt from Federal income tax as a social welfare organization under section 501(c)(4) of the Code.

<http://www.legalbitstream.com/scripts/isyswebext.dll?op=get&uri=/isysquery/irlfb09/1/doc>