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Important Developments in Exempt Organizations

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EXEMPT ORGANIZATIONS

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Regulations

Proposed Regulations under Section 514(c)(9)(E).

Proposed Regulations section 1.514(c)-2, 57 Federal Register 62,266 (1992), apply section 514(c)(9)(E) to a partnership when at least one, but not all, of the partners are qualified exempt organizations. The proposed regulations make certain changes to I.R.S. Notice 90-41, 1990-1 C.B. 350.

Corporate Sponsorship.

Proposed Regulations sections 1.512(a)-1(e), and 1.513-4, 58 Federal Register 5,687 (1993), provide guidance concerning whether sponsorship payments received by exempt organizations are unrelated business taxable income. The regulations expand the scope of activity that will be treated as an acknowledgement of support rather than as advertising income.

Cases and Rulings

Contributions

In *Hodgdon v. Commissioner*, 98 T.C. 424 (1992), the court held that the basis allocation rule of section 1011(b) and Regulations section 1.1011-2(a)(2) applies whenever a charitable deduction is "allowable" on a bargain sale even if the taxpayer never actually receives a tax benefit from the donation because the net value of the property contributed is not currently deductible.

In *Greene v. United States*, 806 F. Supp. 1165 (S.D.N.Y. 1992), the court held that a taxpayer who donated appreciated section 1256 futures contracts to a private operating foundation controlled by the donor could deduct the long-term capital gain portion of the contracts as a charitable contribution. The court held that the appreciation was not taxable to the donor under the assignment of income or step transaction doctrines even though the contracts were sold by the foundation on the day of the donation.

In *Purnell v. Commissioner*, 63 T.C.M. (CCH) 3037, T.C.M. (RIA) ¶ 92,289 (1992), the court held that an organization, which never filed a formal request for tax exemption, was qualified to receive deductible contributions because it qualified as a church.

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In Revenue Ruling 92-81, 1992-2 C.B. 119, the Service modified Revenue Ruling 90-103, 1990-2 C.B. 159, and indicated that it would allow the deduction of contributions made after February 15, 1991, to a pooled income fund that holds depreciable or depletable property. However, the contributions would only be deductible if the fund disposes of such property prior to January 1, 1993, or if the fund is reformed in accordance with the requirements of Revenue Ruling 90-103, 1990-2 C.B. 159.

In General Counsel Memorandum 39877 (Sept. 8, 1992), the Service stated that certain matching contributions by a corporation to charities designated by employees under a program to match the employees' contributions to the corporation's political action committee ("PAC") were not deductible as a charitable contribution by the corporation because the corporation was receiving a quid pro quo in the form of the PAC contribution. However, the amount paid to the charity was not taxable compensation to the employee because it was neither a payment for services performed by the employee nor an economic benefit conferred on the employee.

In Technical Advice Memorandum 9237011 (Sept. 11, 1992), the Service ruled that a corporation's payments to a strike fund established by a section 501(c)(6) trade association were nondeductible capital expenditures, not deductible dues.

In Technical Advice Memorandum 9239002 (June 17, 1992), the Service ruled that a taxpayer who granted a public charity conservation easement could deduct only the excess value of the easement over any benefit reviewed by the taxpayer.

In Private Letter Ruling 9234031 (Aug. 21, 1992), the Service ruled that a corporation's pledge of a stock option to the foundation did not constitute an act of self-dealing, and that the corporation would be entitled to a deduction under section 170 in the year in which the option was exercised. The deduction was allowed even though the private foundation's trustees included the chairman of the corporation's board of directors, his spouse, and the corporation's vice president. Prior to the expiration of the option, the foundation will transfer it for a fair market value price to an unrelated section 501(c)(3) organization, which will exercise the option.

In Private Letter Ruling 9205012 (Oct. 31, 1991), the Service ruled that a member of an affiliated group of corporations could deduct the value of overriding royalties from its oil and gas business it donated to a public charity, even though another member of the affiliated group retained the working interests in the property.

In Private Letter Ruling 9218067 (Jan. 31, 1992), the Service ruled that donors could deduct a contribution in the year they executed a deed of gift, even though they would retain possession of the donated items until museum renovations had been completed.

In Private Letter Ruling 9247030 (Aug. 25, 1992), the Service disallowed deductions for contributions to a section 501(c)(3) organization that were earmarked for the rehabilitation of a fraternity house owned by a section 501(c)(7)

college fraternity alumni association.

Exempt Status

Section 501(c)(3). In *State of Michigan v. United States*, 802 F. Supp. 120 (W.D. Mich. 1992), the court held that a trust established by the State of Michigan to guarantee payment of college tuition for children of parents who invested in the trust did not qualify for exempt status under either section 501(c)(3) or 501(c)(4) because it conferred a substantial private benefit. The court also held that the trust was not exempt as a state instrumentality under section 115 because its income did not accrue to the State or any of its political subdivisions.

In *Church of Spiritual Technology v. United States*, 26 Cl. Ct. 713 (1992), *aff'd*, 1993 U.S. App. LEXIS 7023 (Fed. Cir. 1993), the court held that an organization formed to maintain an archive of scriptures of the Church of Scientology did not qualify for exempt status under section 501(c)(3) because it was formed primarily to facilitate the personal estate plan of the church's founder and to serve financial goals of other nonexempt Scientology organizations.

In *El Paso Del Aquila Elderly v. Commissioner*, 64 T.C.M. (CCH) 376, T.C.M. (RIA) ¶ 92,441 (1992), the court denied section 501(c)(3) status to a membership organization that made burial insurance policies available at cost because the organization failed to prove that it had a plan for creating a fund to assist members in financial distress or that it would disburse benefits in an objective and nondiscriminatory manner.

In *Westward Ho v. Commissioner*, 63 T.C.M. (CCH) 2617, T.C.M. (RIA) ¶ 92,192 (1992), the court held that an organization created by three restaurant owners to relocate homeless and other indigent people from downtown Burlington, Vermont, did not qualify for exempt status under section 501(c)(3) because it was operated for the private purpose of protecting the commercial interests of its creators.

In Revenue Procedure 92-59, 1992-2 C.B. 411, the Service announced new guidelines for issuing rulings and determination letters to public interest law firms under section 501(c)(3). This procedure is retroactively effective for tax years beginning after December 31, 1987.

In General Counsel Memorandum 39876 (July 29, 1992), the Service stated that a trust formed by the members of a specific graduating class of a college to provide for the relief of disabled or destitute members of that graduating class and their dependents did not qualify for an exemption.

In General Counsel Memorandum 39872 (Sept. 16, 1991), the Service stated that a day care referral service did not qualify for an exemption.

In General Counsel Memorandum 39874 (Apr. 29, 1991), the Service stated that a nonprofit organization formed by a church to administer retirement and welfare benefits for religious and lay employees qualified for an exemption, notwithstanding its failure to meet the "readiness" test of section 502. The Service revoked General Counsel Memorandum 39003 (Nov. 29, 1982) and revoked in part General Counsel Memorandum 39197 (Mar. 22, 1984).

In Technical Advice Memorandum 9234002 (Feb. 19, 1992), the Service

ruled that income from advertising in the souvenir program of an annual fair was unrelated business income, because the advertising was solicited over a six-month period, and it was not substantially related to the exempt purpose.

In Technical Advice Memorandum 9211002 (Sept. 30, 1991), the Service confirmed the section 501(c)(3) status of an organization that conducted numerous sports activities and educational programs in the United States and also managed and staffed sports complexes in a foreign country under a contract with a foreign government.

In Technical Advice Memorandum 9211004 (Nov. 7, 1991), the Service ruled in favor of the section 501(c)(3) exempt status of an organization consisting of fifty state high school athletic associations because its primary purpose was education. The Service also ruled that some of these activities would generate unrelated business income.

In Technical Advice Memorandum 9217001 (Sept. 30, 1991), the Service ruled that an exempt organization does not jeopardize its exempt status by sponsoring various craft and country music festivals, conducting a country music concert series, maintaining a campground area, and operating other recreational facilities, although certain items of income were ruled to be subject to the unrelated business income tax.

In Technical Advice Memorandum 9243008 (July 9, 1992), the Service ruled that an organization to develop computer services in a particular state, which derived its income from user fees and state grants, was exempt because it lessened the burdens of government.

In Private Letter Ruling 9231047 (May 5, 1992), the Service revoked a prior favorable ruling issued in Private Letter Ruling 8820093 (Feb. 26, 1988), involving a transaction described in General Counsel Memorandum 39862 (Nov. 22, 1991). The ruling involved the formation of a limited partnership "to purchase the net revenue stream" of the hospital's "outpatient surgical program and gastroenterology laboratory." The transaction previously approved in Private Letter Ruling 8820093 was one of the three transactions reviewed in General Counsel Memorandum 39862.

In Private Letter Ruling 9233037 (May 20, 1992), the Service revoked Private Letter Ruling 8942099 (July 28, 1989), which was reviewed in General Counsel Memorandum 39862 (Nov. 21, 1991). The Service ruled that the transaction at issue in Private Letter Ruling 8942099 did not directly further the hospital's charitable purposes and amounted to a sale to members of the organization's medical staff of a proprietary interest in the profits of its outpatient surgical program.

In Private Letter Ruling 9204048 (Oct. 30, 1991), the Service approved a joint venture between two section 501(c)(3) organizations. The Service ruled that the operation of the joint venture would further the exempt purposes of the members and that the provision of administrative, financial, and management services on behalf of the joint venture would not affect the exempt status of either of the members of the joint venture or result in unrelated business income to either of them.

In Private Letter Ruling 9242038 (July 22, 1992), the Service ruled that the sale of stock to investors and employees and compensatory stock transfers would not adversely affect an organization's exempt status or its status under section 509(a)(1).

Section 501(c)(4). In Technical Advice Memorandum 9220010 (Feb. 7, 1992), the Service ruled that a section 501(c)(7) social club organized to promote bridge playing qualified for exemption under section 501(c)(4) because it provides a recreational activity to the community for a nominal fee.

Section 501(c)(5). In *Morganbesser v. United States*, 984 F.2d 560 (2d Cir. 1993), the court held that a multiemployer pension plan, which may not have complied with certain provisions of the Employee Retirement Income Security Act of 1974, nevertheless qualified as an exempt labor organization under section 501(c)(5). The court rejected the government's argument that an exempt labor organization must be funded with member dues rather than employer contributions.

Section 501(c)(7). In Technical Advice Memorandum 9212002 (Dec. 4, 1991), the Service revoked the section 501(c)(7) exemption of a social club that operated a take-out food service because the activity was nontraditional for the taxpayer and was not insubstantial, trivial, or nonrecurrent.

Section 501(c)(9). In General Counsel Memorandum 39873 (Apr. 15, 1992), the Service ruled that pooling of funds of several defined benefit plans with the funds of a voluntary employees' benefit association (VEBA) described in section 501(c)(9) to allow the VEBA to participate in a master trust would not adversely affect the exempt status of a VEBA. The Service also indicated that because a master trust provides for the payment of nonqualifying pension benefits of more than a de minimis amount, a master trust will not be described in section 501(c)(9) and will accordingly fail to be exempt under section 501(a).

In General Counsel Memorandum 39879 (Sept. 15, 1992), the Service ruled that a trust would not qualify as a VEBA under section 501(c)(9) because it provided "income maintenance benefits" that did not qualify as permissible "other benefits" because they were available to persons who had terminated their employment voluntarily.

Unrelated Business Income

In *National Association of Life Underwriters, Inc. v. Commissioner*, 64 T.C.M. (CCH) 379, T.C.M. (RIA) ¶ 92,442 (1992), the court considered the proper computation of the unrelated business taxable income of a trade association that earned advertising income from a periodical distributed to members and nonmembers.

In Revenue Procedure 92-58, 1992-2 C.B. 410, the Service published inflation adjustments for the distribution of low-cost articles under section 513(h)(2). The cost of a "low cost article" may not exceed $5.71 for tax years beginning in 1991 and $6.01 for tax years beginning in 1992.

In Technical Advice Memorandum 9231001 (Oct. 22, 1991), the Service ruled that payments received by a section 501(c)(4) organization from the spon-

sor of its post-season collegiate football bowl game as well as amounts received from the publisher of the game program were unrelated business taxable income. For a similar ruling see Technical Advice Memorandum 9147007 (Aug. 16, 1991).

In Technical Advice Memorandum 9204007 (Sept. 27, 1991), the Service offered guidance on the computation of circulation income treated as unrelated business income.

In Technical Advice Memorandum 9218007 (Jan. 14, 1992), the Service ruled that installment sale income derived from the sale of improved real estate is governed by the tax law in effect at the time that the income is recognized, not the law in effect at the time that the installment sale was entered into for purposes of section 514(c)(a). The Service issued a similar ruling in Technical Advice Memorandum 9218006 (Jan. 14, 1992).

In Technical Advice Memorandum 9222001 (Sept. 30, 1991), the Service ruled that advertising revenues for the journal of a section 501(c)(5) labor union were unrelated business taxable income. Additionally, income received for third-party use of the exempt organization's membership list was governed by section 513(h)(1)(B).

In Technical Advice Memorandum 9223002 (Feb. 13, 1992), the Service ruled that insurance premium experience rebates received by a section 501(c)(6) organization would be subject to the unrelated business income tax.

In Technical Advice Memorandum 9246004 (July 22, 1992), the Service ruled that an organization's income from Health Maintenance Organizations did not constitute income from an unrelated business. The Service also ruled that an organization would not be found to be providing commercial-type insurance under section 501(m) because it contracted to provide medical services on a capitation basis, which represented a normal business risk, rather than the provision of insurance.

In Technical Advice Memorandum 9248001 (May 18, 1992), the Service ruled that a section 501(c)(3) organization improperly aggregated all its sources of unrelated business income in computing unrelated business income tax.

In Technical Advice Memorandum 9250001 (July 14, 1992), the Service treated exchanges of mailing lists by membership organizations serving similar exempt purposes as offsetting rentals not substantially related to the organizations' exempt purposes.

In Private Letter Ruling 9226055 (Mar. 30, 1992), the Service ruled that an organization offering comprehensive wellness health care services at prices making them available to a broad cross-section of the general public qualified for exemption.

In Private Letter Ruling 9237027 (June 15, 1992), the Service ruled that fees from a lender are substantially related to the exempt purpose of an organization that negotiated and structured student loan programs.

In Private Letter Ruling 9237034 (June 16, 1992), the Service ruled that an organization providing computer linkage to member libraries could receive no more that 15% of its program revenue from nonexempt libraries.

In Private Letter Ruling 9208028 (Nov. 27, 1991), the Service ruled that compensation to a program manager was reasonable even though it exceeded 50% of the budget.

Political Organizations

In Technical Advice Memorandum 9224002 (Feb. 19, 1992), the Service ruled that a political organization designated as the principal campaign committee of a Congressional candidate continued to qualify under section 527(h) even though the organization made contributions to the campaigns of other political candidates, because those contributions did not constitute "support" of those candidates.

In Technical Advice Memorandum 9244003 (Apr. 15, 1992), the Service ruled that the income of an organization created to promote the adoption of a local income tax pursuant to a referendum would not be excludable under section 115, because the organization was not created or run predominately as a "political organization" under section 527 and its income was not received in connection with the exercise of any governmental function. The Service further ruled that the organization would be classified as an association taxable as a corporation and would be required to file Form 1120.

In Technical Advice Memorandum 9245001 (June 8, 1992), the Service ruled that transfers of political contributions by a labor organization exempt under section 501(c)(5), which established a segregated fund to make political expenditures, did not constitute taxable political expenditures under section 527(f)(1) because they were made promptly and directly under Regulations section 1.527-6(e). The organization maintained adequate records to demonstrate that the amounts transferred consisted of political contributions and dues rather than investment income.

In Technical Advice Memorandum 9249002 (June 30, 1992), the Service ruled that expenses incurred related to ballot referenda and initiatives qualified as exempt function expenditures under section 527(e)(2).

Homeowners' Associations

In Private Letter Ruling 9238021 (June 19, 1992), the Service ruled that to the extent amounts paid to a non-profit condominium development corporation by a developer represented damages for construction errors, such amounts were not income to the corporation under section 61, but would be treated as if they were the proceeds of a pro rata capital assessment against the members. To the extent that the amounts represented an award for past underassessment of members, the amounts would be considered as exempt function income under section 528(d)(3) and would be income to the association as of the date of settlement.

Charitable Lead Trusts

In *Crown Income Charitable Fund v. Commissioner*, 98 T.C. 327 (1992), the court held that a charitable lead trust that provided for a $975,000 annual annuity to charity for 45 years was not entitled to a charitable deduction under

section 642(c) for contributions to charity in excess of the annuity because the amounts were not paid pursuant to the terms of the trust's governing instrument.

In Revenue Ruling 92-107, 1992-2 C.B. 120, the Service ruled that a fund may qualify as a pooled income fund when the governing instrument permits more than one charitable organization to be named as the recipient of the remainder interest in the property transferred to the fund.

In Revenue Ruling 93-8, 1993-5 I.R.B. 6 (Feb. 1), the Service revoked Revenue Ruling 92-108, 1992-2 C.B. 121, in which the Service had ruled that a fund maintained by a community trust qualifies as a pooled income fund if the donor permits the trust to select the charitable organization that will benefit from the remainder interest, but not if the donor may designate the charitable organization.

Tax on Excess Lobbying By Public Charities

In Private Letter Ruling 9236028 (June 8, 1992), a central organization filing a group information return was not an "affiliated group" under section 4911(f) because no affiliate controlled the activities of the central organization and the central organization did not control any affiliate.

Private Foundations

In General Counsel Memorandum 39875 (June 24, 1992), the Service withdrew General Counsel Memorandum 39748 (Aug. 3, 1988), which ruled that contributions received by a public charity that were earmarked by the donor for subsequent distribution to charities designated by the contributor would be included in the donee's public support for purposes of section 170(b)(1)(A)(vi).

Excise Tax on Net Investment Income. In Private Letter Ruling 9204050 (Oct. 28, 1991), the Service ruled that a five-year base period for determining the amount of the foundation's required distributions under section 4940 would include the short fiscal year ending May 31, 1991 with no requirement that a foundation annualize or otherwise adjust its qualifying distributions actually made during the short year.

Self-Dealing. In Technical Advice Memorandum 9221002 (Feb. 25, 1992), the Service ruled that a museum classified as a private foundation was not engaging in self-dealing when some of its sculptures were displayed in building lobbies of properties owned by disqualified persons.

In Technical Advice Memorandum 9230001 (Mar. 12, 1992), the Service revoked the exempt status of a private foundation that purchased a private residence and paid for private travel for a trustee and his spouse.

In Private Letter Ruling 9235055 (June 4, 1992), the Service ruled that a foundation's payment of legal fees incurred by former trustees with respect to the litigation would not constitute an act of self-dealing under section 4941 or a taxable expenditure under section 4945.

In Private Letter Ruling 9210025 (Dec. 9, 1991), the Service ruled that an indemnification agreement would not constitute an act of self-dealing under section 4941(d)(2)(B), if the loans bore no interest and proceeds were used

solely to implement a foundation's activities that further its charitable purposes. The Service refused to rule on whether the investment in the high-yield debt securities would constitute a jeopardy investment under section 4944 because it was a question involving the development of future facts.

In Private Letter Ruling 9222052 (Mar. 3, 1992), the Service ruled that a private foundation's mortgage loan with interest at fair market rates to a substantial contributor would constitute an act of self-dealing.

Failure to Distribute Income. In Revenue Procedure 92-94, 1992-2 C.B. 507, the Service published procedures that a private foundation may follow in making its "reasonable judgment" and "good faith determination" of the tax treatment of a foreign grantee in determining whether a grant will qualify as a qualifying distribution under section 4942.

In Technical Advice Memorandum 9211005 (Nov. 18, 1991), the Service ruled that expenses incurred by a private foundation in disposing of stock to various charities that it funds did not qualify as a qualifying distribution for purposes of section 4940(e).

In Private Letter Ruling 9228045 (Apr. 20, 1992), the Service ruled that the cash grants and low or no interest loans awarded to current or former employees suffering severe financial hardship would not be considered to be taxable expenditures and such awards would constitute qualifying distributions. In addition, grants awarded under the program would not be considered to be an act of self-dealing simply because the corporation derived an indirect benefit from the grants or loans. The ruling was conditioned upon the private foundation's agreement not to award a disproportionate amount of awards to upper management.

The Service approved set-asides under section 4942(g)(2) in Private Letter Rulings 9235063 (June 5, 1992), 9236027 (June 8, 1992), 9238040 (June 23, 1992), 9211032 (Dec. 18, 1991), and 9219036 (Feb. 12, 1992).

In Private Letter Ruling 9211062 (Dec. 20, 1991), the Service ruled that a private foundation's proposed grant to a local YMCA, under which the YMCA would control the selection of the grant recipients and unspent amounts would be carried over to a later year, would qualify as a qualifying distribution under section 4942(g) and would not be considered a taxable expenditure under section 4945.

In Private Letter Ruling 9247037 (Aug. 27, 1992), the Service ruled that a private operating foundation should not include distributions from or assets held by the private non-operating foundation in determining its net income and minimum investment return.

Taxable Expenditures. In *Thorne v. Commissioner*, 99 T.C. 67 (1992), the court held that a foundation manager was liable for first-tier excise taxes under section 4945(a) because he failed to establish that the deficiency determination was in error and because the Service had established by clear and convincing evidence that the foundation manager's conduct was "knowing." The court excused the taxpayer from liability for second-tier excise taxes under sections 4944(b) and 4945(b) because he received no notice or opportunity to correct before the determination of second-tier taxes.

In Technical Advice Memorandum 9235002 (Apr. 9, 1992), the Service denied approval of a private foundation's educational loan program under the facts and circumstances test of Revenue Procedure 80-39, 1980-2 C.B. 772. The foundation would not incur liability for taxable expenditures because the foundation had provided written notice to the Service that its loan program would be conducted under the facts and circumstances test of Revenue Procedure 80-39 and the Service had not previously issued any ruling to the foundation on the issue.

In Technical Advice Memorandum 9240001 (May 1, 1992), the Service ruled that grants made by a private foundation to an exempt educational organization, that were earmarked for use by the grantee's affiliated economic development corporation, did not constitute taxable expenditures. The Service noted that the organization provided substantially all of its assistance to local businesses on noncommercial terms. Moreover, there was a nexus between the businesses it assisted and its exempt purpose because substantially all of the recipients of assistance conducted commercial business activities in the targeted area and the recipients were selected based upon whether the business would offer a community benefit in exchange for the grant. In General Counsel Memorandum 39883 (Oct. 16, 1992), the Service followed similar logic.

In Private Letter Ruling 9223050 (Mar. 10, 1992), the Service ruled that an exempt organization, which had as one of its purposes to involve homeless persons in the political process in a nonpartisan manner, and which did not engage in grant-making activities, would qualify under section 4945(f). Grants by private foundations to the organization would not be treated as a taxable expenditures under section 4945(d)(2).

The Service addressed scholarship programs in Private Letter Rulings 9230030 (Apr. 30, 1992), 9204031 (Oct. 28, 1991), 9208024 (Nov. 26, 1991), 9220011 (Feb. 20, 1992), 9222050 (Mar. 3, 1992), and 9223058 (Mar. 13, 1992).

Termination Tax. The Service addressed termination tax issues in Private Letter Rulings 9226074 (Apr. 2, 1992), 9226078 (Apr. 3, 1992), 9229030 (Apr. 21, 1992), 9230031 (Apr. 30, 1992), 9234038 (May 28, 1992), 9204047 (Oct. 30, 1991), 9206036 (Nov. 15, 1991), 9209030 (Dec. 5, 1991), 9215057 (Jan. 17, 1992), 9223045 (Mar. 9, 1992), 9223053 (Mar. 11, 1992), and 9223056 (Mar. 13, 1992).

Non-Exempt Trusts

In Private Letter Ruling 9234033 (May 27, 1992), the Service ruled that a charitable trust, which was formed by several local physicians in a private medical practice under section 4947(a)(1) to make contributions to exempt local hospitals at which the physicians maintained medical staff privileges, would qualify as a nonexempt charitable trust under section 4947(a)(1) and that donors would be allowed to deduct any contributions as contributions to a private foundation.

Income of States and Municipalities

In *Texas Learning Technology Group v. Commissioner*, 958 F.2d 122 (5th Cir. 1992), the court held that an unincorporated association created by several public school districts was not a political subdivision that qualified for non-private foundation status because it lacked any sovereign powers and was not an integral part of the school districts that were political subdivisions.

In Private Letter Ruling 9152046 (Oct. 4, 1991), the Service ruled that a separate corporation organized by an Indian tribal government to operate an institution of higher education would not be relieved of the obligation to file Form 990 because the corporation did not qualify as a political subdivision under section 115. Under section 7871, for certain purposes an Indian tribal government subdivision is treated as a political subdivision of a state, but not for purposes of section 115.

In Private Letter Ruling 9218014 (Feb. 4, 1992), the Service ruled that income of a health insurance plan, which was created under a state statute to provide insurance for residents deemed "uninsurable," would be excludable under section 115.

In Private Letter Ruling 9222010 (Feb. 21, 1992), the Service ruled that unincorporated nonprofit association of local school boards performed an essential governmental function within the meaning of section 115.

In Private Letter Ruling 9240024 (July 6, 1992), the Service ruled that an unincorporated association of judges created under order of the judicial branch of a state government to improve the judicial system performed an essential governmental function.

In Private Letter Ruling 9243044 (July 29, 1992), the Service ruled that the income of a corporation, which was formed by a state for the ultimate purpose of managing and selling off assets of several financial institutions that were under receivership, would be excludable under section 115 because the corporation performed an essential governmental function. The corporation was funded with state revenue, and the governor appointed its board.

In Private Letter Ruling 9245007 (July 7, 1992), the Service ruled that the income realized by an unincorporated association, which was formed under state laws to provide employee benefit plans and administrative services to its members, would be excludable from gross income under section 115 because its income was derived from the performance of an essential governmental function. Its members consisted of higher education districts that, under state law, were authorized to levy and pledge an ad valorem tax. The association derived its income from membership fees and assessments. The association's bylaws provided that upon dissolution of the association, any net assets remaining would be distributed to its members pro rata.

In Private Letter Ruling 9247014 (Aug. 21, 1992), the Service ruled that an unincorporated association formed under state law as a property insurance pool for municipal governments performed an essential governmental function.

In Private Letter Ruling 9247015 (Aug. 21, 1992), the Service ruled that income earned by a corporation formed to facilitate the construction of acquisi-

tion of capital improvements for local governments by issuing certificates of participation would be excludable from gross income under section 115 because it was derived from the exercise of an essential governmental function.

In Private Letter Ruling 9248024 (Aug. 31, 1992), the Service ruled that the revenues derived from the operation of a public transit authority by a nonprofit corporation are excludable under section 115 because provision of public transportation is an essential governmental function. All revenues from the operation of the system, were deposited by the corporation into the bank accounts of the municipality, which reimbursed the corporation for its costs. The municipality retained title to all property and equipment used by the system.

In Private Letter Ruling 9249015 (Sept. 4, 1992), the Service ruled that the income of an organization, which assisted its members, consisting of counties and other political subdivisions of a state, in recruiting management personnel, acquiring equipment, and obtaining insurance, would be excluded under section 115 because the organization performed an essential governmental function. The board of directors consisted of representatives of the members. Upon dissolution, any net assets remaining would be distributed to political subdivisions.

Procedure

In *Church of Scientology of California v. United States*, 113 S. Ct. 447 (1992), the Court held that the appellate court improperly dismissed as moot an appeal brought by the Church of Scientology in a summons enforcement case when the Service sought to obtain tape recordings of conversations between officials of the church and their attorneys. The Court held that compliance with the district court's order did not moot the church's appeal because the appellate court had the power to effectuate partial remedies by ordering the Service dispose of or give back any duplicates of the tapes that it held. In so holding, the Court rejected a line of authority precluding appellate review after a taxpayer complies with a summons enforcement order.

Proposed College and University Examination Guidelines

In Announcement 93-2, 1993-2 I.R.B. 39 (Jan. 11), the Service issued proposed guidelines for Exempt Organization Division agents to use during examinations of colleges and universities.

Industry Specialization Program

In Manual Transmittal 7(10)00-183 (Oct. 13, 1992), the Service required that all technical questions regarding exempt organization Industry Specialization Program cases must be discussed with the industry specialist prior to discussing the matter with the national office's Exempt Organization Technical Division.

Self-Employment Income

The Service addressed self-employment income issues, as governed by Revenue Procedure 91-20, 1991-1 C.B. 524, in the following rulings: Private Letter Rulings 9226020 (Mar. 24, 1992), 9238036 (June 23, 1992), and 9219012 (Feb. 4, 1992).