

**Internal Revenue Service**

*Department of the Treasury*

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**Washington, D.C.**

**Person to Contact:**

**Telephone Number:**

**Refer Reply to:**  
CC:TE/GE:EO2 PLR-113662-02

**Date:**  
**Sept. 27, 2002**

**LEGEND**

Entity =

State =

State Statute A =

State Statute B =

Medical University =

Dear :

This is in reply to a letter dated December 3, 2001, requesting a ruling that the Entity is a political subdivision of State.

**FACTS**

The Entity was created by State Statute A to manage the medical university hospital and related medical facilities. Control and supervision of the Entity is vested in a board of directors that is identical to the board of the Medical University, which is an integral part of State. The board consists of fourteen members. The members of the board include the governor of State, one member appointed by the governor and twelve members elected by the state legislature. The Entity's revenues consist of state appropriations, charitable contributions and payments for patient medical care, either directly from patients, from private insurers, Medicare or Medicaid. The state legislature has appropriated funds to Entity for its operating and maintenance expenses. The Entity is required to submit an annual audit and an annual budget to the State. Statute A requires that all of the Entity's funds must be used only for public purposes.

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The Entity represents that under State Statute B it is granted powers of eminent domain, subject only to the limitations that (1) the Entity may exercise the power only with respect to private lands, and (2) the land condemned must be used by the Entity in the performance of its functions in the acquisition, construction, and operation of facilities for the medical university of State.

## LAW AND ANALYSIS

### Political Subdivision

The Internal Revenue Code does not define the term “political subdivision.” Section 1.103-1(b) of the Income Tax Regulations provides that the term “political subdivision” denotes any division of any state or local governmental unit that is a municipal corporation or that has been delegated the right to exercise part of the sovereign power of the unit. As thus defined, a political subdivision of any state or local governmental unit may or may not, for purposes of this section, include special assessment districts so created, such as road, water, sewer, gas, light, reclamation, drainage, irrigation, levee, school, harbor, port improvement, and similar districts and divisions of these units. Revenue Ruling 78-276, 1978-2 C.B. 256, states that the term “political subdivision” has been defined consistently for all federal tax purposes as denoting either (1) a division of a state or local government that is a municipal corporation, or (2) a division of such state or local government that has been delegated the right to exercise sovereign power.

Accordingly, our first inquiry is whether the Entity is a division of the State. In determining whether an organization is a division of a state or local governmental unit, important considerations are the extent the organization is (1) controlled by the state or local government unit, and (2) motivated by a wholly public purpose. Revenue Ruling 83-131, 1983-2 C.B. 184.

Consideration of these principles as they apply to the facts in this case, leads us to conclude that the Entity is a division of the State. The Entity was created pursuant to State legislation, and the Entity directly reports to the State governor and the State legislature. All actions of the Entity are subject to review by the State legislature. The State can thus prevent changes in the organization or operation of the Entity that would threaten the public purposes for which the Entity was created. All of the Entity’s funds inure to the benefit of the State and may be used only for public purposes. The State legislature appropriates funds to Entity for its operating and maintenance expenses. The Entity is required to submit an annual audit and an annual budget to the State. Control and supervision of the Entity is vested in a board of directors that consists of the board of trustees of the Medical University of State, which is an integral part of State.

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The Entity's general purpose of management, regulation, and operation of the Medical University of State and related medical facilities, is a wholly public purpose.

Having concluded that the Entity is a division of the State, our next inquiry is whether the Entity has been delegated the right to exercise sovereign power.

Three generally acknowledged sovereign powers of states are the power to tax, the power of eminent domain, and the police power. Estate of Shamberg, 3 T.C. 131 (1944), acq., 1945 C.B.6, aff'd, 144 F.2d 998 (2d Cir. 1944), cert. denied, 323 U.S. 792 (1945). It is not necessary that all three of these powers be delegated in order to treat an entity as a political subdivision for purposes of the Code. However, possession of only an insubstantial amount of any or all of the sovereign powers is not sufficient. All of the facts and circumstances must be taken into consideration, including the public purposes of the entity and its control by a government. Revenue Ruling 77-164, 1977-1 C.B. 20.

The Entity represents that under State law it is granted powers of eminent domain, subject only to the limitations that (1) the Entity may exercise the power only with respect to private lands, and (2) the land condemned must be used by the Entity in the performance of its functions in the acquisition, construction, and operation of facilities for the Medical University of State. These powers of eminent domain are commensurate with a substantial exercise of that power.

The Entity has been delegated the right to exercise sovereign power and is also a division of the State since it is controlled by the State and is motivated by a wholly public purpose. We thus conclude that the Entity is a political subdivision of the State under § 1.103-1(b).

#### Section 170

Section 170(a)(1) of the Code provides, subject to certain limitations, a deduction for contributions or gifts to or for the use of organizations described in § 170(c). payment of which is made within the taxable year.

Section 170(c)(1) states that the term "charitable contribution" includes a contribution or gift made to or for the use of a State, a possession of the United States, a political subdivision of a State or any possession of the United States, or the District of Columbia, but only if the contribution is made for exclusively public purposes.

Because the Entity is a political subdivision of State, contributions or gifts to or for the use of the Entity are to or for the use of an entity described in § 170(c)(1) of the Code. Accordingly, contributions or gifts to or for the use of the Entity are to or for the use of State and, provided they are made for exclusively public purposes, are generally deductible under § 170(c)(1) to the extent otherwise allowed by § 170.

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Except as specifically provided otherwise, no opinion is expressed on the federal tax consequences of any particular transaction.

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

In accordance with a Power of Attorney on file, we are sending a copy of this letter to your representative.

Sincerely,

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Elizabeth Purcell, Chief  
Exempt Organizations  
Branch 2  
Division Counsel/Associate  
Chief Counsel  
(Tax Exempt and Government  
Entities)

Enclosures;

CC: