



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

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Dear \*\*\*\*\*

This is in reference to your letter dated October 7, 2005 requesting information about the tax laws that would be applied to determine the appropriateness of an activity conducted by a charitable foundation related to a fraternal organization described in section 501(c)(8) of the Internal Revenue Code.

The activity involves the payment of educational or medical benefits to the children and spouses of members of the fraternal organization who die in the scope of their employment. Educational benefits are provided up to the age of 25. For medical benefits, the foundation will pay for benefits not picked up by other insurance.

It is well established in the law of charities that educational benefits in the form of scholarships and student loans are a charitable endeavor if they are granted on the basis of need (Rev. Rul. 66-103) or merit (Rev. Rul. 69-257) and are not subordinate to private purposes as could be the case where the payments are to pre-selected, specifically named individuals. The fact that the class of potentially eligible recipients in this case is large and the eligible recipients are undetermined at the outset of the program would most likely alleviate any concerns we may have regarding private benefit.

Moreover, the relief of the poor or distressed or of the underprivileged are among those purposes listed in the Income Tax Regulations as being examples of "charitable" purposes in the generally accepted legal sense. The Service has recognized (Notice 2001-78) that the sudden death of an individual can create circumstances including financial need where payments made to the affected family members may be considered charitable in nature if the payments are made in good faith using objective standards.

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When distributions are made to individuals or families in connection with this program, case histories regarding the recipients should be kept showing names, addresses, purposes of awards, manner of selection, and relationship (if any) to members, officers, trustees or donors of funds to the foundation, so that any and all distributions made to individuals can be substantiated upon request by the Service.

We trust this information will be of assistance to you.

Sincerely,

Robert C. Harper, Jr.  
Manager, Exempt Organizations  
Technical Group 3