

INTERNAL REVENUE SERVICE

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March 22, 2000

City =

X =

State =

Law 1 =

Law 2 =

Law 3 =

Date 1 =

Board =

Agency =

Z =

W =

CC =

ED =

P =

C =

Property =

V =

t =

s =

Dear :

This is in response to a letter dated October 1, 1999, and prior correspondence, requesting rulings that X is a political subdivision, contributions to X may be deductible for federal income tax purposes, and X need not file a federal income tax return.

FACTS

City is a political subdivision of State. Pursuant to State's Law 1, Board, the governing body of City, enacted Law 2 on Date 1. Law 2 established X. Under Law 2, the purpose of X is to promote and enhance the business environment of that part of City within its geographical boundaries, which are set by Law 2.

Under both Law 2 and State's Law 3, X is a body corporate and politic. It can: sue and be sued; acquire, hold, and convey property; make contracts; borrow money; construct, own, operate, and maintain public improvements within its boundaries; operate retail management programs; provide, with certain exceptions, services historically provided by City; accept donations; construct, acquire, and operate parking facilities; and operate revenue-sharing facilities or events. State's Agency has recognized X as a political subdivision of State.

X recommends to Board the imposition of a tax levy on real property within X's boundaries. Under Law 2, the recommendation is mandatory on Board. The recommended levy may not exceed z% of the regular municipal property tax imposed by City, and Law 2 exempts residential property consisting of no more than w units. City collects the levy for X and deposits it in a special fund for X that is accounted for in City's general fund. X must reimburse City for each tax bill issued on account of the levy. X receives disbursements in accordance with its annual budget.

X's board ("BC") is its executive body. BC approves X's annual budget, makes administrative decisions, and interprets X's policy. BC is comprised of both voting and nonvoting members. Nonvoting members are the ex officio CC, ED, P and C. Voting members include City's mayor, Board's president, and the owner of Property, or their designees. Additional voting members include no less than y nor more than t elected individuals. Only owners of real property within X and either managers of businesses within X or tenants of property within X are eligible to become

elected voting members. BC or any s property owners or tenants in X can nominate elected voting members. Only owners of property within X may vote for elected members.

City remains obliged to perform municipal services to X, and private parties within X are subject to City regulations.

X may be dissolved by City ordinance or referendum among all owners of property within X. If X has liabilities remaining after dissolution, Board may impose a levy on real property in X in the same manner as BC could have so long as the liabilities remain outstanding. If X has any assets upon dissolution, the assets must be transferred to City. X must indemnify City, its officials, and employees from liability, provide an annual report to City, and allow City to inspect its records.

LAW and ANALYSIS

Income of a political subdivision of a state is not taxable absent specific statutory authorization. See Rev. Rul. 87-2, 1987-1 C.B. 18; GCM 14407, C.B. XIV-1, 103 (1935), superseded by Rev. Rul. 71-131, 1971-1 C.B. 28.

Section 1.103-1(b) of the Income Tax Regulations provides that the term "political subdivision" denotes any division of a state or local governmental unit which is a municipal corporation or which has been delegated the right to exercise part of the sovereign power of the unit. That section further provides that special assessment districts (such as those for roads, water, sewer, etc.) may or may not qualify as political subdivisions.

Three generally recognized sovereign powers of states are the police power, the power to tax, and the power of eminent domain.

Under section 1.164-4 of the regulations, real property taxes that are deductible under section 164 of the Code are those levied for the general public welfare by the proper taxing authorities at a like rate against all property in the territory over which the authorities have jurisdiction. That section further provides that assessments paid for local benefits, such as streets, sidewalks, and other improvements, imposed because of and measured by some benefit inuring directly to the property assessed are not deductible as taxes.

Section 170(a)(1) of the Code allows, subject to certain limitations, a deduction for charitable contributions as defined in section 170(c), payment of which is made within the taxable year.

Section 170(c)(1) of the Code includes in the definition of "charitable contribution" a contribution or gift made for exclusively public purposes to or for the use of a state, a possession of the United States, a political subdivision of either a state or possession of the United States, the United States, or the District of Columbia.

Rev. Rul. 79-323, 1979-2 C.B. 106, holds that gifts to an industrial commission established by a state legislature for exclusively public purposes are deductible under section 170(c)(1) of the Code. Rev. Rul. 69-90, 1969-1 C.B. 63, holds that payments by merchants and property owners to a city to be used to provide public parking facilities in the general area of the business and properties of the contributors are charitable contributions as defined in section 170(c)(1).

The return-filing requirements of section 6012 of the Code do not apply to states or their political subdivisions. See Rev. Rul. 77-261, 1977-2 C.B. 45, and Rev. Rul. 78-316, 1978-2 C.B. 304.

City is required to impose the levy recommended by X. Consequently, X has the de facto ability to impose the levy.

The levy does not result in any improvements that benefit only the property assessed. Consequently, the levy is not an assessment against a local benefit. The benefit of the levy inures to the general public welfare, and qualifies as a power to tax.

X was created to provide coordinated promotion and enhancement of the downtown retail and general business environment of City. As in Rev. Rul. 79-323, such activities serve a public purpose by promoting the local economy. See also Rev. Rul. 69-90.

X is a political subdivision within the meaning of section 170(c)(1) of the Code, and therefore contributions to it will be deductible section 170(a) if they are made for exclusively public purposes.

CONCLUSION

Accordingly, we conclude that:

1. X is a political subdivision. It is not required to file a federal income tax return, and its income is not subject to federal income tax.

2. Contributions to X may qualify as contributions to an organization described in section 170(c)(1) of the Code subject to the limitations therein.

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

Except as specifically provided otherwise, no opinion is expressed on the federal income tax consequences of the transaction described above. Specifically, no opinion is expressed or implied concerning X's ability to issue "tax-exempt" obligations for purposes of sections 103 and 141 through 150 of the Code.

In accordance with the terms of a power of attorney on file in this office, a copy of this letter is being sent to your authorized representative.

Sincerely,
Assistant Chief Counsel
(Financial Institutions & Products)
By: William E. Coppersmith
Chief, Branch 2