

members separately. Membership in Authority is open to any city located in County. A jurisdiction that is not located in County but is contiguous to the geographic area served by Authority may also become a member, subject to approval by Authority. In no case may an entity other than a state, a political subdivision of State, or an entity the income of which is excluded from gross income under § 115 of the Code become a member of Authority.

Authority's charter documents consist of bylaws and an Interlocal Cooperative Agreement (Agreement) adopted by its members pursuant to State Statute. Statute provides that a local government may jointly exercise with other local governments the power to provide governmental services for the public health and welfare. Pursuant to Agreement, Authority is governed by a board of up to nine directors. There are currently six directors. Four directors are appointed by City A. One director is selected by the other member cities. One director is appointed by Medical Board. Medical Board is a body created by Authority to oversee the medical services provided by Authority. The Medical Board's members include the medical directors of each 24 hour a day hospital emergency department located within the area served by Authority and five additional physicians, all specialists in areas related to emergency medical care, who are appointed by the county medical society.

Authority provides its members with ambulance service and related emergency medical services. It procures equipment, manages administrative expenses, handles billings, and contracts for the services of a private ambulance provider. The relatively low population and low population density of some portions of County and the extremely high, start-up and fixed operation costs of a state-of-the-art emergency medical system, make the cost of providing ambulance care high. To maximize economies of scale Authority awards the right to provide ambulance operations for all of its members to a single provider.

Authority's income is derived from annual subsidy payments from its members, fees collected from patients for ambulance services, and contributions of equity made by each of its members. Under Agreement each member chooses its method of payment for the year from a schedule of price and subsidy options. Authority anticipates that it may issue bonds in the future to finance the acquisition of ambulances and related emergency medical equipment. Authority's income and any proceeds from the issuance of bonds will be used solely to provide emergency medical services to its members. Authority represents that it is not a partner in a partnership with a private party, nor is it engaged in a joint venture or profit sharing enterprise with any private party with respect to any of its activities. Authority's bylaws provide that no part of the assets of Authority inure to the benefit of a private person other than reasonable compensation for goods or services rendered. Upon dissolution of Authority all of its assets will be distributed to its members.

LAW AND ANALYSIS

Section 115(1) of the Code provides that gross income does not include income derived from any public utility or the exercise of any essential government function and accruing to a state or any political subdivision thereof.

In Rev. Rul. 77-261, 1977-2 C.B. 45, income from an investment fund, established under a written declaration of trust by a state, for the temporary investment of cash balances of the state and its participating political subdivisions, was excludable from gross income for federal income tax purposes under § 115(1). The ruling indicated that the statutory exclusion was intended to extend not to the income of a state or municipality resulting from its own participation in activities, but rather to the income of a corporation or other entity engaged in the operation of a public utilities or the performance of some governmental function that accrued to either a state or municipality. The ruling points out that it may be assumed that Congress did not desire in any way to restrict a state's participation in enterprises that might be useful in carrying out projects that are desirable from the standpoint of a state government and which are within the ambit of a sovereign to properly conduct. In addition, pursuant to § 6012(a)(2) and the underlying regulations, the investment fund, being classified as a corporation that is subject to taxation under subtitle A of the Code, was required to file a federal income tax return each year.

In Rev. Rul. 90-74, 1990-2 C.B. 34, the Service determined that the income of an organization formed, funded, and operated by political subdivisions to pool various risks (casualty, public liability, workers' compensation, and employees' health) is excludable from gross income under § 115 of the Code. In Rev. Rul. 90-74, private interests neither materially participate in the organization nor benefit more than incidentally from the organization.

By facilitating emergency medical services throughout County, Authority helps to promote public health. Promoting public health is an essential governmental function.

The income of Authority is used solely for the purposes of providing public health services to the citizens of County. Any income will accrue solely to the members of Authority, all of which are a state, a political subdivision of a state or an entity the income of which is excludable from gross income under § 115(1). The income of Authority will not accrue to private parties, other than incidentally, as reasonable compensation for providing goods and services. Upon termination of Authority, its remaining funds will be distributed to its members.

CONCLUSION

Based on the information and representations submitted by Association we hold that the income of Authority is derived from the exercise of an essential governmental function and will accrue to a state or a political subdivision thereof for purposes of § 115(1). Accordingly, Authority's income is excludable from gross income under § 115(1) of the Code.

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,

Barbara E. Beckman
Assistant Chief, Branch 2
Division Counsel/Associate
Chief Counsel
(Tax Exempt and Government
Entities)

Enclosures;

Copy of this letter

Copy for § 6110 purposes

CC: