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LEGEND

Corporation A	=
Corporation B	=
Corporation C	=
Hospital 1	=
Hospital 2	=
Hospital 3	=
Hospital 4	=
LP	=
GP	=
State	=
Bonds	=
Issuer	=

Dear :

This letter is our reply to your request for a ruling that the establishment of a limited partnership and a general partnership by two § 501(c)(3) hospital-related organizations and the use by these partnerships of certain bond-financed property (described below) will not cause the bond-financed property to be treated as owned or used by other than a § 501(c)(3) organization for purposes of §§ 145(a) and 141(b).

FACTS AND REPRESENTATIONS.

Corporation A is a § 501(c)(3) organization, other than a private foundation under § 509(a)(1) of the Code. Corporation A owns and operates Hospital 1, Hospital 2, and Hospital 3, each of which operated for many years as independent § 501(c)(3) organizations prior to the formation of Corporation A. Corporation B is a § 501(c)(3) organization and is the sole member of Corporation A and Hospital 4. It is also the controlling organization of a number of other health-related entities. All of these hospitals and related entities operate within a local healthcare system.

Corporation C is a § 501(c)(3) organization that was formed under § 509(a)(3) as a supporting organization of Hospital 2.

LP is a limited partnership formed under the laws of State with Corporation A and Corporation C as the limited partners, and GP as the 0.10% general partner. GP is a limited liability company, formed under the laws of State, whose members are Corporation A and Corporation C. LP is subject to the Limited Partnership Agreement and GP is subject to the Limited Liability Company Agreement. Under these agreements, the interests of Corporation A and Corporation C in GP are in the same proportion as their interests in LP. Both LP and GP are treated as partnerships for federal income tax purposes.

LP was formed to manage certain properties (the "Properties") owned by Corporation A, Hospital 1, Hospital 2, Hospital 3, and Hospital 4 (as well as their exempt affiliates) in furtherance of their exempt purposes and activities. The specific purposes of LP are to centralize management, maximize the use and value, and to coordinate the current and future use of the Properties. The Properties do not include the participant's basic hospital facilities. Instead, they consist of related, peripheral properties on and around the various hospital campuses. Management control is established through a lease or purchase option of certain of the Properties from the limited partners or their affiliates to LP.

One of the Properties, a parking garage (the "garage"), was acquired and improved with a portion of the Bond proceeds. The balance of the Bond proceeds are allocated to facilities other than the Properties. The garage, which is adjacent to the hospital facility operated by Hospital 1, will be leased to LP and will continue to be utilized in a manner relating to the exempt purposes of Hospital 1 under § 501(c)(3). With respect to the garage, no activity of Hospital 1, the limited partners of LP, the general partners of LP, the general partners of GP, or any exempt affiliate of the

foregoing (altogether, the"entities") including leasing the garage to LP or its management by LP, will be an unrelated trade or business activity, as defined by § 513, of the entities or any one of them. The obligation to repay the bonds remains with Corporation A and will not be assumed by LP.

The purpose of LP's management activities, including those related to the garage, is to further the exempt purposes of its tax-exempt limited partners. Both the Limited Partnership Agreement of LP and the Limited Liability Company Agreement of GP contain provisions prohibiting each entity from engaging in any activity whose nature and magnitude would adversely affect the tax-exempt status of its partners or members or adversely affect compliance with tax-exempt bond financing requirements. The leases of the Properties to LP also contain similar prohibitions. Furthermore, the Limited Liability Company Agreement of GP places significant limitations on GP s management and control of LP and reserves these areas for approval by Corporation A and Corporation C.

It is represented that all allocations to the partners of LP are consistent with each partner being allocated the same distributive share of each item of income, gain, loss, deduction, credit and basis, and that such share remains the same during the entire period that the entity remains a partner in LP.

LAW AND ANALYSIS.

Section 103(a) of the Code provides that, except as provided in § 103(b), gross income does not include interest on any state or local bond.

Section 103(b) provides, in part, that § 103(a) shall not apply to any private activity bond that is not a qualified bond within the meaning of § 141.

Section 141(a) provides that the term "private activity bond" includes any bond issued as part of an issue that meets the private business use test of § 141(b)(1) and the private security or payment test of § 141(b)(2), or meets the private loan financing test of § 141(c).

Section 141(b)(1) provides that, except as otherwise provided in § 141(b), an issue meets the private business use test if more than 10 percent of the proceeds of the issue are to be used for any private business use.

Section 141(b)(6)(A) provides that for purposes of § 141(b), the term "private business use" means use (directly or indirectly) in a trade or business carried on by any person other than a governmental unit. Section 141(b)(6)(B) provides that any activity carried on by a person other than a natural person is treated as a trade or business.

Section 141(e)(1)(G) provides that a "qualified bond" includes a qualified 501(c)(3) bond. Under § 145(a), qualified 501(c)(3) bonds are defined as bonds that would not be private activity bonds if § 501(c)(3) organizations were treated as

governmental units with respect to their activities that do not constitute unrelated trades or businesses by applying § 513(a). In making this determination, a 5 percent of net proceeds test (rather than the 10 percent of proceeds test applicable to governmental bonds) is used in applying the private business tests of § 141(b)(1) and (2) in § 145(a). Section 145(a)(1) provides that all property which is to be provided by the net proceeds of a tax-exempt bond issue must be owned by a 501(c)(3) organization or a governmental unit.

Section 513(a) provides that the term "unrelated trade or business" includes any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its charitable, educational or other purpose or function constituting the basis for its exemption under § 501. The term, however, does not include any trade or business that is carried on by the organization primarily for the convenience of its members, students, patients, officers, or employees.

Under § 7701(a)(1), a person means and includes a partnership where not otherwise distinctly expressed in or manifestly incompatible with the intent of the provision under Title 26 where the term is used. Under § 7701(a)(2), the term "partnership" includes any group, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not a trust, estate, or corporation.

Under subchapter K of the Code, a partnership is considered for various purposes to be either an aggregate of its partners or an entity independent of its partners.[1] Under the aggregate approach, each partner is treated as an owner of an undivided interest in partnership assets and operations. Under the entity approach, the partnership is a separate entity in which partners have no direct interest in the partnership's assets and operations. Rev. Rul. 75-62, 1975-1 C.B. 188, provides that there is no exclusive rule as to when a partnership will be viewed as an entity or an aggregate. The resolution is generally dependent upon the question to be resolved.

It has been represented that LP and GP will both be treated as partnerships for federal income tax purposes.

In this case, the purposes of § 145 will be furthered if, with respect to use of the garage, partnerships LP and GP are treated as aggregates rather than as separate entities. With limited exceptions, § 145 confines the applicability of § 103(a) to financing arrangements that exclusively benefit § 501(c)(3) organizations that are engaging in activities related to their charitable purposes or governmental units. Under the Limited Partnership Agreement, the Limited Liability Company Agreement, and the applicable lease agreements, the garage will be used solely in furtherance of the

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[1] S. Rep. 1622, 83d Cong., 2d Sess. 89 (1954); H.R. Rep. 2543, 83d Cong., 2d Sess. 59 (1954).

charitable purposes of Hospital 1, the limited partners of LP and the partners of GP. Further, it is represented that leasing the garage will not be an unrelated trade or business activity of Hospital 1, any of the limited partners of LP, or the general partners of GP. Finally, all allocations to the partners of LP will be consistent with each partner being allocated the same distributive share of each item of income, gain, loss, deduction, credit and basis, and such share will remain the same during the entire period the entity is a partner.

CONCLUSION.

We conclude that the use of the garage by LP and GP will not cause the garage to be treated as owned by or used in the trade or business of a person other than a § 501(c)(3) organization for purposes of §§ 145(a) and 141(b).

No opinion is expressed regarding the consequences of this transaction under any section of the Code or the Income Tax Regulations, except as specifically stated in this ruling. In particular, no opinion is expressed whether interest on the Bonds is excludible from the gross income of the Bond holders under § 103 of the Code. Also, no opinion is expressed regarding the effect of the transaction on the exempt status under § 501(c)(3) of any of the entities described above.

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

Sincerely, ...
Office of the Assistant Chief Counsel
(Exempt Organizations/Employment Tax)

by Timothy L. Jones
Senior Counsel, Tax Exempt Bond Branch