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Department of the Treasury
TAX OFFICE OF COURSE

Phone Contact: L. N. Stegner
Phone Number: 202-964-6650



DO: 58

Internal Revenue Service
Washington, DC 20224

Date: 17 JUN 1974 | In reply refer to: T:MS:EO:R:1-3

Board of Trustees for The
University of Alabama, a
body corporate
P. O. Box 1964
University, Alabama 35486

Gentlemen:

This is in reply to a letter dated November 26, 1973, submitted on your behalf by your representative, Mr. C. Glenn Powell, with respect to the tax exempt status of your organization.

Our records indicate that you were recognized exempt from Federal income tax under section 101(6) of the Internal Revenue Code of 1939, which corresponds to section 501(c)(3) of the Internal Revenue Code of 1954, in a ruling dated July 9, 1945.

Specifically, you request: (1) verification or correction of the employer identification number of The Board of Trustees for The University of Alabama, a body corporate, (2) a clear determination as to the proper exemption for your organization, i.e. whether it should be under section 501(c)(3) of the Code or section 115(a)(1) of the Code, and (3) a ruling on the private foundation status of the Board of Trustees for The University of Alabama, a body corporate.

Section 115(a) of the Internal Revenue Code of 1954 provides in part that gross income does not include income derived from the exercise of any essential governmental function and accruing to a state or any political subdivision thereof.

The information submitted indicates that the income of the Board of Trustees does not accrue to the State or any political subdivision thereof within the meaning of section 115(a) of the Code. We do not see that the income of the Board of Trustees is paid over to the State of Alabama or any political subdivision thereof.

Board of Trustees for The University of Alabama,
a body corporate

Accordingly, it is held that the income derived by the Board of Trustees for The University of Alabama, a body corporate is not excludable under section 115(a) of the Code.

In addition, we have determined that your proper classification for exemption from Federal income tax is section 501(c)(3) of the Internal Revenue Code of 1954. Further, we have determined that you are not a private foundation within the meaning of section 509(a) of the Code, because you are an organization described in section 509(a)(1) and 170(b)(1)(A)(ii).

Section 3121(b)(7) of the Federal Insurance Contribution Act (FICA) and section 3306(c)(7) of the Federal Unemployment Tax Act (FUTA) provide that services performed in the employ of a wholly owned instrumentality of a State of a political subdivision of a State are excepted from the definition of "employment". Accordingly, if your organization is a wholly owned instrumentality, remuneration for services performed for you is not subject to taxes imposed by the FICA or the FUTA. When Social Security is desired for employees of a wholly owned instrumentality of a State of a political subdivision, the coverage may be obtained only by means of an agreement between the State and the Secretary of Health, Education, and Welfare, entered into pursuant to a section 218 agreement of the Social Security Act, as amended.

The waiver procedure in section 3121(k) of the FICA is not applicable to a wholly owned instrumentality of a State or political subdivision even though the particular instrumentality also qualifies for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

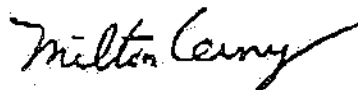
You are required to file Form 990, Return of Organization Exempt From Income Tax, only if your gross receipts each year are normally more than \$5,000. If a return is required, it must be filed by the 15th day of the fifth month after the end of your annual accounting period. The law imposes a penalty of \$10 a day, up to a maximum of \$5,000, for failure to file the return on time.

Board of Trustees for The University of Alabama,
a body corporate

An employer identification number will be assigned to you and you will be advised of it. Please use that number on all returns you file and in all correspondence with the Internal Revenue Service.

We are informing your key District Director, Atlanta, of the contents of this ruling. Please keep this ruling in your permanent records.

Sincerely yours,



Milton Cerny
Chief, Rulings Section I
Exempt Organizations Branch