

Establishment of Political Action Committees Will Not Jeopardize Hospital's Exempt Status

Recently, the Internal Revenue Service ("IRS") issued a private letter ruling (the "Ruling") that will allow the requesting tax-exempt hospital to establish and operate a social welfare organization as a means of engaging in political activities and establishing a larger presence in the political arena. The Ruling concluded that these actions will not jeopardize the hospital's tax-exempt status under the Internal Revenue Code of 1986, as amended, ("IRC") § 501(c)(3). Pursuant to IRC § 501(c)(3), a corporation organized and operated exclusively for religious, charitable, scientific, literary or educational purposes is exempt from federal income taxes, provided that its net earnings do not inure to the benefit of a private individual and a substantial part of its activities do not involve lobbying or related political conduct.

The requesting hospital is a comprehensive regional, integrated health care system that has qualified as a tax-exempt, charitable organization (the "Hospital"). Currently, the Hospital conducts an insubstantial amount of lobbying through its government affairs department (the "Department"), in an effort to improve the cost efficiency of health care services. The Ruling serves to permit the Hospital to take a more active role in the political arena, through the formation of a separate, non-profit social welfare organization (the "Organization") that will, in turn, establish two independent political action committees (collectively "PACs").

Social welfare organizations are tax-exempt entities that are designed to promote the general welfare of the community. See IRC § 501(c)(4). Social welfare organizations may conduct political campaign activities and establish political organizations, as long as political campaigning is not the primary activity. Reg. § 1.501(c)(4)-1(a)(2)(ii). Accordingly, in order for the Hospital to create the Organization, the IRS requires that the Organization (a) remain independent from the Hospital and (b) apply for tax-exempt status as a social welfare organization. Notwithstanding the preceding sentence, the Hospital proposed that it would remain the sole voting member of the Organization, and that the majority of the Organization's Board of Directors would be officers, directors or employees of the Hospital. The IRS permitted the Hospital to act accordingly, provided the Hospital complied with the IRS requirements set forth in this Legal Alert, and expanded upon in the Ruling.

The Ruling permitted the Organization to establish two PACs for the purpose of accepting contributions from, or making expenditures to, a political candidate or party. See IRC § 527(e). As part of its analysis, the IRS concluded that the PACs, Organization and Hospital must operate independently, in order to ensure that the political activities of the Organization and the PACs would not be attributed to the Hospital and would not impact the Hospital's tax-exempt status. To comply with the Ruling, the PACs must maintain separate bank accounts and records, as well as separate

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addresses and phone numbers. In addition, any leasing or sharing of employees, goods or services among the Hospital, Organization and PACs must be conducted at arms-length.

Furthermore, the Ruling concluded that the Hospital may establish and operate a voluntary payroll deduction plan permitting Hospital employees to make political contributions through the PACs. The Ruling provided that political contributions by employees of the Hospital will not impact the tax-exempt status of the Hospital, as long as the Hospital does not influence the employees' choices regarding contribution.

Please note that this Private Letter Ruling is limited to the facts at issue, and should not be relied upon by anyone other than the Hospital. If you should have any questions concerning this Ruling, please do not hesitate to contact the GW attorney with whom you regularly consult.

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If you have any questions regarding this Legal Alert, please contact Patrick J. Monahan II, Esq. at (203) 316-0483.

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