



**DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE**

**TAX EXEMPT – GOVERNMENT ENTITIES  
FEDERAL STATE LOCAL GOVERNMENT**

UNIVERSITY OF TEXAS SYSTEM  
601 COLORADO STREET 4<sup>th</sup> FLOOR  
AUSTIN, TX. 78701

**Address:**  
12309 N. Mopac Expressway  
Mailstop 4212 AUNW  
Austin, TX. 78758

**Person to Contact:**  
Steve C. O'Brien

**Badge Number:**  
1000245869

**Telephone Number:**  
(512) 339-5508

**Date:** December 7, 2012

Dear Sir or Madam:

Our records indicate the University of Texas System and all of its component institutions are still not subject to federal income taxation because they are agencies within the government of the state of Texas. Our National Office's letter dated March 20, 1984, is still in effect.

As agencies of the government of the state of Texas, the University of Texas System and all of its component institutions are described in sections 170(b)(1)(A)(v) and 170(c)(1) of the Internal Revenue Code of 1986. Donors may make tax deductible contributions to the System and its components as provided by section 170 of the code.

Code sections 2055(a)(1), 2106(a)(2)(A)(i), 2522(a)(1) and 2522 (b)(1) all provide that bequests, legacies, devices, or transfers "to or for the use of the United States, any State, any political subdivision thereof, or the District of Columbia, for exclusively public purposes" can be deducted from the applicable tax returns. This is basically the same phrase as used in section 170(c)(1) of the Code which describes the University of Texas System as mentioned above. As long as the University of Texas System is described in those sections and otherwise meets the applicable provisions of these Code sections when a donation or bequest, etc. is made, it will be a qualified recipient; however, the actual conditions or restrictions of the gift or bequest will have to be considered at that time to determine the amount deductible.

(2)

The University of Texas System's status as tax exempt will, at all times, include the component institutions as set out under state law.

Based on the information submitted, the current components of the University of Texas System (EIN 30-0710145), are:

The University of Texas at Arlington (EIN 75-60000121)  
The University of Texas at Austin (EIN 74-6000203)  
The University of Texas at Brownsville (EIN 74-2759269)  
The University of Texas at Dallas (EIN 75-1305566)  
The University of Texas at El Paso (EIN 74-6000813)  
The University of Texas - Pan American (EIN 74-6002942)  
The University of Texas of the Permian Basin (EIN 75-1393493)  
The University of Texas at San Antonio (EIN 74-1717115)  
The University of Texas at Tyler (EIN 75-1396988)  
The University of Texas Southwestern Medical Center at Dallas (EIN 75-6002868)  
(formerly, The University of Texas Health Science Center at Dallas)  
The University of Texas Medical Branch at Galveston (EIN 74-6000949)  
The University of Texas Health Science Center at Houston (EIN 74-1761309)  
The University of Texas Health Science Center at San Antonio (EIN 74-1586031)  
The University of Texas M.D. Anderson Cancer Center (EIN 74-6001118)  
(formerly, The University of Texas System Cancer Center)  
The University of Texas Health Science Center at Tyler (EIN 75-6001354)  
The Board of Regents of the University of Texas System (EIN 27-2923415)

This letter is not a determination letter, but an information letter describing the information contained in our records. If any changes are made in the operations of your organization and you desire a new "ruling" letter, you will need to contact our National Office as was done for the 1984 ruling letter.

If you have any questions, please contact the person referred to at the above number.

Sincerely,

*Steve C. O'Brien*

Steve C. O'Brien  
Internal Revenue Agent  
FSLG Specialist

Cc: Kyle ZumBerge  
University of Texas System Office of General Counsel

**Internal Revenue Service**

Index Nos.: 0115.00-00  
0170.00-00  
2522.00-00  
0509.00-00  
4041.00-00

University of Texas System  
201 W. 7th Street  
Austin, TX 78701

**Department of the Treasury**

Washington, DC 20224

Person to Contact:  
Robert D. Patchell  
Telephone Number:  
(202) 566-3626  
Refer Reply to:  
CC:IND:I:3:2 - 3F2436  
Date: 20 MAR 1984

University System = University of Texas System

EIN: 74-6000203 DO 74 TY 84

- B = University of Texas at Arlington
- C = University of Texas at Austin
- D = University of Texas at Dallas
- E = University of Texas at El Paso
- F = University of Texas of the Permian Basin
- G = University of Texas at San Antonio
- H = University of Texas at Tyler
- I = University of Texas Institute of Texan  
Cultures at San Antonio
- J = University of Texas Health Science  
Center at Dallas
- K = University of Texas Medical Branch at  
Galveston
- L = University of Texas Health Science  
Center at Houston
- M = University of Texas Health Science  
Center at San Antonio
- N = University of Texas System Cancer  
Center
- O = University of Texas Health Center at  
Tyler

State = State of Texas

Board = Board of Regents of the University of  
Texas System

University = University of Texas

Dear Sir or Madam:

This is in response to a letter submitted on behalf of the University System and its component institutions requesting rulings concerning the tax status of these organizations.

According to the information submitted, the establishment of the University was mandated by section 10, article 7 of the constitution of State. Subsequently, the legislature

University of Texas System

established the University System under section 65.02 of Title 3, Tex. Education Code Ann. (Vernon) and organized thereunder the University and its component educational institutions listed as following: B, C, D, E, F, G, H, I, J, K, L, M, N, and O (collectively referred to as the "University System").

Statutory provisions vest the management, operation and control of the University System in the Board. Nine individuals, appointed by the governor of State with the advice and consent of the senate, serve on the Board and are included within the statutory definition of state employees. Additionally, the treasurer of the State has been designated as the treasurer of the University System.

The Board is authorized to prescribe the courses and programs of study that are required to obtain a degree from any of the component institutions in the University System. However, the Board may not establish a four-year undergraduate degree program at a component institution that has not been authorized to do so by specific legislation without obtaining prior approval by a two-thirds vote of the coordinating board of the University System and a specific act of the legislature.

The Board is empowered to make appointments in the component institutions under its control. In its discretion, the Board may also remove any officer, member of the faculty, or employee connected with the University System. The Board is authorized to accept gifts and donations for the benefit of the University System and any of its component institutions. Additionally, the Board has the power of eminent domain to acquire any land that may be necessary for the use of the University System and the taking of such property has been declared to be for the use of the State.

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

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Section 115 of the Code does not apply to the states or their political subdivisions, such as counties or towns (or integral parts thereof). Generally, the activities of states and their political subdivisions are exempt from federal income taxation in accordance with the constitutional law doctrine of intergovernmental tax immunity. Also, see Rev. Rul. 71-131, 1971-1 C.B. 28 and Rev. Rul. 71-132, 1971-1 C.B. 29, which hold that income derived from the operation of liquor stores by a state is not subject to federal income tax. Thus, section 115 only applies to organizations that are separate and apart from the state and its political subdivisions.

Based on the information submitted, we conclude that section 115 of the Code does not apply to the income of the University System and its component institutions because they are not organizations established separately from the State. The activities and organizational structure of the University System and its component institutions are established as an integral part of the State's public education program. Therefore, we conclude that the University System and its component institutions are not subject to federal income taxation because they are agencies within State's government.

Section 170(a) of the Code provides, subject to certain limitations, a deduction for contributions and gifts to or for the use of organizations described in section 170(c), payment of which is made within the taxable year.

Section 170(c)(1) of the Code provides, in part, that the term "charitable contribution" means a contribution or gift to or for the use of a state or any political subdivision thereof, but only if the contribution or gift is made exclusively for public purposes.

Section 170(b) of the Code provides, in part, that in the case of an individual, the deduction provided in section 170(a) shall be allowed for any charitable contribution to a governmental unit referred to in section 170(c)(1) to the extent that the aggregate of such contributions does not exceed 50 percent of the taxpayer's contribution base for the taxable year.

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Because we have determined that the University System and its component institutions are agencies within State's government, these organizations are described in sections 170(b)(v) and 170(c)(1). Therefore, we conclude that contributions to the University System and its component institutions are deductible by donors under section 170 of the Code provided such contributions are made for exclusively public purposes.

Section 2522(a)(1) of the Code provides that in determining the amount of taxable gifts for the calendar year there may be deducted in the case of a donor who was a citizen or resident of the United States at the time the gifts were made, all gifts included in the "total amount of gifts" made by the donor during the calendar year which were made to or for the use of the United States, any state or political subdivision thereof or the District of Columbia for exclusively public purposes.

Section 4.04 of Rev. Proc. 84-1, 1984-1 I.R.B. 10 provides that no gift tax ruling may be issued except to an actual taxpayer upon a specific set of facts. For purposes of the gift tax, the taxpayer is the donor. However, to the extent that the University System is a charity described in section 2522(a)(1) of the Code and all other requirements of section 2522 are met at the time of the gift, transfers to the University System and its component institutions will meet the requirements of that section of the Code.

We regret that we are unable to issue rulings with respect to sections 2055 and 2106 of the Code. Section 5.02 of Rev. Proc. 84-1 provides that the National Office will not rule on matters relating to the application of the estate tax to the property or estate of a living person.

We also are unable to issue a ruling as to the application of section 2602 of the Code. Section 5.02(1) of the foregoing Rev. Proc. provides that rulings are not issued until after the generation skipping trust, or trust equivalent, has been established. Rulings are not issued on a generation skipping transfer tax matter before distribution or termination takes place.

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Section 4041(g)(2) of the Code exempts from the taxes on diesel and special motor fuels imposed by section 4041 sales for the exclusive use of any state, political subdivision thereof, or the District of Columbia. Comparable exemptions from the tax on fuel used in commercial transportation on inland waterways, the tax on heavy trucks and trailers, the manufacturers excise taxes, the tax on communications and the highway use tax are provided by sections 4042(e)(3), 4053(b), 4221(a)(4), 4253(i), and 4483(a), respectively. Also, section 4991(b)(1) of the Code exempts oil from the windfall profit tax imposed by section 4986 where the oil is from an economic interest held by a state or political subdivision thereof and all the net income therefrom is dedicated to a public purpose.

Because the University System and its component institutions are a part of the State, they qualify for the state exemptions from federal excise taxes cited above.

Section 2 of Rev. Proc. 84-1 provides that procedures for obtaining rulings that apply specifically to federal firearms taxes under subtitle E of the Code are under the jurisdiction of the Bureau of Alcohol, Tobacco and Firearms. Therefore, we are unable to issue rulings with respect to sections 5123, 5214, 5362, and 5853 of the Code.

Section 509(a) of the Code provides that the term private foundation means a domestic or foreign organization described in section 501(c)(3) other than an organization described in section 170(b)(1)(A).

Section 501(c)(1) provides for the exemption of corporations organized under Act of Congress, if such corporations are instrumentalities of the United States and if, under such Act, as amended and supplemented, such corporations are exempt from federal income taxes.

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for charitable, educational, religious, or scientific purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

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Section 6033(a)(1) of the Code provides that, except as provided in paragraph (2), every organization exempt from taxation under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements and such other information for the purpose of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe.

Section 1.6033-2(g)(1) provides that a state institution, the income of which is excluded from gross income under section 115(a), and which is otherwise exempt under section 501(a) is not required to file an annual information return on Form 990.

Rev. Rul. 60-384, 1960-2 C.B. 172 provides that a wholly-owned state or municipal instrumentality which is a separate entity (emphasis added) and which is organized and operated exclusively for purposes described in section 501(c)(3) of the Code may qualify for exemption. A state or municipality itself, however, would not qualify as an organization described in section 501(c)(3).

Chapter 13 of the Exempt Organizations Business/Master File Handbook provides guidelines and procedures for listing organizations in the Cumulative List of Organizations in Publication 78 (Pub. 78).

Generally, the organizations listed in Pub. 78 are those that have applied for, and received a determination or ruling letter recognizing them to be exempt under section 501(c)(3). Since the University System and its component institutions have not applied for recognition of exemption under section 501(c)(3) and received a ruling or determination letter favorably recognizing such status and are not organizations exempt under section 501(c)(1), they do not meet the criteria for listing in Pub. 78. The University System and its component institutions were removed from the Exempt Organizations Master File because they had been erroneously listed as organizations recognized to be exempt under section 501(c)(1).

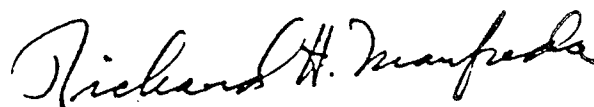
No opinion is expressed as to the federal income tax consequences of the transaction described above under any

University of Texas System

other provision of the Code.

This ruling is directed only to the organizations that requested it. Section 6110(j)(3) of the Code provides that it may not be used or cited as precedent. In accordance with the power of attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Richard H. Manfreda".

Chief, Individual Income  
Tax Branch

Enclosures 2  
Copy of this letter  
Copy for section 6110 purposes

**Internal Revenue Service**

**Date:** February 13, 2006

UNIVERSITY OF TEXAS AT SAN ANTONIO  
PAYROLL OFFICE  
6900 NORTH LOOP 1604 WEST  
SAN ANTONIO TX 78249

**Department of the Treasury**  
**P. O. Box 2508**  
**Cincinnati, OH 45201**

**Person to Contact:**

Gregory Renier  
31-07231

**Toll Free Telephone Number:**  
877-829-5500

**Federal Identification Number:**  
74-1717115

Dear Madam:

This is in response to your request regarding your federal tax status. Although our exempt organizations records do not specify your federal tax status, the following information may be helpful since it applies generally to state and local governments and organizations that are closely affiliated with governments.

Governmental units, such as States and their political subdivisions or integral parts thereof, are not generally subject to federal income tax. Political subdivisions of a State typically include a county, city or municipal government. Integral parts of a state and their political subdivisions typically include State agencies or authorities that have governmental powers, such as the power to tax or to exercise enforcement or regulatory powers. Contributions to governmental units are tax-deductible if made for a public purpose based on section 170(c)(2) of the Internal Revenue Code.

If, however, an entity is not itself a governmental unit (or an integral part of a governmental unit), its income may nevertheless be excluded from federal income tax by section 115 of the Code because it is derived from the exercise of an essential governmental function and accrues to a State or a political subdivision of a State. Libraries, hospital districts, fire departments, and ambulance districts formed by a municipality, city, or county typically are the types of entities whose income may be excluded from federal income tax under section 115. Although a private letter ruling concerning status of as a governmental unit or exclusion of income under section 115 of the Code may be obtained by following the procedures specified in Rev. Proc. 2005-1, 2005-1 I.R.B. 1 (updated annually), a ruling is not required.

Even though an organization's income may be excluded from federal income tax by section 115, an entity separate from a State, county, or municipal government that does not have powers or purposes inconsistent with exemption (such as the power to tax or to exercise enforcement of regulatory powers), may also qualify for exemption from federal income tax as an organization described in section 501(c)(3) of the Code to which charitable contributions are tax deductible to contributors under section 170(c)(2). To apply for exemption as a section 501(c)(3) organization to which contributions are deductible, an organization would complete Package 1023 (Revised October 2004).

Private foundations and other persons sometimes want assurance that their grants or contributions are made either to a governmental unit or a public charity. Generally, grantors and contributors may rely on the status of governmental units based on State or local government laws. However, section 501(c)(3) organizations would generally need to obtain recognition from the Internal Revenue Service of their exempt status to provide assurance to grantors or contributors.

Sincerely,

*Cindy M. Westcott*

Cindy Westcott  
Manager, EO Determinations