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TIME BANKING AND THE IRS

IRS: Time Banking is Not Commercial Barter

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Beginning in 1985, the US IRS has ruled that Time Banking programs are not “barter organizations” and that Time Dollars are not taxable.

The first ruling, made by a regional office of the IRS in 1985, involved the state-sponsored program operated in Missouri, said that “there will be no taxable consequences” to volunteers who earn credits as ‘reimbursement’ for services rendered. This ruling focused on the charitable nature of the organization, the charitable class served by the program, the fact that the organization was not a commercial for-profit barter club and that any qualifying person would receive such services without regard to cost.

The second was a private ruling covering a program set up to generate “service credit” exchanges among members. The central reason given for the ruling was that the credits were used primarily to motivate members and that no ‘contractual rights’ arose by owing them. The ruling noted that all hours were valued as equal, regardless of market value, and that the primary purpose of the credits was clearly to motivate members. Moral persuasion was the only means of enforcing a debt.

Charitable purposes include the relief of poverty, the advancement of education or religion, the promotion of health, governmental or municipal purposes, and other purposes the achievement of which are beneficial to the community.

The IRS distinguished time money from commercial barter clubs on the following grounds:

- Absence of a commission.
- Cash cannot be used to buy credits or eliminate a debt.
- The predominance of ‘like-for-like’ services in the exchange.
- The equal valuation given to all hours.

There can be no guarantee that the IRS will not reconsider its position at some future time. All rulings apply only to the particular party who applies for the ruling and state that they cannot be used or cited as precedent. Nonetheless, the rationale for the decisions involve basic principles which are consistently invoked in subsequent "individual" rulings.

We believe that the non-contractual nature of the exchanges, the specific charitable purposes pursued, the valuing of all hours equally, the potential savings to the taxpayer and the focus of the program on rebuilding family, neighborhood and community make it unlikely that Time Dollars will be treated as "taxable income" or that local Time Banks will be treated as commercial barter exchanges.

The following excerpts from a 1995 ruling illustrate the reasoning found persuasive by the IRS: Section 6045(c)(3) of the Code defines the term "barter exchange" as any organization of members providing property or services who jointly contract to trade or barter such property or services.

Section 1.6045-1(a)(4) of the Income Tax Regulations states that the term "barter exchange" means any person with members of clients that contract with each other or with such person to trade or barter property or services either directly or through such person. The term does not include arrangements that provide solely for the informal exchange of similar services on a noncommercial basis.

As explained below, we conclude that X is not a barter exchange within the meaning of section 6045(c)(3) because X's operations provide a means for the informal exchange of similar services on a noncommercial basis and do not result in the creation of contractual rights and obligations among members (or between members and X) for the exchange of property or services.

Other elements to be considered in determining whether an organization is a barter exchange are whether services are exchanged on a commercial or noncommercial basis and whether the exchange of services is formal or informal. See section 1.6045-1(a)(4). The application of these criteria to X is discussed below.

X facilitates the exchanges of services on a noncommercial basis as evidenced by the following considerations. First, all services receive a point value based solely on the number of hours of service provided without regard to the type of service. Second, a member who has performed services does not thereby have a contractual right to receive any services from X or from X's members. Third, the organization does not place any limits on when services must be received. Thus, there could be a gap of several years between the time when a member provides services and the time when the member first receives services. Fourth, a member cannot assign (except to family or household members) the points that he or she has accumulated for services performed. Fifth, X is a community organization whose membership consists primarily of individuals living in the Y area. Sixth, X does not charge a fee for participation or membership in the program. Seventh, the records maintained by X show significant disparities in members' accounts as to the number of hours of services provided and the number of hours of services received. Some members typically receive many more hours of services than they provide, while other members – who are apparently motivated by a desire to serve the community – typically provide many more hours of services than they received. Based on X's records as of July, 1995, there were at that time approximately ___ active participants over 25 percent of which have performed services but have not received any services in return.

The informal nature of the exchange of services is also evident. X simply links members in need of services with other members who are potential providers of services. It is up to the members, rather than X, to determine whether any services will be performed, to determine the time and place for performance of the services, and to ensure that the services are satisfactorily performed. Also, X does not have any responsibility for crediting the account of the service provider or debiting the account of the service recipient unless a

member first contacts X and indicates the number of hours of service provided. Moreover, either member (the service provider or the service recipient) can contact X to indicate the number of hours of service provided, and this information may be provided to X informally through a phone call or postcard.

Section 6045. Returns of Brokers - Private letter Ruling