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BREAKING TAX NEWS
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IRS RELEASES NONPROFIT JOINT VENTURE PRIVATE LETTER RULING

On September 7, 2004 the Internal Revenue Service (the "Service") released a Private Letter Ruling 200436022 ("Ruling") concerning a hospital's syndication of partnership interests in a diagnostic imaging project. A copy of the ruling is available at Ruling 2000436022. In reviewing the appropriateness of nonprofit joint ventures with for-profit entities, the hospital area has been the leading area where the Service has issued guidance. Therefore, the attached Ruling is helpful in maintaining a sense of how the Service is going to address Low Income Housing Tax Credit ("LIHTC") joint ventures with nonprofit entities. The Service has promised to issue guidance on this area in the near future.

In the Ruling, the Service approved of the syndication structure by concluding that it would not impact the non-profit's tax-exempt status and would not create unrelated business taxable income. In reviewing this Ruling, one should take notice of the factors listed below which are not normally present in LIHTC projects.

- Neither the Hospital nor its wholly owned limited liability company ("LLC"), which was the general partner, appeared to provide any guarantees to the limited partners.
- The duty to further the Hospital's charitable purpose specifically overrode all other duties the LLC had as general partner. Also, because of the hospital's majority interest in the partnership, the LLC effectively could not be removed as general partner.
- The management agreement required that the unrelated property manager run the project to further the charitable purposes of the hospital and that this overrode any duty the manager had to run the project for the benefit of the investors.

For further information on this issue, please contact Glenn A. Graff at 312-491-3313 or via email at ggraff@att-law.com.

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