

HARDY MYERS
ATTORNEY GENERAL

DAVID SCHUMAN
DEPUTY ATTORNEY GENERAL



1162 Court Street NE
Salem, Oregon 97310

FAX: (503) 378-3784
TDD: (503) 378-5938
Telephone: (503) 378-4620

DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

June 20, 1997

RECEIVED

JUL 17 1997

OFFICE OF GRADUATE
STUDIES AND RESEARCH

Michael J. Green
Interim Controller
Oregon State System of Higher Education
PO Box 488
Corvallis, OR 97339-0488

Re: Federal Tax Exemption Status
DOJ File No. 580-800-GE0092-97

Dear Mr. Green:

The Oregon State System of Higher Education (OSSHE) consists of the Chancellor's Office and the following seven institutions of higher education: Eastern Oregon University; Oregon Institute of Technology; Oregon State University; Portland State University; Southern Oregon University; University of Oregon; and Western Oregon University. OSSHE exists pursuant to state law and is under the control of the State Board of Higher Education. ORS 352.002.

OSSHE, as a state institution, generally^{1/} is not subject to taxation under the Internal Revenue Code of 1986, as amended (Code). OSSHE is not exempt from tax under Code § 501(c)(3). Rather, OSSHE's tax exemption flows from Code § 115 and the rule that federal tax provisions do not apply to integral units of state government unless the Code expressly makes the provisions applicable to state governments. *See State of Michigan v. United States*, 40 F3d 817, 823 (6th Cir 1994).

^{1/} OSSHE is subject to federal income taxation on its "unrelated business income." Code § 511(a)(2)(B).

Michael J. Green
Page 2
June 20, 1997

Based on the above discussion, grants and bequests to OSSHE would not be taxed to OSSHE. Moreover, such gifts would constitute "charitable contributions" under Code § 170(c)(1). Hence, donors of such gifts would be entitled to claim federal income tax deductions, subject to certain limitations, if the gifts are provided in compliance with applicable Code provisions.

Sincerely,



Stephen S. Brier
Assistant Attorney General
Education Section
General Counsel Division

SSB:ssb/SSB0500.LET
c: Melinda Grier (OSSHE)
Mike McCall (OSSHE)