

# I.R.S. Disallows Tax Exemptions For Gifts to Hospital Near Hanoi

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WASHINGTON, July 8—The Internal Revenue Service, in what appears to be a reversal of established policy, has ruled that it will no longer permit tax deductions for contributions to the Bach Mai Hospital Emergency Relief Fund.

Bach Mai Hospital, which is near Hanoi, was heavily damaged in the massive bombing by the United States at Christmas, 1972. The relief fund, a charitable organization based in Cambridge, Mass., is collecting money to finance the rebuilding and resupplying of the hospital.

The reasons given by Internal Revenue for denying the tax-deductibility of contributions to the fund centered on an argument that appeared equally applicable to such organizations as the American Friends Service Committee, the Red Cross and many other charitable organizations.

The argument was that the aid was being given directly to the Government of Vietnam and that "there is no indication that the Government of the Democratic Republic of Vietnam has yielded or will yield any of its sovereign power so as to enable the fund to exercise any effective control" over the uses of its aid.

## Control Over Aid

If donations to any American charity that dispenses aid overseas are to be tax-deductible, Internal Revenue requires that the charity exercise sufficient control to make sure that the aid is going for the stated charitable purpose.

According to an official of the relief fund, the Bach Mai Hospital has agreed that persons designated by the fund may make periodic inspections of the hospital to make sure that the medical equipment and supplies furnished by the relief fund are being properly used.

Such inspections have, in the case of other organizations, been accepted as sufficient "control" to meet the Internal Revenue requirements, according to officials of the relief fund and of other American charities that operate overseas.

Disaster and famine relief in countries ranging from Yugoslavia to Mali have been given in the past by American

it has taken with respect to other organizations, where the tax deductibility of contributions is still permitted.

In a letter to other charitable organizations giving assistance of various kinds in Indochina, Tom Davidson, executive director of the Bach Mai Hospital Relief Fund, called the denial of tax-deductible status "a new tack of the I.R.S."

In addition, he said, "we have been informed that the I.R.S. has every intention of making this stick with other groups and organizations still working in Indochina and, in particular, in Vietnam."

He said that he had been informed that Internal Revenue was preparing a formal ruling, but would be applicable to all organizations engaged in similar activities.

Other, similar charitable organizations could not confirm this.

The decision in the Bach Mai case was made at national Internal Revenue headquarters.

The documents sent to the relief fund by I.R.S. included what is known as a "national office technical advice memorandum" detailing reasons why tax deductions would no longer be allowed.

The memorandum was addressed to the Internal Revenue district director in Boston, the office that had initially handled the case because of the relief fund's Cambridge headquarters.

## Unusual Approach

Technical advice memorandums are prepared by the Internal Revenue national office at the request of regional offices when a decision in the region is disputed or when major policy issues or difficult questions are presented.

The decision regarding the Bach Mai Hospital Emergency Relief Fund was unusual in a major technical sense.

The fund's tax-exempt status under Section 501 (C) (3) of the Internal Revenue Code was not revoked, which is the normal procedure when the I.R.S. decides there is some reason for prohibiting tax deductions for contributions to a charitable, educational, religious or other similar organization.

Instead, the I.R.S. merely said that contributions would be nondeductible under Section 170 of the Internal Revenue Code. Experience tax lawyers were unable to explain why the service had acted in this fashion.

The action means that any income the relief fund had from investments would continue to be nontaxable, even though contributions would not be tax deductible.

Tax deductible status of contributions is regarded by most charities as essential to their fund-raising efforts.

Charitable organizations, which have operated in those countries exclusively through governmental entities without challenge to the deductibility of contributions by American taxpayers to these organizations.

Internal Revenue, several hours after it was first asked to do so, had made no response to a request that it explain its action in the case of the Bach Mai relief organization, compared with the positions