

RECOMMENDATION TO THE UNIVERSITY OF LOUISVILLE
FOUNDATION, INC., BOARD OF DIRECTORS CONCERNING A JOINT
VENTURE POLICY

Board of Directors – June 1, 2010

RECOMMENDATION:

The President recommends the Board of Directors approve the following Joint Venture Policy.

Joint Venture Policy

This Joint Venture Policy of the University of Louisville Foundation (the “Foundation”) requires that the Foundation evaluate its participation in joint venture arrangements under federal tax law and take steps to safeguard the Foundation’s exempt status with respect to such arrangements. It applies to any joint ownership or contractual arrangement through which there is an agreement to jointly undertake a specific business enterprise, investment, or exempt-purpose activity as further defined in this policy. In compliance with the Internal Revenue Service guidelines for approval and management of any joint venture or similar arrangements entered into by the Foundation, the Board of Directors adopts the following guidelines.

A. Joint ventures or similar arrangements with taxable entities. For purposes of this policy, a joint venture or similar arrangement (or a “venture or arrangement”) means any joint ownership or contractual arrangement through which there is an agreement to jointly undertake a specific business enterprise, investment, or exempt-purpose activity without regard to: (1) whether the Foundation controls the venture or arrangement; (2) the legal structure of the venture or arrangement; or (3) whether the venture or arrangement is taxed as a partnership or as an association or corporation for federal income tax purposes. Such a venture or arrangement may include both taxable and tax-exempt activities.

B. Safeguards to ensure exempt status protection. The Foundation will: (a) negotiate in its transactions and arrangements with other members of the venture or arrangement such terms and safeguards adequate to ensure that the Foundation’s exempt status is protected; and (b) take steps to safeguard the Foundation’s exempt status with respect to the venture or arrangement. Such terms shall be in writing in the operating agreement of the venture or arrangement and any other agreement, as applicable, and shall include the following minimum requirements:

(i) control over the venture or arrangement sufficient to ensure that it furthers the exempt purpose of the Foundation;

(ii) requirements that the venture or arrangement gives priority to exempt purposes over maximizing profits for the other participants;

(iii) that the venture or arrangement not engage in activities that would jeopardize the Foundation’s exemption;

(iv) returns of capital, allocations, and distributions be made in proportion to respective ownership interests; and

(v) that all contracts entered into with the Foundation be on terms that are arm's length or more favorable to the Foundation.

When there is any question as to whether a particular venture or arrangement may pose a risk to the Foundation's tax-exempt status, a decision to enter into such venture or arrangement shall be made only after consultation with board counsel.

Board Action:

Passed _____

Did Not Pass _____

Other _____

Katalin M. Smith

Assistant Secretary