Dear Sir or Madam,

This is in reference to your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

The information submitted states that you were formed by the State of Alaska. Section 115 of the Internal Revenue Code provides for the exclusion of income for instrumentalties of a state or municipal government.

Because you are an integral part of the governmental agency, an exemption letter is not necessary.

Also, it should be noted that contributions made to political subdivisions, such as school districts, are deductible by the donors for Federal income tax purposes if made exclusively for public purposes as provided by section 170(c)(1) of the Internal Revenue Code.

Sincerely Yours

Joseph A. Cunha
Internal Revenue Agent
Dear Mr. Russell:

Thank you for your letter of November 9, 1977 regarding charitable contributions to the University of Alaska.

You are correct in your opinion that contributions to the University fall under Section 170(b)(1)(A)(ii) of the Internal Revenue Code and are therefore deductible on the donor's federal income tax return.

Also, as an instrumentality of the State of Alaska, the University is exempt from federal income tax.

If you have further questions, please call our toll-free number, Zenith 3700.

Sincerely,

LaVerne Arnold
Taxpayer Service Specialist
Section 2. State University. The University of Alaska is hereby established as the state university and constituted a body corporate. It shall have title to all real and personal property now or hereafter set aside for or conveyed to it. Its property shall be administered and disposed of according to law.

This article is the expression of the will of the people of this state that there shall be an institution of higher learning within the scope of the constitutional mandate providing for public education. University of Alaska v. National Aircraft Leasing, Ltd., Sup. Ct. Op. No. 1158 (File No. 2365), 536 P.2d 121 (1975).


Inherent power to sue and be sued in own name. — As a constitutional corporation, suing its existence not to the legislature but to a charter from the ultimate sovereign, the will of the people of this state, the basic corporate power to sue and be sued in its own name would inhere in the University of Alaska regardless of the legislature's declaration. University of Alaska v. National Aircraft Leasing, Ltd., Sup. Ct. Op. No. 1158 (File No. 2365), 536 P.2d 121 (1975).

University is state instrumentality. — In its constitutional status the University of Alaska stands as the single governmental entity which was specifically created by the people to meet the statewide need for a public institution of higher education. In this light, the University must be regarded as uniquely an instrumentality of the state itself. University of Alaska v. National Aircraft Leasing, Ltd., Sup. Ct. Op. No. 1158 (File No. 2365), 536 P.2d 121 (1975).

Despite the degree of constitutional as well as statutory autonomy the University of Alaska so clearly possesses, it must be considered to be an integral part of the state educational system mandated by the constitution. University of Alaska v. National Aircraft Leasing, Ltd., Sup. Ct. Op. No. 1158 (File No. 2365), 536 P.2d 121 (1975).

States governing suits against state are applicable to university. — The University of Alaska constitutes in function and character such an arm or instrumentality of the state as to bring it within the scope of those statutes which govern the conditional waiver of sovereign immunity in this state. University of Alaska v. National Aircraft Leasing, Ltd., Sup. Ct. Op. No. 1158 (File No. 2365), 536 P.2d 121 (1975).

The University of Alaska is an integral part of the state government and an instrumentality of the state in performing its educational function. This being so, former AS 09.50.290, which provided that a suit against the state should be tried by the court without a jury, was applicable. University of Alaska v. National Aircraft Leasing, Ltd., Sup. Ct. Op. No. 1158 (File No. 2365), 536 P.2d 121 (1975).

And university's corporate status does not militate against this conclusion. — The corporate status of the University of Alaska under the Alaska Constitution does not militate against the conclusion of the supreme court that the university falls within the ambit of the language of AS 09.50.250 through AS 09.50.300 which governs suits against the State of Alaska. University of Alaska v. National Aircraft Leasing, Ltd., Sup. Ct. Op. No. 1158 (File No. 2365), 536 P.2d 121 (1975).


The University of Alaska is an instrumentality of the sovereign which enjoys in some limited respects a status which is coequal rather than subordinate to that of the executive or the legislative arms of government. Therefore, it is not necessarily subject to such allocation under AS 44.15.010. University of Alaska v. National Aircraft Leasing, Ltd., Sup. Ct. Op. No. 1158 (File No. 2365), 536 P.2d 121 (1975).

Similarity to other state executive agencies for budgeting purposes. — The University of Alaska is similar in all or most respects to other state executive agencies for purposes of budgeting and accounting; it does not have any peculiar status by virtue of being constitutionally established. February 25, 1977, Op. Att'y Gen.

The university's budget can be made subject to line item appropriations by the legislature to the same extent that the budget for the rest of the executive branch of government is subject to line item appropriations. February 26, 1977, Op. Att'y Gen.

The legislature can make appropriations to the university using different budget units than those requested by the board of regents to the same extent that it can make appropriations for executive branch activities using different budget units than those requested by the governor. February 28, 1977, Op. Att'y Gen.