

ANNOUNCEMENT 2006-93

Procedures for 501(c)(3) Tax-Exempt Organizations to Change Public Charity Classification

The Pension Protection Act of 2006 permits specified individuals to make contributions from their Individual Retirement Accounts (“IRA”) to certain public charities without including the amounts in the contributor’s income. In addition, the Act restricts private foundations from making distributions to certain public charities. In both cases, the new provisions relate to the recipient organization’s classification as a public charity under section 509(a).

Public charities include churches, schools, hospitals, and charities that receive public support as described in section 509(a)(1) and (2), as well as organizations that are described in section 509(a)(3) that support one or more specified organizations described in sections 509(a)(1) or (2). Organizations described in section 509(a)(3) also are known as supporting organizations.

Under the Pension Protection Act of 2006, distributions from IRAs to supporting organizations, as described in section 509(a)(3), are not excludable from the IRA holder’s income. In addition, distributions from private foundations to certain supporting organizations described in section 509(a)(3) are not qualifying distributions and may be taxable expenditures for the private foundation. For this reason, organizations currently classified as supporting organizations, as described in section 509(a)(3), may wish to seek reclassification under section 509(a)(1) or (2).

Process to Request Change in Public Charity Classification Related to Pension Protection Act

A section 501(c)(3) tax-exempt organization seeking to change its public charity classification for reasons related to changes made by the Pension Protection Act has to submit a written request for reclassification from section 509(a)(3) to the Internal Revenue Service pursuant to Revenue Procedure 2006-4, 2006-1 I.R.B. 135 (available at www.irs.gov/pub/irs-tege/rp2006-4.pdf). This request has to include the following:

- 1) A statement requesting reclassification from section 509(a)(3) to another public charity status under 509(a)(1) or (2); and,
- 2) Either,
 - a. Page one and the signature page of most recently filed Form 990 or Form 990-EZ, and pages 2 and 3 (Parts IV and IV-A) of Schedule A related to the organization’s most recently filed Form 990 or 990-EZ; or
 - b. Form 8734, *Support Schedule for Advance Ruling Period*

The organization has to write at the top of the request, “509(a)(3) Pension Protection Act”, and mail or fax the complete request for reclassification to:

Mail:

IRS-TEGE

Attn: Adjustments Unit, Room 4024

P.O. Box 2508

Cincinnati, OH 45201

Fax:

IRS-TEGE

Attn: Adjustments Unit, Room 4024

Fax number: (513) 263-3522

If an organization previously submitted a regular request for reclassification related to changes made by the Pension Protection Act, the organization should mail or fax a statement notifying us that a request for reclassification was submitted.

Organizations will receive a determination letter indicating whether the change in public charity classification has been made. There is no user fee for this determination letter.

For Further Information

Contact Customer Account Services, 1-877-829-5500