

## SECTION 1. PURPOSE

The purpose of this revenue procedure is to set forth guidelines for the circumstances where a grantor or contributor will not be considered to be responsible for "substantial and material" changes in sources of financial support for purposes of sections 1.170A-9(e)(4)(v)(b) and 1.509(a)-3(c)(1)(iii) of the Income Tax Regulations.

## SEC. 2. BACKGROUND

01. Sections 1.170A-9(e)(4)(v)(b) and 1.509(a)-3(c)(1)(iii) of the regulations state that once an organization has been classified as a publicly supported organization described in section 170(b)(1)(A)(vi) or 509(a)(2) of the Internal Revenue Code, the treatment of grants and contributions and the status of grantors and contributors to the organization under sections 170, 507, 545(b)(2), 556(b)(2), 642(c), 4942, 4945, 2055, 2106(a)(2), and 2522 will not be affected by a subsequent loss of classification as a publicly supported organization until notice of loss of classification is published. However, a grantor or contributor may not rely on such an organization's classification if the grantor or contributor is responsible for or aware of a "substantial and material" change in the organization's sources of support that subsequently results in the organization's loss of classification as a publicly supported organization. For example, a "substantial and material" change in sources of support may result from the receipt of an unusually large contribution that does not qualify as an unusual grant under section 1.170A-9(e)(6)(ii) or 1.509(a)-3(c)(3). The contributor, even though he or she relied on a letter classifying the organization as a section 170(b)(1)(A)(vi) or 509(a)(2) organization, may not receive the benefit of the deduction limits under sections 170(b)(1)(A)(vi) and 170(b)(1)(A)(viii) if as a result of his or her contribution the organization loses its classification as a public charity. Similarly, a grant-making private foundation might find itself subject to the section 4945(a) tax on taxable expenditures because it may not have followed expenditure responsibility requirements of section 4945(d)(4) of the Code for grants to non-public organizations if its grant is not an unusual grant and the grantee organization loses its classification as a public charity.

.02 If in any taxable year there is a "substantial and material" change in an organization's sources of support, the computation period used to determine whether the organization meets the requirements of the section 170(b)(1)(A)(vi) or 509(a)(2) financial support tests consists of the taxable year in question and the four immediately preceding taxable years rather than the four immediately preceding taxable years. If an organization has been in existence for less than five taxable years, the computation period consists of the taxable year in question and the number of years preceding that taxable year that the organization has been in existence. This computation period is in lieu of the usual computation period rules. See sections 1.170A-9(e)(4)(v) and 1.509(a)-3(c)(1)(ii) of the regulations.

## SEC. 3. GUIDELINES

.01 Organizations that have been in existence for five or more years

A grantor or contributor will not be considered to be responsible for a "substantial and material" change in support if the aggregate of gifts, grants, or contributions received from such grantor or contributor for a taxable year is 25 percent or less of the aggregate support received by the donee organization from all sources, except as provided in SEC. 4, for the four taxable years immediately preceding such taxable year.

.02 Organizations that have been in existence for less than five years

If an organization has been in existence for fewer than five taxable years, the number of years for which the organization has been in existence immediately preceding the taxable year being tested will be substituted for the four-year period described in SEC. 3.01 as long as the organization has been in existence for at least one taxable year consisting of at least eight months.

#### SEC. 4. DEFINITIONS AND EXCLUSIONS

.01 For purposes of the guidelines in SEC. 3, in computing aggregate support for publicly supported organizations described in section 170(b)(1)(A)(vi) of the Code, the term "support" has the same meaning as it does for purposes of section 1.170A-9(e) of the regulations except that for a particular grantor or contributor it does not include any support provided by the grantor or contributor (or persons standing in a relationship described in section 4946(a)(1)(C) through (G) to the grantor or contributor).

.02 For purposes of the guidelines in SEC. 3, in computing aggregate support for publicly supported organizations described in section 509(a)(2) of the Code, the term "support" has the same meaning as it does in section 509(d) except that for a particular grantor or contributor it does not include any support provided by the grantor or contributor (or persons standing in a relationship described in section 4946(a)(1)(C) through (G) to the grantor or contributor).

.03 For purposes of the guidelines in SEC. 3 the term grantor or contributor does not include a person (or persons standing in a relationship described in section 4946(a)(1)(C) through (G) to that person) who is in a position of authority such as a foundation manager (within the meaning of section 4946(b)) or who otherwise has the ability to exercise control over the organization. Similarly, the term grantor or contributor does not include a person (or persons standing in a relationship described in section 4946(a)(1)(C) through (G) to that person) who as a consequence of the grant or contribution obtains a position of authority or the ability to otherwise exercise control over the organization.

#### SEC. 5. EXAMPLE

The following example illustrates the guidelines in SEC. 3. A was determined by

the Service in 1974 to be a section 509(a)(2) public charity and received total support of \$340,000 in 1975 through 1978, the four years immediately preceding its 1979 tax year. X, a private foundation, granted the organization \$30,000 during the 1979 tax year. X had contributed \$40,000 of the total support of A during the four years immediately preceding 1979. Even if A is later determined to be a private foundation for 1979, X will not be considered to be responsible for a "substantial and material change" in A's sources of support resulting in the loss of section 509(a)(2) status. The grant during the 1979 tax year was only 10 percent of \$300,000--A's aggregate support for the four years immediately preceding 1979 less contributions made by X during those years.

The computations are as follows:

Aggregate support received by A during the four tax years immediately preceding the 1979 tax year \_\_\_\_\_ \$340,000

Less: Aggregate support provided by X during the four tax years immediately preceding A's 1979 tax year \_\_\_\_\_ 40,000

Aggregate support for purposes of SEC. 3.01 received by A during the four tax years immediately preceding A's 1979 tax year \_\_\_\_\_ \$300,000

Aggregate support provided by X during the 1979 tax year as a percentage of A's aggregate support for purposes of SEC. 3.01 during the four tax years immediately preceding the 1979 tax year \_\_\_\_\_ \$30,000

\$300,000 = 10%