

Publication 557

Tax-Exempt Status for Your Organization

(Rev. January 2025)

For use in preparing

2025 Returns

Volume 5 of 8



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Medicare and Medicaid payments.

Medicare and Medicaid payments are received from contracts entered into with state and federal governmental units. However, payments are made for services already provided to eligible individuals, rather than to encourage or enable an organization to provide services to the public. The individual patient, not a governmental unit, actually controls the ultimate recipient of these payments by selecting the health care organization. As a result, these payments aren't considered support from a governmental unit. Medicare and Medicaid payments are gross receipts derived from the exercise or performance of exempt activities and, therefore, aren't included in the term support.

Support from the general public. In determining whether the one-third support test or the ten-percent-of-support requirement is met,

include in your computation support from direct or indirect contributions from the general public. This includes contributions from an individual, trust, or corporation but only to the extent that the total contributions from the individual, trust, or corporation, during the current tax year and the 4-year period immediately before the current tax year, aren't more than 2% of the organization's total support for the same period.

Thus, a contribution by any one individual will be included in full in the denominator of the fraction used in the one-third support test or the ten-percent-of-support requirement. However, the contribution will be included in the numerator only to the extent that it isn't more than 2% of the denominator. In applying the 2% limit, all contributions made by a donor and by any person in a special relationship to the donor (certain *Disqualified persons* discussed under *Absence of control*

by disqualified persons, later) are considered made by one person. The 2% limit doesn't apply to support received from governmental units or to contributions from other publicly supported charities, except as provided under *Grants from public charities, later*.

Indirect contributions. The term indirect contributions from the general public includes contributions received by the organization from organizations (such as publicly supported organizations) that normally receive a substantial part of their support from direct contributions from the general public, except as provided under *Grants from public charities, next*.

Grants from public charities. Contributions received from a governmental unit or from a publicly supported organization (including a church that meets the requirements for being publicly supported) aren't subject to the 2% limit unless the contributions represent amounts either expressly or impliedly

earmarked by a donor to the governmental unit or publicly supported organization as being for, or for the benefit of, the particular organization claiming a publicly supported status.

Example 1. M, a national foundation for the encouragement of the musical arts, is a publicly supported organization. George Spruce gives M a donation of \$5,000 without imposing any restrictions or conditions upon the gift. M later makes a \$5,000 grant to X, an organization devoted to giving public performances of chamber music. Since the grant to X is treated as being received from M, it is fully includible in the numerator of X's support fraction for the tax year of receipt.

Example 2. Assume M is the same organization described in *Example 1*. Tom Grove gives M a donation of \$10,000, but requires that M spend the money to support organizations devoted to the advancement of contemporary American music.

M has complete discretion as to the organizations of the type described to which it will make a grant. M decides to make grants of \$5,000 each to Y and Z, both being organizations described in section 501(c)(3) and devoted to furthering contemporary American music. Since the grants to Y and Z are treated as having been received from M, Y and Z each may include one of the \$5,000 grants in the numerator of its support fraction. Although the donation to M was conditioned upon the use of the funds for a particular purpose, M was free to select the ultimate recipient.

Example 3. N is a national foundation for the encouragement of art and is a publicly supported organization. Grants to N are permitted to be earmarked for particular purposes. O, which is an art workshop devoted to training young artists and which is claiming status as a publicly supported organization, persuades C,

a private foundation, to make a grant of \$25,000 to N. C is a disqualified person with respect to O. C makes the grant to N with the understanding that N would be bound to make a grant to O in the sum of \$25,000, in addition to a matching grant of N's funds to O in the sum of \$25,000. Only the \$25,000 received directly from N is considered a grant from N. The other \$25,000 is an indirect contribution from C to O and is to be excluded from the numerator of O's support fraction to the extent it exceeds the 2% limit.

Unusual grants. In applying the 2% limit to determine whether the one-third support test or the ten-percent-of-support requirement is met, exclude contributions that are considered unusual grants from both the numerator and denominator of the appropriate percent-of-support fraction. Generally, unusual grants are substantial contributions or bequests from disinterested parties if the contributions:

1. Are attracted by the publicly supported nature of the organization;
2. Are unusual or unexpected in amount; and
3. Would adversely affect, because of the size, the status of the organization as normally being publicly supported. (The organization must otherwise meet the support test in that year without benefit of the grant or contribution.)

For a grant (see *Grants*, later) that meets the requirements for exclusion, if the terms of the granting instrument require that the funds be paid to the recipient organization over a period of years, the amount received by the organization each year under the terms of the grant may be excluded for that year.

However, no item of gross investment income (defined under Section 509(a)(2) Organizations, later) may be excluded under this rule.

Characteristics of an unusual grant. A grant or contribution will be considered an unusual grant if the previous three factors apply and if it has all of the following characteristics. If these factors and characteristics apply, then even without the benefit of an advance ruling, grantors or contributors have assurance that they won't be considered responsible for substantial and material changes in the organization's sources of support status. See section 7.08 of Rev. Proc. 2018-32, 2018-23 I.R.B. 739.

1. The grant or contribution isn't made by a person (or related person) who created the organization or was a substantial contributor to the organization before the grant or contribution.
2. The grant or contribution isn't made by a person (or related person) who is in a position of authority, such as a foundation manager, or who

otherwise has the ability to exercise control over the organization.

Similarly, the grant or contribution isn't made by a person (or related person) who, because of the grant or contribution, obtains a position of authority or the ability to otherwise exercise control over the organization.

3. The grant or contribution is in the form of cash, readily marketable securities, or assets that directly further the organization's exempt purposes, such as a gift of a painting to a museum.
4. The donee organization has received a final determination letter classifying it as a publicly supported organization and the organization is actively engaged in a program of activities in furtherance of its exempt purpose.

5. No material restrictions or conditions have been imposed by the grantor or contributor upon the organization in connection with the grant or contribution.
6. If the grant or contribution is intended for operating expenses, rather than capital items, the terms and amount of the grant or contribution are expressly limited to 1 year's operating expenses.

Determination request. Before any grant or contribution is made, a potential grantee organization can request a determination as to whether the grant or contribution may be excluded as an unusual grant. This request can be filed by the grantee organization by submitting Form 8940, Request for Miscellaneous Determination, supporting documents described in the Instructions for Form 8940, and the appropriate user fee.

The organization must submit all information necessary to support a determination, including information relating to the factors and characteristics listed in the preceding paragraphs. If a favorable determination is issued, the determination can be relied upon by the grantor or contributor of the particular contribution in question. The issuance of the determination will be at the sole discretion of the IRS.

Grants and contributions that fail to qualify for exclusion will affect the way the support tests are applied. See *Additional requirements (the five public support factors)*, earlier.

If a determination is requested, in addition to the characteristics listed earlier under *Characteristics of an unusual grant*, the following factors may be considered by the IRS in determining if the grant or contribution is an unusual grant.

1. Whether the contribution was a bequest or a transfer while living.

A bequest will be given more favorable consideration than a transfer while living.

2. Whether, before the receipt of the contribution, the organization has carried on an active program of public solicitation and exempt activities and has been able to attract a significant amount of public support.
3. Whether, before the year of contribution, the organization met the one-third support test without benefit of any exclusions of unusual grants.
4. Whether the organization may reasonably be expected to attract a significant amount of public support after the contribution. Continued reliance on unusual grants to fund an organization's current operating expenses (as opposed to providing new endowment funds) may be evidence that the organization can't

reasonably be expected to attract future support from the general public.

5. Whether the organization has a representative governing body.

Comprehensive Examples

Example 1. M is recognized as an organization described in section 501(c)(3). For the years 2017 through 2021 (the applicable period for the tax year 2021 under Regulations section 1.170A-9(f)(3)), M received support (as defined in paragraphs Regulations section 1.170A-9(f) (6) through (8)) of \$600,000 from the following sources:

Investment Income	\$300,000
City Y (a governmental unit described in section 170(c)(1)) . .	40,000
United Way (an organization described in section 170(b)(1)(A)(vi))	40,000

Contributions	<u>220,000</u>
Total support	<u>\$600,000</u>

For tax year 2021, M's public support is computed as follows:

One-third of total support	<u>\$200,000</u>
Support from a governmental unit described in section 170(c)(1) . . .	\$40,000
Indirect contributions from the general public (United Way)	40,000
Contributions by various donors (no one having made contributions that total more than \$12,000—2% of total support)	50,000
Six contributions (each in excess of \$12,000—2% of total support) 6 ×\$12,000	<u>72,000</u>
	<u>\$202,000</u>

M's support from governmental units and from direct and indirect contributions from the general public for the 2019 tax year normally exceeds one-third of M's total support ($\$202,000/\$600,000 = 33.67\%$) for the applicable period (2016 through 2020). M meets the one-third support test for 2020 and is therefore publicly supported for the tax years 2021 and 2022.

Example 2. N is recognized as an organization described in section 501(c)(3). It was created to maintain public gardens containing botanical specimens and displaying statuary and other art objects. The facilities, works of art, and a large endowment were all contributed by a single contributor. The members of the governing body of the organization are unrelated to its creator. The gardens are open to the public without charge and attract many visitors each year. For the current tax year and the 4 tax years preceding the current tax year,

95% of the organization's total support was received from investment income from its original endowment. N also maintains a membership society that is supported by members of the general public who wish to contribute to the upkeep of the gardens by paying a small annual membership fee. Over the 5-year period in question, these fees from the general public constituted the remaining 5% of the organization's total support. Under these circumstances, N doesn't meet the one-third support test for its current tax year. Furthermore, since only 5% was received from the general public, N doesn't satisfy the 10% support limitation under Regulations section 1.170A-9(f)(3)(i), and therefore doesn't qualify as publicly supported under the facts and circumstances test. Because N has failed to satisfy the 10% support limitation, none of the other requirements or factors in Regulations section 1.170A-9(f)(3)(iii)(A) through (E) can be considered

in determining whether N qualifies as a publicly supported organization. For its current tax year, N isn't an organization described in section 170(b)(1)(A)(vi).

Example 3. O, an art museum, is recognized as an organization described in section 501(c)(3). In 1930, O was founded in S City by members of a single family to collect, preserve, interpret, and display to the public important works of art. O is governed by a Board of Trustees that originally consisted almost entirely of members of the founding family. However, since 1945, members of the founding family or persons standing in relationship to the members of that family described in section 4946(a)(1)(C) through (G) have annually constituted less than one-fifth of the Board of Trustees. The remaining board members are citizens of S City from a variety of professions and occupations who represent the interests and views of the people of S City in the activities carried on by

the organization rather than the personal or private interests of the founding family. O solicits contributions from the general public, and for the current tax year and each of the 4 tax years immediately preceding the current tax year, O has received total contributions (in small sums of less than \$100, none of which exceeds 2% of O's total support for such period) in excess of \$10,000. These contributions from the general public represent 25% of the organization's total support for that 5-year period. For the same period, investment income from several large endowment funds has constituted 75% of O's total support. O expends substantially all of its annual income for its exempt purposes and thus depends on the funds it annually solicits from the public as well as its investment income in order to carry out its activities on a normal and continuing basis and to acquire new works of art.

O has, for the entire period of its existence, been open to the public and more than 300,000 people (from S City and elsewhere) have visited the museum in the current tax year and the 4 years immediately preceding the current tax year.

Under these circumstances, O doesn't meet the one-third support test for its current year because it has received only 25% of its total support for the applicable 5-year period from the general public. However, under the facts set forth, O has met the 10% support limitation under Regulations section 1.170A-9(f)(3)(i), as well as the requirements of Regulations section 1.170A-9(f)(3)(ii). Under all of the facts set forth, O is considered as meeting the requirements of the facts and circumstances test on the basis of satisfying Regulations section 1.170A-9(f)(3)(iii) (A) through (D). O is therefore publicly supported for its current tax year and the immediately succeeding tax year.

Example 4. In 1960, the P Philharmonic Orchestra was organized in T City by a local music society and a local women's club to present to the public a wide variety of musical programs intended to foster music appreciation in the community. P is recognized as an organization described in section 501(c)(3). The orchestra is composed of professional musicians who are paid by the association. Twelve performances, open to the public, are scheduled each year. A small admission charge is made for each of these performances. In addition, several performances are staged annually without charge.

During the current tax year and the 4 tax years immediately preceding the current tax year, P received separate contributions of \$200,000 each from A and B (not members of a single family) and support of \$120,000 from the T Community Chest, a public federated fundraising organization operating in T City.

P depends on these funds to carry out its activities and will continue to depend on contributions of this type to be made in the future. P has also begun a fundraising campaign in an attempt to expand its activities for the coming years.

P is governed by a Board of Directors composed of five individuals. A faculty member of a local college, the president of a local music society, the head of a local banking institution, a prominent doctor, and a member of the governing body of the local Chamber of Commerce currently serve on the Board and represent the interests and views of the community in the activities carried on by P.

For P's current tax year, its sources of support are computed on the basis of the current tax year and the 4 immediately preceding tax years, as follows.

Contributions.....	\$520,000
Receipts from performances.....	<u>100,000</u>
	<u>\$620,000</u>
Less:	
Receipts from performances (excluded, see <i>Support</i>).....	<u>100,000</u>
Total support.....	<u>\$520,000</u>
T Community Chest (indirect support from the general public)	\$120,000
Two contributions (each over \$10,400—2% of total support) 2 × \$10,400.....	<u>20,800</u>
Total support from general public	<u>\$140,800</u>

P's support from the general public, directly and indirectly, doesn't meet the one-third support test ($\$140,800/\$520,000 = 27\%$ of total support). However, because P receives 27% of its total support from the general public, it meets the 10% support limitation

under Regulations section 1.170A-9(f)(3)(i). P also meets the requirements of Regulations section 1.170A-9(f)(3)(ii). As a result of satisfying these requirements and factors, P is considered to meet the facts and circumstances test and therefore qualifies as a publicly supported organization for its current tax year and the immediately succeeding tax year.

Example 5. Q is recognized as an organization described in section 501(c)(3) and it is a philanthropic organization. Q was founded in 1965 by C for the purpose of making annual contributions to worthy charities. C created Q as a charitable trust by transferring \$500,000 worth of appreciated securities to Q.

Under the trust agreement, C and two other family members are the sole trustees of Q and are vested with the right to appoint successor trustees. In each of the current tax year and the 4 tax years immediately

preceding the current tax year, Q received \$12,000 in investment income from its original endowment. Each year Q solicits funds by operating a charity ball at C's residence. Guests are invited and asked to make contributions of \$100 per couple. During the 5-year period involved, \$15,000 was received from the proceeds of these events. C and his family have also made contributions to Q of \$25,000 over the 5-year period at issue. Q makes disbursements each year of substantially all of its net income to the public charities chosen by the trustees.

Q's sources of support for the current tax year and the 4 tax years immediately preceding the current tax year are as follows:

Investment income.....	\$60,000
Contributions.....	<u>\$40,000</u>
Total support.....	\$100,000

Contributions from the general public....	\$15,000
One contribution (over \$2,000— 2% of total support) $1 \times \$2,000..$	<u>2,000</u>
Total support from general public	<u>\$17,000</u>

Q's support from the general public doesn't meet the one-third support test ($\$17,000/\$100,000 = 17\%$ of total support). Even though it does meet the ten-percent-of-support requirement, its method of solicitation makes it questionable whether Q satisfies Regulations section 1.170A-9(f)(3)(ii). Because of its method of operating, Q also has a greater burden of establishing its publicly supported nature. Based on these facts and on Q's failure to receive favorable consideration under the remaining factors of Regulations section 1.170A-9(f)(3)(iii), Q doesn't satisfy the facts and circumstances test and therefore doesn't qualify as a publicly supported organization.

Community Trusts

Community trusts are often established to attract large contributions of a capital or endowment nature for the benefit of a particular community or area. Often these contributions come initially from a small number of donors. While the community trust generally has a governing body composed of representatives of the particular community or area, its contributions are often received and maintained in the form of separate trusts or funds that are subject to varying degrees of control by the governing body.

To qualify as a publicly supported organization, a community trust must meet the one-third support test, explained earlier under Qualifying as Publicly Supported. If it can't meet that test, it must be organized and operated so as to attract new and additional public or governmental support on a continuous basis sufficient to meet the facts and circumstances test, also explained earlier.

Community trusts are generally able to satisfy the attraction of public support requirement (as contained in the facts and circumstances test) if they seek gifts and bequests from a wide range of potential donors in the community or area served, through banks or trust companies, through attorneys or other professional persons, or in other appropriate ways that call attention to the community trust as a potential recipient of gifts and bequests made for the benefit of the community or area served. A community trust, however, doesn't have to engage in periodic, community-wide, fundraising campaigns directed toward attracting a large number of small contributions in a manner similar to campaigns conducted by a community chest or a united fund.

Separate trusts or funds. Any community trust may be treated as a single entity for public support purposes, rather than as an aggregation of separate funds,

in which case all qualifying funds associated with that organization (whether a trust, not-for-profit corporation, unincorporated association, or a combination thereof) will be treated as component parts of the organization for public support purposes.

Single entity. To be treated as a single entity for public support purposes, a community trust must meet all of the following requirements.

1. The organization must be commonly known as a community trust, fund, foundation, or other similar name conveying the concept of a capital or endowment fund to support charitable activities in the community or area it serves.
2. All funds of the organization must be subject to a common governing instrument (or a master trust or agency agreement) that may be embodied in a single (or

several) document(s) containing common language.

3. The organization must have a common governing body (or distribution committee) that either directs or, in the case of a fund designated for specified beneficiaries, monitors the distribution of all funds exclusively for charitable purposes. The governing body must have the power in the governing instrument, the instrument of transfer, the resolutions or bylaws of the governing body, a written agreement, or otherwise—
 - a. To modify any restriction or condition on the distribution of funds for any specified charitable purposes or to specified organizations if in the sole judgment of the governing body (without the necessity of the approval of any participating

trustee, custodian, or agent), the restriction or condition becomes, in effect, unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community or area served;

- b. To replace any participating trustee, custodian, or agent for breach of fiduciary duty under state law; and
- c. To replace any participating trustee, etc., for failure to produce a reasonable return of net income over a reasonable period of time. (The governing body will determine what is reasonable.)

- 4. The organization must prepare periodic financial reports treating all of the funds that are held by the community trust, either directly or

in component parts, as funds of the organization.

A community trust can meet the requirement in (3) above even if its exercise of the powers in (3)(a), (b), or (c) is reviewable by an appropriate state authority.

Component part. To be treated as a component part of a community trust (rather than as a separate trust or a not-for-profit corporation for public support purposes), a trust or fund:

1. Must be created by gift, bequest, legacy, devise, or other transfer to a community trust that is treated as a single entity (described above), and
2. May not be directly or indirectly subjected by the transferor to any material restriction or condition with respect to the transferred assets.

Grantors and contributors. Grantors, contributors, or distributors to a community trust may rely on the public charity status, which the organization has claimed in a timely filed notice, on or before the date the IRS informs the public (through such means as publication in the Internal Revenue Bulletin) that such reliance has expired. However, if the grantor, contributor, or distributor acquires knowledge that the IRS has notified the community trust that it has failed to establish that it is a public charity, then reliance on the claimed status expires at the time such knowledge is acquired.

Section 509(a)(2) Organizations

Section 509(a)(2) excludes certain types of broadly based, publicly supported organizations from private foundation status. Generally, an organization described in section 509(a)(2) may also fit the description

of a publicly supported organization under section 509(a)(1). There are, however, two basic differences.

1. For section 509(a)(2) organizations, the term support includes items of support discussed earlier (under Support, in the discussion of *Section 509(a)(1) Organizations*) and income from activities directly related to their exempt function. This income isn't included in meeting the support test for a publicly supported organization under section 509(a)(1).
2. Section 509(a)(2) places a limit on the total gross investment income and unrelated business taxable income (in excess of the unrelated business tax) an organization may have, while section 509(a)(1) doesn't.

To be excluded from private foundation treatment under section 509(a)(2), an organization must meet two support tests.

1. The one-third support test.
2. The not-more-than-one-third support test.

Both these tests are designed to ensure that an organization excluded from private foundation treatment is responsive to the general public, rather than to the private interests of a limited number of donors or other persons.

One-third support test. The one-third support test will be met if an organization normally receives more than one-third of its support in each tax year from any combination of:

1. Gifts, grants, contributions, or membership fees; and
2. Gross receipts from admissions, sales of merchandise, performance of services, or furnishing facilities in an activity that isn't an unrelated trade or

business, subject to certain limits, discussed under Limit on gross receipts, later.

For this purpose, the support must be from permitted sources, which include:

- Section 509(a)(1) organizations, described earlier;
- Governmental units, described under Section 509(a)(1) Organizations, earlier; and
- Persons other than Disqualified persons (defined under Section 509(a)(3) Organizations), later.

Limit on gross receipts. In computing the amount of support received from gross receipts under (2) above, gross receipts from related activities received from any person or from any bureau or similar agency of a governmental unit are includible in any tax year only to the extent the gross receipts

aren't more than the greater of \$5,000 or 1% of the organization's total support in that year.

Not-more-than-one-third support test.

This test will be met if an organization normally receives no more than one-third of its support in each tax year from the total of:

1. Gross investment income, and
2. The excess (if any) of unrelated business taxable income from unrelated trades or businesses acquired after June 30, 1975, over the tax imposed on that income.

Gross investment income. Gross investment income means the gross amount of income from interest, dividends, payments with respect to securities loans, rents, and royalties, but it doesn't include any income that would be included in computing tax on unrelated business income from trades or businesses.

Definition of normally. Both support tests are computed on the basis of the nature of the organization's normal sources of support. An organization will be considered to have normally met both tests for its current tax year and the tax year immediately following, if it meets those tests on the basis of the total support received for the current tax year and the 4 tax years immediately before the current tax year.

Computation period for public support. If at the time of applying for tax-exempt status, an organization can reasonably be expected to meet the one-third support test and the not-more-than-one-third support test during its first 5 tax years, the organization will qualify for classification as a public charity under section 509(a)(2) for its first 5 years. Beginning with the organization's sixth tax year, the organization will be described in section 509(a)(2) if it meets the one-third support test and not-more-than-one-third

support test for its sixth year (based on support received in its second through sixth tax years) or as a carryover for its fifth tax year (based on support received in its first through fifth tax years). If the organization is required to file Form 990 or 990-EZ, it must establish that it meets the one-third support test and not-more-than-one-third support test each year on Schedule A (Form 990).

Reasonable expectation of public

support. An organization that can reasonably be expected to meet the one-third support test and not-more-than-one-third support test under section 509(a)(2) during its first 5 tax years is one that can show that its organizational structure, current or proposed programs and activities, and actual or intended method of operation can reasonably be expected to attract the type of broadly based support from the general public, public charities, and governmental units that is necessary to meet these tests.

The facts that are relevant to this determination and the weight accorded each fact may differ from case to case. An organization can't reasonably be expected to meet the one-third support test and the not-more-than-one-third support test when the facts indicate that an organization is likely, during its first 5 tax years, to receive less than one-third of its support from permitted sources or to receive more than one-third of its support from gross investment income and unrelated business taxable income.

All pertinent facts and circumstances are taken into account in determining whether the organizational structure, programs, or activities, and method of operation of an organization will give that organization a reasonable expectation that it will meet the support tests. Some pertinent factors considered are:

1. Whether the organization has or will have a governing body that is

composed of persons having special knowledge in the particular field in which the organization is operating or of community leaders, such as elected officials, members of the clergy, and educators, or, in the case of a membership organization, of individuals elected under the organization's governing instrument or bylaws by a broadly based membership,

2. Whether a substantial part of the organization's initial funding is to be provided by the general public, by public charities, or by government grants rather than by a limited number of grantors or contributors who are disqualified persons with respect to the organization,
3. Whether a substantial proportion of the organization's initial funds are placed, or will remain,

in an endowment and whether the investment of those funds is unlikely to result in more than one-third of its total support being received from gross investment income and from unrelated business taxable income in excess of the tax imposed on that income,

4. Whether an organization that carries on fundraising activities has developed a specific plan for solicitation of funds on a community or area-wide basis,
5. Whether an organization that carries on community service activities has a specific program to carry out its work in the community,
6. Whether membership dues for individual (rather than institutional) members of an organization that carries on education or other exempt activities for or on behalf of members have been fixed at rates designed to

make membership available to a broad cross section of the public rather than to restrict membership to a limited number of persons, and

7. Whether an organization that provides goods, services, or facilities is or will be required to make its services, facilities, performances, or products available (regardless of whether a fee is charged) to the general public, public charities, or governmental units rather than to a limited number of persons or organizations.

Unusual grants. An unusual grant can be excluded from the support test computation if it:

1. Was attracted by the publicly supported nature of the organization,
2. Was unusual or unexpected in amount, and

3. Would, because of its size, adversely affect the status of the organization as normally meeting the one-third support test. (The organization must otherwise meet the test in that year without benefit of the grant or contribution.)

Characteristics of an unusual grant. A grant or contribution will be considered an unusual grant if the above three factors apply and it has all of the following characteristics. If these factors and characteristics apply, then even without the benefit of an advance ruling, grantors or contributors have assurance that they won't be considered responsible for an act that results in an organization's change of support status. See Rev. Proc. 2018-32, 2018-23 I.R.B. 739.

1. The grant or contribution isn't made by a person (or related person) who created the organization or was a

substantial contributor to the organization before the grant or contribution.

2. The grant or contribution isn't made by a person (or related person) who is in a position of authority, such as a foundation manager, or who otherwise has the ability to exercise control over the organization. Similarly, the grant or contribution isn't made by a person (or related person) who, because of the grant or contribution, obtains a position of authority or the ability to otherwise exercise control over the organization.
3. The grant or contribution is in the form of cash, readily marketable securities, or assets that directly further the organization's exempt purposes, such as a gift of a painting to a museum.

4. The donee organization has received either an advance ruling or final determination letter classifying it as a publicly supported organization and, except for an organization operating under an advance ruling or determination letter, the organization is actively engaged in a program of activities in furtherance of its exempt purpose.
5. No material restrictions or conditions have been imposed by the grantor or contributor upon the organization in connection with the grant or contribution.
6. If the grant or contribution is intended for operating expenses, rather than capital items, the terms and amount of the grant or contribution are expressly limited to one year's operating expenses.

Determination request. If there is any doubt that a grant or contribution can be excluded as an unusual grant, the grantee organization can request a determination by submitting Form 8940, *Request for Miscellaneous Determination*, supporting documents described in the Instructions for Form 8940 and the appropriate user fee. The IRS has the sole discretion of issuing a determination, but if a favorable determination is issued, it can be relied on by the grantor or contributor for purposes of a charitable contributions deduction and by the organization for purposes of the exclusion for unusual grants.

In addition to the characteristics listed above, the following factors may be considered by the IRS in determining if the grant or contribution is an unusual grant.

1. Whether the contribution was a bequest or a transfer while living. A bequest will ordinarily be given more

favorable consideration than a transfer while living.

2. Whether, before the contribution, the organization carried on an actual program of public solicitation and exempt activities and was able to attract a significant amount of public support.
3. Whether the organization may reasonably be expected to attract a significant amount of public support after the contribution. Continued reliance on unusual grants to fund an organization's current operating expenses can be evidence that the organization can't attract future support from the general public.
4. Whether the organization met the one-third support test in the past without the benefit of any exclusions of unusual grants.

5. Whether the organization has a representative governing body.

Example 1. Y, an organization described in section 501(c)(3), was created by Marshall Pine, the holder of all the common stock in M corporation, Lisa, Marshall's wife, and Edward Forest, Marshall's business associate. The purpose of Y was to sponsor and equip athletic teams composed of underprivileged children in the community. Each of the three creators makes small cash contributions to Y. Marshall, Lisa, and Edward have been active participants in the affairs of Y since its creation. Y regularly raises small amounts of contributions through fundraising drives and selling admission to some of the sponsored sporting events. The operations of Y are carried out on a small scale, usually being restricted to the sponsorship of two to four baseball teams of underprivileged children.

In 2012, M Corporation recapitalizes and creates a first and second class of 6% nonvoting preferred stock, most of which is held by Marshall and Lisa. In 2013, Marshall contributes 49% of his common stock in M to Y. Marshall's contribution of M's common stock was substantial and constitutes 90% of Y's total support for 2013. A combination of the facts and circumstances of the determining factors preclude Marshall's contribution of M's common stock in 2013 from being excluded as an unusual grant under Temporary Regulations section

1.509(a)-3T(c)(3) for purposes of determining whether Y meets the one-third support test under section 509(a)(2).

Example 2. M was organized in 2012 to promote the appreciation of ballet in a particular region of the United States. Its principal activities consist of erecting a theater for the performance of ballet and the organization and operation of a ballet

company. M receives a determination letter that it is an organization described in section 501(c)(3) and that it is a public charity described in section 509(a)(2). The governing body of M consists of nine prominent unrelated citizens residing in the region who have either an expertise in ballet or a strong interest in encouraging appreciation of the art form.

In 2013, Z, a private foundation, proposes to make a grant of \$500,000 in cash to M to provide sufficient capital for M to commence its activities. Although Albert Cedar, the creator of Z, is one of the nine members of M's governing body, was one of M's original founders, and continues to lend his prestige to M's activities and fundraising efforts, Albert doesn't, directly or indirectly, exercise any control over M. By the close of its first tax year, M also has received a significant amount of support from a number of smaller

contributions and pledges from members of the general public. M charges admission to the ballet performances to the general public.

Although the support received in 2013 won't impact M's status as a public charity for its first 5 tax years, it will be relevant to the determination of whether M meets the one-third support test under section 509(a)(2) for the 2017 tax year, using the computation period 2013 through 2017. Within the appropriate timeframe, M may submit a request for a determination letter that the \$500,000 contribution from Z qualifies as an unusual grant.

Under the above circumstances, even though Albert was a founder and member of the governing body of M, M may exclude Z's contribution of \$500,000 in 2013 as an unusual grant under Regulations section 1.509(a)-3T(c)(3) for purposes of

determining whether M meets the one-third support test under section 509(a)(2) for 2017.

Gifts, contributions, and grants distinguished from gross receipts. In determining whether an organization normally receives more than one-third of its support from permitted sources, include all gifts, contributions, and grants received from permitted sources in the numerator of the support fraction in each tax year. However, gross receipts from admissions, sales of merchandise, performance of services, or furnishing facilities, in an activity that isn't an unrelated trade or business, are includible in the numerator of the support fraction in any tax year only to the extent that the amounts received from any person or from any bureau or similar agency of a governmental unit aren't more than the greater of \$5,000 or 1% of support.

Determinations of public support status.

An organization may request a determination letter that it is described in section 509(a)(2). This request is made on Form 1023 or Form 1023-EZ, or at such other time as the organization believes it is described in section 509(a)(2). The IRS may revoke the section 509(a)(2) determination letter if, upon examination, the organization has not met the requirements. The IRS may also revoke the section 509(a)(2) determination letter if the organization's application for determination contained an omission or inaccurate material information.

Reliance by grantors or contributors.

Grantors or contributors may rely on a determination that an organization is described in section 509(a)(2) until notice of change of status of the organization is made to the public (such as by publication in the *Internal Revenue Bulletin*, or Tax-Exempt Organization Search,

either of which can be searched at IRS.gov). See [Rev. Proc. 2018-32, 2018-23 I.R.B. 739](#). Tax-Exempt Organization Search is only available online at [Tax-Exempt Organization Search](#). However, this won't apply if the grantor or contributor was responsible for, or aware of, the act or failure to act that resulted in the organization's loss of classification as a publicly supported organization.

Gifts and contributions. Any payment of money or transfer of property without adequate consideration is considered a gift or contribution. When payment is made or property is transferred as consideration for admissions, sales of merchandise, performance of services, or furnishing facilities to the donor, the status of the payment or transfer under section 170(c) determines whether and to what extent the

payment or transfer is a gift or contribution as distinguished from gross receipts from related activities.

The amount includible in computing support from gifts, grants, or contributions of property or use of property is the fair market or rental value of the property at the date of the gift or contribution.

Example. P is a local agricultural club and is an organization described in section 501(c)(3). It makes awards at its annual fair for outstanding specimens of produce and livestock to encourage interest and proficiency by young people in farming and raising livestock. Most of these awards are cash or other property donated by local businessmen. When the awards are made, the donors are given recognition for their donations by being identified as the donor of the award. The recognition given to donors is merely incidental to the making of the award to worthy youngsters.

For these reasons, the donations are contributions. The amount includible in computing support is equal to the cash contributed or the fair market value of other property on the dates contributed.

Grants. Grants often contain certain terms and conditions imposed by the grantor. Because of the imposition of terms and conditions, the frequent similarity of public purposes of grantor and grantee, and the possibility of benefit to the grantor, amounts received as grants for carrying on exempt activities are sometimes difficult to distinguish from amounts received as gross receipts from carrying on exempt activities.

In distinguishing the term gross receipts from the term grants, the term gross receipts means amounts received from an activity that isn't an unrelated trade or business, if a specific service, facility, or product is provided to serve the direct and immediate needs of the payor rather than primarily to confer a

direct benefit on the general public. In general, payments made primarily to enable the payor to realize or receive some economic or physical benefit as a result of the service, facility, or product obtained will be treated as gross receipts by the payee.

For example, a profit-making organization, primarily for its own betterment, contracts with a nonprofit organization for a service from that organization. Any payments received by the nonprofit organization (whether from the profit-making organization or from another nonprofit) for similar services are primarily for the benefit of the payor and are therefore gross receipts, rather than grants.

Research leading to the development of tangible products for the use or benefit of a payor generally will be treated as a service provided to serve the direct and immediate needs of the payor,

while basic research or studies carried on in the physical or social sciences generally will be treated as primarily to confer a direct benefit upon the general public.

Medicare and Medicaid payments are gross receipts from the exercise or performance of an exempt function. The individual patient, not a governmental unit, actually controls the ultimate recipient of these payments.

Therefore, Medicare and Medicaid receipts for services provided to each patient are included as gross receipts to the extent they aren't more than the greater of \$5,000 or 1% of the organization's total support for the tax year.

Membership fees distinguished from gross receipts. The fact that a membership organization provides services, admissions, facilities, or merchandise to its members as part of its overall activities won't, in itself, result in the classification of fees received from members as gross receipts subject to the \$5,000 or 1% limit rather than

membership fees. However, if an organization uses membership fees as a means of selling admissions, merchandise, services, or the use of facilities to members of the general public who have no common goal or interest (other than the desire to buy the admissions, merchandise, services, or use of facilities), the fees aren't membership fees but are gross receipts.

On the other hand, to the extent the basic purpose of the payment is to provide support for the organization rather than to buy admissions, merchandise, services, or the use of facilities, the payment is a membership fee.

Bureau defined. The term bureau or similar agency of a governmental unit for determining amounts subject to the \$5,000 or 1% limit means a specialized operating unit of the executive, judicial, or legislative branch of government in which business is conducted under certain rules and regulations.

Since the term bureau refers to a unit functioning at the operating, as distinct from the policy-making, level of government, it normally means a subdivision of a department of government. The term wouldn't usually include those levels of government that are basically policy-making or administrative, such as the office of the Secretary or Assistant Secretary of a department, but would consist of the highest operational level under the policy-making or administrative levels.

Amounts received from a unit functioning at the policy-making or administrative level of government are treated as received from one bureau or similar agency of the unit. Units of a governmental agency above the operating level are combined and considered a separate bureau for this purpose. Thus, an organization that has gross receipts from both a policy-making or administrative unit and an operational unit of a department will be

treated as having gross receipts from two bureaus. For this purpose, the Departments of Air Force, Army, and Navy are separate departments and each has its own policy-making, administrative, and operating units.

Example 1. The Bureau for Africa and the Bureau for Latin America are considered separate bureaus. Each is an operating unit under the Administrator of the Agency for International Development, a policy-making official. If an organization had gross receipts from both of these bureaus, the amount of gross receipts from each would be subject to the greater of \$5,000 or the 1% limit.

Example 2. A bureau is an operating unit under the administrative office of the Executive Director. The subdivisions of the bureau are Geographic Areas and Project Development Staff. If an organization had gross receipts from these subdivisions, the total gross receipts from these subdivisions

would be considered gross receipts from the same bureau and would be subject to the greater of \$5,000 or the 1% limit.

Grants from public charities. For purposes of the one-third support test, grants received from a section 509(a)(1) organization (public charity) are generally includible in full in computing the numerator of the support fraction for that tax year.

However, if the amount received is considered an indirect contribution from one of the public charity's donors, it will retain its character as a contribution from the donor, and if, for example, the donor is a substantial contributor to the ultimate recipient, the amount is excluded from the numerator of the support fraction. If a public charity makes both an indirect contribution from its donor and an additional grant to the ultimate recipient, the indirect contribution is treated as made first.

An indirect contribution is one that is expressly or impliedly earmarked by the donor as being for, or for the benefit of, a particular recipient rather than for a particular purpose.

Method of accounting. An organization's support is determined under the same accounting method that it uses in keeping its books and that it otherwise uses to report on its Form 990 or 990-EZ, if it is required to file Form 990 or 990-EZ. For example, if a grantor makes a grant to an organization payable over a term of years, the grant will be includible in the support fraction of the grantee organization under the accounting method it regularly uses in keeping its books.

Gross receipts from a related activity.

When the charitable purpose of an organization described in section 501(c)(3) is accomplished through furnishing facilities for a rental fee or loans to a particular class of persons, such as aged, sick, or needy

persons, the support received from those persons will be considered gross receipts from a related exempt activity rather than gross investment income or unrelated business taxable income.

However, if the organization also furnishes facilities or loans to persons who aren't members of a particular class and furnishing the facilities or funds doesn't contribute importantly to accomplishing the organization's exempt purposes, the support received from furnishing the facilities or funds will be considered rents or interest and will be treated as gross investment income or unrelated business taxable income.

Example. X, an organization described in section 501(c)(3), is organized and operated to provide living facilities for needy widows of deceased servicemen. X charges the widows a small rental fee for the use of the facilities. Since X is accomplishing its exempt purpose through the rental of the facilities,

the support received from the widows is considered gross receipts from a related exempt activity. However, if X rents part of its facilities to persons having no relationship to X's exempt purpose, the support received from these rentals will be considered gross investment income or unrelated business taxable income.

Section 509(a)(3) Organizations

Section 509(a)(3) excludes from the definition of private foundation those organizations that meet all of the three following requirements.

1. The organization must be organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more specified organizations, as described in sections 509(a)(1) or 509(a)(2). These section 509(a)(1) and 509(a)(2) organizations

are commonly called publicly supported organizations.

2. The organization has one of three types of relationships with one or more organizations described in sections 509(a)(1) or 509(a)(2). It must be:
 - a. Operated, supervised, or controlled by one or more section 509(a)(1) or 509(a)(2) organizations (Type I supporting organization),
 - b. Supervised or controlled in connection with one or more section 509(a) (1) or 509(a)(2) organizations (Type II supporting organization), or
 - c. Operated in connection with one or more section 509(a)(1) or 509(a)(2) organizations (Type III supporting organization).

3. The organization mustn't be controlled directly or indirectly by disqualified persons (defined later) other than foundation managers and other than one or more organizations described in section 509(a)(1) or 509(a)(2).

Section 509(a)(3) differs from the other provisions of section 509 that describe a publicly supported organization. Instead of describing an organization that conducts a particular kind of activity or that receives financial support from the general public, section 509(a)(3) describes organizations that have established certain relationships in support of section 509(a)(1) or 509(a)(2) organizations. Thus, an organization can qualify as other than a private foundation even though it may be funded by a single donor, family, or corporation (with certain exceptions described in Organizations controlled by donors, later).

This kind of funding ordinarily would indicate private foundation status, but a section 509(a)(3) organization has limited purposes and activities and gives up a significant degree of independence.

More than one type of relationship may exist between a supporting organization and a publicly supported organization. Any relationship, however, must ensure that the supporting organization will be responsive to the needs or demands of, and will be an integral part of or maintain a significant involvement in, the operations of one or more publicly supported organizations.

The Type I and Type II relationships rely on majority control of the governing body of the supporting organization by the publicly supported organization. They have the same rules for meeting the tests under requirement (1) and are discussed in Category one below.

The operated in connection with relationship requires that the supporting organization be responsive to and have operational relationships with publicly supported organizations. This third relationship has different rules for meeting the requirement (1) tests and is discussed separately in Category two, later.

Supported organizations. Supported organizations are organizations described in section 509(a)(1) or 509(a)(2) for whose benefit the supporting organization is organized and operated. A section 501(c)(4), (c)(5), or (c)(6) organization that would be described in section 509(a)(2) if it were a 501(c)(3) organization may be treated as a 509(a)(2) organization for purposes of these rules, and therefore may be a supported organization as well, subject to certain restrictions. See *Supporting other than section 501(c)(3) organizations*, later.

Organizations controlled by donors.

Generally, if a Type I or Type III supporting organization supports an organization that is controlled by a donor, the supporting organization is treated as a private foundation (rather than as a public charity). Type I and Type III organizations may not accept any gifts or contributions from:

1. Any person (other than an organization described in section 509(a)(1), (2), or (4)) who controls, directly or indirectly, either alone or together with persons listed in (2) or (3) below, the governing body of a supported organization;
2. A family member of a person described in (1), above; or
3. A 35% controlled entity.

Category one - Type I and Type II supporting organizations. This category includes organizations either operated,

supervised, or controlled by (Type I) or supervised or controlled in connection with (Type II) organizations described in section 509(a)(1) or 509(a)(2) (which can be either domestic or foreign).

These kinds of organizations have a governing body that either includes a majority of members elected or appointed by one or more publicly supported organizations (Type I) or that consists of the same persons that control or manage the publicly supported organizations (Type II). If an organization is to qualify under this category, it must also meet an organizational test and an operational test, and mustn't be controlled by disqualified persons. These requirements are covered later in this discussion.

Type I - Operated, supervised, or controlled by. The Type I relationship presupposes a substantial degree of direction over the policies, programs, and activities of a supporting organization by its supported

organizations. The relationship required is comparable to that of a parent and subsidiary, in which the subsidiary is under the direction of, and is accountable or responsible to, the parent organization. This relationship is typically established when the supported organization(s) may regularly appoint or elect a majority of the directors or trustees of the supporting organization.

Type II - Supervised or controlled in connection with. An organization that is supervised or controlled in connection with one or more section 509(a)(1) or 509(a)(2) organizations is a Type II supporting organization. The control or management of the supporting organization must be vested in the same persons that control or manage the publicly supported organization. In order for an organization to be supervised or controlled in connection with a supported organization, common supervision or control by the persons supervising or controlling both organizations

must exist to ensure that the supporting organization will be responsive to the needs and requirements of the supported organization. This relationship is typically established when a majority of the directors or trustees of the supporting organization also serve as directors or trustees of one or more supported organizations.

Organizational and operational tests. Like all supporting organizations, Type I and II supporting organizations must be both organized and operated exclusively for the purposes set out in requirement (1) at the beginning of this section. If an organization fails to meet either the organizational or the operational test, it can't qualify as a supporting organization.

Organizational test. An organization is organized exclusively for one or more of the purposes specified in requirement (1) only if its articles of organization:

1. Limit the purposes of the organization to one or more of those purposes,
2. Don't expressly empower the organization to engage in activities that aren't in furtherance of those purposes,
3. Specify (as explained later under *Specified organizations*) the publicly supported organizations on whose behalf the organization is operated, and
4. Don't expressly empower the organization to operate to support or benefit any organization other than the ones specified in item (3).

In meeting the organizational test, the organization's purposes as stated in its articles can be as broad as, or more specific than, the purposes set forth in requirement (1) at the beginning of the discussion of *Section 509(a)(3) Organizations*.

Therefore, an organization that by the terms of its articles is formed for the benefit of one or more specified publicly supported organizations will, if it otherwise meets the other requirements, be considered to have met the organizational test.

For example, articles stating that an organization is formed to perform the publishing functions of a specified university are enough to comply with the organizational test. A Type I or Type II supporting organization meets these requirements if the purposes set forth in its articles are similar to but no broader than the purposes set forth in the articles of its controlling organizations. However, a Type I or Type II supporting organization that supports a publicly supported section 501(c)(4), 501(c)(5), or 501(c)(6) organization (see *Supporting other than section 501(c)(3) organizations*, later)

meets these requirements if its articles require it to carry on charitable, etc., activities within the meaning of section 170(c)(2).

Limits. An organization isn't organized exclusively for the purposes specified in requirement (1) if its articles expressly permit it to operate to support or to benefit any organization other than the specified publicly supported organizations. It won't meet the organizational test even though the actual operations of the organization have been exclusively for the benefit of the specified publicly supported organizations.

Specified organizations. All supporting organizations must ensure that their supported organizations are specified in their articles. However, Type I and Type II supporting organizations have greater flexibility regarding how their supported organizations may be "specified."

Type I and Type II supporting organizations may specify their supported organizations:

1. By name,
2. By class or purpose designated in a manner sufficient to identify the supported organizations, or
3. By demonstrating that the supporting organization and its supported organization(s) have a historic and continuing relationship, because of which a substantial identity of interests has developed between or among the organizations.

The articles of a Type I or Type II supporting organization may also:

1. Permit the substitution of one publicly supported organization within a designated class for another publicly supported organization either in the same or a different class designated in the articles,

2. Permit the supporting organization to operate for the benefit of new or additional publicly supported organizations of the same or a different class designated in the articles, or
3. Permit the supporting organization to vary the amount of its support among different publicly supported organizations within the class or classes of organizations designated by the articles.

See also the rules considered under the *Organizational test*, in the later discussion for organizations in Category two - Type III supporting organizations.

Operational test — permissible beneficiaries. A supporting organization must engage solely in activities that support or benefit its specified supported organizations.

These activities may include making payments to or for the use of, or providing services or facilities for, individual members of the charitable class benefited by its supported organization(s).

For example, a supporting organization may make a payment indirectly through another unrelated organization to a member of a charitable class benefited by a specified publicly supported organization, but only if the payment is a grant to an individual rather than a grant to an organization. Similarly, a supporting organization may support or benefit a section 501(c)(3) organization, other than a private foundation, that is operated, supervised, or controlled directly by or in connection with its supported organization(s). However, a supporting organization's activities may not further its purpose other than supporting or benefiting its supported organization(s).

Operational test — permissible activities.

A supporting organization may make payments to its supported organization(s) or to permissible beneficiaries, or may carry on independent activities or programs that support or benefit its supported organization(s). All such support, however, must be limited to permissible beneficiaries described earlier. The supporting organization may also engage in fundraising activities, such as solicitations, fundraising dinners, and unrelated trade or business, to raise funds for its supported organization(s) or for the permissible beneficiaries.

Absence of control by disqualified persons. The third requirement an organization must meet to qualify as a supporting organization requires that the organization not be controlled directly or indirectly by one or more disqualified persons (other than foundation managers or one or more publicly supported organizations).

Disqualified persons. For the purposes of the rules discussed in this publication, the following persons are considered disqualified persons:

1. All substantial contributors to the foundation.
2. All foundation managers of the foundation.
3. An owner of more than 20% of:
 - a. The total combined voting power of a corporation that is (during such ownership) a substantial contributor to the foundation,
 - b. The profits interest of a partnership that is (during such ownership) a substantial contributor to the foundation, or
 - c. The beneficial interest of a trust or unincorporated enterprise that is (during such ownership) a

substantial contributor to the foundation.

4. A member of the family of any of the individuals just listed.
5. A corporation of which more than 35% of the total combined voting power is owned by persons just listed.
6. A partnership of which more than 35% of the profits interest is owned by persons described in (1), (2), (3), or (4).
7. A trust, or estate, of which more than 35% of the beneficial interest is owned by persons described in (1), (2), (3), or (4).

Remember, however, that foundation managers and publicly supported organizations aren't disqualified persons for purposes of this control requirement.

If a person who is a disqualified person with respect to a supporting organization, such as a substantial contributor, is appointed or designated as a foundation manager of the supporting organization by a supported organization to serve as its representative, that person is still a disqualified person.

An organization is considered controlled for this purpose if the disqualified persons, by combining their votes or positions of authority, can require the organization to perform any act that significantly affects its operations or can prevent the organization from performing the act. This includes, but isn't limited to, the right of any substantial contributor or spouse to designate annually the recipients from among the supported organizations of the income from the contribution. Except as explained under *Proof of independent control*, next, a supporting organization will be considered to be controlled directly or indirectly by one or

more disqualified persons if the voting power of those persons is 50% or more of the total voting power of the organization's governing body, or if one or more of those persons has the right to exercise veto power over the actions of the organization.

Thus, if the governing body of a foundation is composed of five trustees, none of whom has a veto power over the actions of the foundation, and no more than two trustees are at any time disqualified persons, the foundation isn't considered controlled directly or indirectly by one or more disqualified persons by reason of this fact alone.

However, all pertinent facts and circumstances (including the nature, diversity, and income yield of an organization's holdings, the length of time particular stocks, securities, or other assets are retained, and its manner of exercising its voting rights with respect to stocks in which members of its governing body also have

some interest) are considered in determining whether a disqualified person does in fact indirectly control an organization.

Proof of independent control. An organization is permitted to establish to the satisfaction of the IRS that disqualified persons don't directly or indirectly control it. For example, in the case of a religious organization operated in connection with a church, the fact that the majority of the organization's governing body is composed of lay persons who are substantial contributors to the organization won't disqualify the organization under section 509(a)(3) if a representative of the church, such as a bishop or other official, has control over the policies and decisions of the organization.

Category two - Type III supporting organizations. This category includes organizations operated in connection with one or more organizations described in section 509(a)(1) or 509(a) (2).

All supporting organizations must be responsive to the needs and demands of, and must constitute an integral part of or maintain significant involvement in, their supported organizations. Type I and Type II supporting organizations are deemed to accomplish these responsiveness and integral part requirements by virtue of the control relationships discussed earlier. However, a Type III supporting organization isn't subject to the same level of control by its supported organization(s). Therefore, Type III supporting organizations must pass separate responsiveness and integral part tests, in addition to the organizational and operational tests applicable to all supporting organizations. Type III supporting organizations mustn't be controlled by disqualified persons (as described earlier), and may not receive contributions from certain controlling donors (see *Contributions from controlling donors*, later).

In addition, a Type III supporting organization may not support any organization not organized in the United States.

Functional integration. A Type III supporting organization may be “functionally-integrated” or “non-functionally integrated” depending on the manner in which it meets the integral part test (see Integral part test - functionally-integrated, and Integral part test - non-functionally integrated, later). Type III functionally-integrated supporting organizations are subject to fewer restrictions and requirements than Type III non-functionally integrated supporting organizations. In particular, distributions from private foundations to Type III non-functionally integrated supporting organizations aren't qualifying distributions for purposes of satisfying a private

foundation's required annual distributions under section 4942, and may be taxable expenditures under section 4945.

Organizational test. The organizational test for a Type III supporting organization is generally the same as for a Type I or Type II supporting organization (described earlier). However, Type III supporting organizations are more limited regarding how their supported organizations must be “specified” in their articles. A Type III supporting organization's articles must specify its supported organization(s) by name, or the organization must demonstrate that the supporting organization and its supported organization(s) have a historic and continuing relationship, because of which a substantial identity of interests has developed between or among the organizations. “Class or purpose” designations don't satisfy the organizational test for Type III supporting organizations.