

Private foundations; termination of status; advance ruling. A private foundation that has commenced a 60-month termination period has received an advance ruling that it can reasonably be expected to satisfy the requirements of section 507(b)(1)(B)(i) of the Code by operating as a public charity during the period. A private foundation that supports only such organization and otherwise qualifies under section 1.509(a)-4 of the regulations may be given an advance ruling that it can reasonably be expected to operate as a section 509(a)(3) organization and satisfy the requirements of section 507(b)(1)(B)(i) during its own 60-month termination period.

Advice has been requested whether a private foundation may be given an advance ruling that it can be expected to operate for 60 continuous months as an organization described in section 509(a)(3) of the Internal Revenue Code of 1954 and meet the requirements of section 507(b)(1)(B)(i), where the only organization it supports has commenced a 60-month termination period and has received a favorable advance ruling.

X and Y are private foundations within the meaning of section 509(a) of the Code. X was issued a favorable advance ruling letter that it can be expected to satisfy the requirements of section 507(b)(1)(B)(i) by meeting the requirements of sections 509(a)(1) and 170(b)(1)(A)(vi) for a continuous period of 60 months. Y has given notification to the Service of its intent to terminate its private foundation status under section 507(b)(1)(B)(ii), and has requested an advance ruling under section 1.507-2(e) of the Income Tax Regulations that it can be expected to be organized and operated as a section 509(a)(3) organization by operating in connection with X for a continuous 60-month period beginning with a calendar year subsequent to the commencement of X's termination period. Y has submitted evidence indicating that it can reasonably be expected to meet the requirements of section 1.509(a)-4 (relating to supporting organizations) if it is assumed that X will successfully terminate its private foundation status and meet the requirements of sections 509(a)(1) and 170(b)(1)(A)(vi) thereafter.

Section 507(b)(1)(B)(i) of the Code provides that the status of an organization as a private foundation shall be terminated if the organization meets the requirements of paragraph (1), (2), or (3) of section 509(a) for a continuous period of 60 calendar months beginning with the first day of any taxable year which begins after December 31, 1969.

Section 1.507-2(e) of the regulations authorizes the Commissioner to issue an advance ruling that an organization can be expected to satisfy the requirements of section 507(b)(1)(B)(i) of the Code during a 60-month termination period if the organization can reasonably be expected to meet the requirements of section 507(b)(1)(B)(i) during the 60-month period.

X received an advance ruling on the basis that it could reasonably be expected to operate as a public charity during its 60-month termination period and must establish that it operated as a public charity during that period. Y can therefore reasonably be expected to be supporting a public charity during the years of X's 60-month termination period. Since X can reasonably be expected to terminate its private foundation status, it can also be expected to be a public charity thereafter. Therefore, Y may be given an advance ruling that it can reasonably be expected to be supporting a public charity during its own 60-month termination period.

After Y's 60-month termination period ends, it must establish that it actually operated as a section 509(a)(3) supporting organization during the termination period. To do thus, Y must submit evidence indicating that X was in fact a public charity during Y's termination period, as well as other evidence that Y meets the requirements of section 1.509(a)-4 of the regulations.