

Internal Revenue Service  
P. O. Box 2508  
Cincinnati, OH 45201

Department of the Treasury

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Employer Identification Number:

Person to Contact - ID#:

Date: April 28, 2017

Contact Telephone Numbers:

**LEGEND:**

UIL

B = Name  
C = State  
D = Year  
E = Name  
F = County Names

509.02-01

x dollars = Amount  
y dollars = Amount

Dear :

We have considered your January 5, 2017 request for recognition of an unusual grant under Treasury Regulations section 1.170A-9(f)(6)(ii) and related provisions.

Based on the information provided, we have concluded that the proposed grant will constitute an unusual grant under section 1.170A-9(f)(6)(ii) and related provisions of the regulations. The basis for our conclusion is set forth below.

**Facts:**

You were formed in the state of C in D. You are a nonprofit corporation exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and classified as a public charity under Sections 509(a)(1) and 170(b)(1)(A)(vi) of the Code. Your purpose is to promote the mental, moral, intellectual, artistic, and physical improvement of those in F which is a rural area in C.

You will receive a grant from B for x dollars. The grant will be a distribution of cash or investments from B and will take effect on the death of the grantor. A condition of the receipt of the grant requires that you will hold the funds in a separate endowment known as E. The grant will be used to benefit of residents in F at the discretion of your board of directors.

You received one small grant for y dollars from B several years ago. B is not your creator and does not stand in a position of authority over you. You have carried on a successful program of public solicitation to attract public support and have consistently met the public support test. Your program of public solicitation includes conducting an annual mailing campaign to solicit contributions from the general public, and sending letters to the local funeral homes requesting they inform families of your existence so that they can make memorial gifts to you.

Furthermore, you have a large board including an elected county official, an elected member from the local board of education, an officer/employee of a local bank from your community, as well as three directors elected at large. Other than your current president serving as B's attorney, there are no other relationships between you and B.

**Law:**

Treasury Regulations sections 1.170A-9(f)(6)(ii) and 1.509(a)-3(c)(4) set forth the criteria for an unusual grant.

Treasury Regulations section 1.170A-9(f)(6)(ii) states that, for purposes of applying the 2-percent limitation to determine whether the 33 1/3 percent-of-support test is satisfied, one or more contributions may be excluded from both the numerator and the denominator of the applicable percent-of-support fraction. The exclusion is generally intended to apply to substantial contributions or bequests from disinterested parties which:

- are attracted by reason of the publicly supported nature of the organization;
- are unusual or unexpected with respect to the amount thereof; and
- would, by reason of their size, adversely affect the status of the organization as normally being publicly supported.

Treasury Regulations section 1.509(a)-3(c)(4) states that all pertinent facts and circumstances will be taken into consideration to determine whether a particular contribution may be excluded. No single factor will necessarily be determinative. Such factors may include:

- Whether the contribution was made by a person who
  - a. created the organization
  - b. previously contributed a substantial part of its support or endowment
  - c. stood in a position of authority with respect to the organization, such as a foundation manager within the meaning of section 4946(b)
  - d. directly or indirectly exercised control over the organization, or
  - e. was in a relationship described in Internal Revenue Code section 4946(a)(1)(C) through 4946(a)(1) (G) with someone listed in bullets a, b, c, or d above.

A contribution made by a person described in a. - e. is ordinarily given less favorable consideration than a contribution made by others not described above.

- Whether the contribution was a bequest or an inter vivos transfer. A bequest will ordinarily be given more favorable consideration than an inter vivos transfer.
- Whether the contribution was in the form of cash, readily marketable securities, or assets which further the exempt purposes of the organization, such as a gift of a painting to a museum.
- Whether (except in the case of a new organization) prior to the receipt of the particular contribution, the organization (a) has carried on an actual program of

public solicitation and exempt activities and (b) has been able to attract a significant amount of public support.

- Whether the organization may reasonably be expected to attract a significant amount of public support after the particular 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 cannot reasonably be expected to attract future public support.
- Whether, prior to the year in which the particular contribution was received, the organization met the one-third support test described in section 1.509(a)-3(a)(2) without the benefit of any exclusions of unusual grants pursuant to section 1.509-3(c)(3);
- Whether the organization has a representative governing body as described in Treasury Regulations section 1.509(a)-3(d)(3)(i); and
- Whether material restrictions or conditions within the meaning of Treasury Regulations section 1.507-2(a)(7) have been imposed by the transferor upon the transferee in connection with such transfer.

#### **Application of Law:**

Based on the information provided, the proposed grant meets the requirements of Treasury Regulations section 1.170A-9(f)(6)(ii) because the grant is from a disinterested party, and:

- The grant was attracted by reason of your publicly supported nature;
- The grant is unusual or unexpected with respect to the amount;
- The grant will adversely affect your status as normally being publicly supported.

The grant meets the requirements of Treasury Regulations section 1.509(a)-3(c)(4) based on the following facts and circumstances.

- a) The grant was not made by a person who created you or who previously contributed a substantial amount of your support. The grantor also does not stand in a position of authority with respect to you and does not exercise control over you.
- b) The grant is a bequest and is in the form of cash or investments.
- c) You have carried on an actual program of public solicitation, have exempt activities, and have attracted a significant amount of public support over the years.
- d) You have met the public support test in past years.
- e) Because you have relied on public support in the past, it can be assumed that you will be able to maintain that level of public support in the future.
- f) You have a large representative governing body.

In addition, no material restrictions or conditions within the meaning of Treasury Regulations section 1.507-2(a)(7) have been imposed by the transferor upon the transferee in connection with such transfer.

For all the forgoing reasons, the grant should be characterized as an unusual grant within the meaning of Treasury Regulations section 1.509(a)-3(c)(4).

If you have any questions, please contact the person listed in the heading of this letter.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements