

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

Department of the Treasury

Number: 202034008  
Release Date: 8/21/2020

Date: May 26, 2020

Employer Identification Number:

Person to Contact - ID#:

Contact Telephone Numbers:

**LEGEND:**

B = state  
C = year  
D = school  
E = entity  
x dollars = amount

UIL:

509.02-01

Dear :

We have considered your July 24, 2019 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 constitutes 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 B in C. 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 support the operations of D by funding scholarships and special needs projects.

You are asking for approval of an unusual grant in the amount of x dollars. The grant will come from E in the form of cash. The grant was not expected and is unusual when compared to the size of donations you normally receive. The funds are to be used to provide scholarships.

E is not one of your creators nor does E stand in a position of authority over you. In addition, you have a large board of directors and do not share any board members with E.

**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.

Treas. Reg.s 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.

Treas. Reg. 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:**

The grant meets the requirements of Treas. Reg. Section 1.170A-9(f)(6)(ii) because the grant is from a disinterested party, and:

- The grant was attracted because you are publicly supported,
- The grant was unusual or unexpected with respect to the amount and size, and
- The grant will adversely affect your status as normally being publicly supported.

The grant meets the requirements of Treas. Reg. 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 or contributed a substantial amount of funds to you. The grantor does not stand in a position of authority or exercise control over you.
- b) The grant is in the form of cash.
- 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) It can be assumed you will be able to maintain a level of public support in the future.
- f) You have a large representative governing body.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements