

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

Department of the Treasury

Number: 202039020
Release Date: 9/25/2020

Date: June 29, 2020

Employer Identification Number:

Person to Contact - ID#:

Contact Telephone Numbers:

LEGEND:

C = individual
D = name
E = year
F = fund name
G = year
y dollars = amount 1
z dollars = amount 2

UIL:

509.02-01

Dear :

We have considered your December 30, 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 Treas. Reg. Section 1.170A-9(f)(6)(ii) and related provisions of the regulations. The basis for our conclusion is set forth below.

Facts:

You will receive a grant from C, an alumnus member of the D fraternity with which you are associated. C is not one of your creators, has not previously contributed a substantial part of your support or endowment, or stands in any position of authority within respect to you. Neither C, nor any person standing in a relationship to C, has any control over you.

You are asking for approval of an unusual grant in the amount of z dollars. You have entered into an agreement with C on the specifics of the grant. The grant was not expected and is unusual when compared to the size of donations you normally receive. The funds are to be used for:

- major repair projects to chapter houses
- promotion and preservation of D
- promotion of the Greek fraternity system in the context of undergraduate educational
- preservation of the central office staff at the national chapter of D
- emergency or urgent circumstances

C has agreed to a total gift of z dollars, to be paid in five annual installments commencing on E. The proceeds of the initial gift should be placed in a separate special fund to be known as F. Disbursements from F shall be made only in accordance with the other provisions of the agreement.

C has also agreed to make additional contributions to match future gifts you may receive. The matching gift, or portions thereof, will be contributed to you between now and G as certain gifting thresholds are met. You will give C a quarterly report of its receipt of matching gifts meeting the requirements of the agreement. For each y dollars received, C will provide matching funds.

C's grants were attracted by reason of your publicly supported nature. The proposed contribution is certainly unusual and unexpected with respect to the amount thereof. The proposed contribution, by reason of its size, would adversely affect your public support status for the applicable period.

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. 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 Internal Revenue Code Section 4946(b)
 - d. directly or indirectly exercised control over the organization, or
 - e. was in a relationship described in IRC 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 Treas. Reg. Section 1.509(a)-3(a)(2) without the benefit of any exclusions of unusual grants pursuant to Treas. Reg. Section 1.509-3(c)(3);
- Whether the organization has a representative governing body as described in Treas. Reg. Section 1.509(a)-3(d)(3)(i); and
- Whether material restrictions or conditions within the meaning of Treas. Reg. 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.

We have sent a copy of this letter to your representative as indicated in your power of attorney.

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

Sincerely,

Director, Exempt Organizations
Rulings and Agreements