

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

Number: 202126029
Release Date: 7/2/2021

Date: April 6, 2021

Department of the Treasury

Employer Identification Number:

Person to Contact - ID#:

Contact Telephone Numbers:

UIL: 509.02-01

LEGEND:

B = Name of Trust

C = Date

D = Date

x dollars = Dollar amount

y dollars = Dollar amount

Dear _____ :

We have considered your August 13, 2020, 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 currently have exemption from federal income tax under IRC Section 501(c)(3). You are a public charity under Section 509(a)(2).

You were notified on C that you were named as a beneficiary of B. Beginning in _____, B was to begin granting x dollars per year for the medical care and adoption of uncared for animals. Granting was delayed due to litigation, and x dollars were disbursed in _____. The total amount due as of D is y dollars plus interest.

The contribution was not made by any person who created you, previously contributed a substantial part of your support or endowment or stood in a position of authority over you. You have a representative governing body.

The contribution is a cash bequest that was attracted by reason of your publicly supported nature. You have carried on an actual program of public solicitation and exempt activities since your inception. You have continued your efforts to attract significant amounts of public support.

The only restriction imposed on the funds are that they must be used for the medical care and the adoption of uncared for animals, which is the primary function of your organization.

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:

These grants meet the requirements of Treas. Reg. Section 1.170A-9(f)(6)(ii) because the grants are from a disinterested party, were attracted by reason of your publicly supported nature, are considered unusual, and would, by reason of their size, adversely affect your status 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. Factors considered include:

- The contribution is not made by any person who created you, previously contributed a substantial part of your support, or stood in a position of authority over you.
- The contribution is a cash bequest that will be used to further fund your programs and further your exempt purposes.
- You have carried on an actual program of public solicitation and exempt activities and have been able to attract a significant amount of public support.
- You can reasonably be expected to attract a significant amount of public support after this contribution.
- You have a representative governing body as described in Treasury Regulations Section 1.509(a)-3(d)(3)(i).
- There are no material restrictions or conditions within the meaning of Treasury Regulations Section 1.507-2(a)(7) imposed by the transferor in connection with such transfer.

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