



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities

Date:
07/08/2024
Employer ID number:

Person to contact:

Release Number: 202440013
Release Date: 10/04/2024

LEGEND

B = Name
C = Location
D = Name
E = Name
F = Agency
q dollars = Amount

UIL: 509.02-01

Dear :

We have considered your request for recognition of an unusual grant under Treasury Regulation Section 1.170A-9(f)(6)(ii) and related provisions.

Based on the information provided, we 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 discussed below.

Facts:

You were formed to own and maintain for public access and enjoyment, parkland and to operate and maintain community-based programs for the education and improvement of residents of B, one of the largest affording housing projects in C. Your mission has been to provide programs for the benefit of B residents and the surrounding areas known collectively as D.

Several years ago, B was sold to a joint venture which has E as an affiliate. After this investment, you assembled a new board which represents the community in order to have a greater impact on the area. You also hired a new executive director with extensive experience in providing education, youth development and supportive services to youth, families as well as has multiple advance degrees. Further you have since broadened your mission to empower individuals to tap into their highest potential through collaboration, supportive services, and an unwavering commitment to growth. In addition, you are dedicated to a long-term investment in the needs and future aspirations of those you serve. To align with this mission, you have created multiple programs and are focused on creating paths for economic opportunity through education and career readiness and awareness.

Recently as a result of the refinancing of B, F required E to invest q dollars in D. It was then determined that the most efficient use of these funds was to make the grant to you so you could provide services immediately to D

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while also building long term programs for D. The grant will be paid in three installments over three years.

You explained:

- Neither E nor any of its members, managers or officers have created or established any endowments on your behalf and there are no affiliations with you on any professional level; and
- You have consistently attracted sufficient public support to meet the 33 1/3/percent test without the benefit of any exclusions of unusual grants pursuant to Treas. Reg. Section 1.509 3(c)(3). In addition, you are actively soliciting contributions from the general public and are launching a robust program of public solicitation that you expect will result in attracting public support.

The grant substantially exceeds any funding you have received and comes at a time when you are beginning to offer a variety of new programs for the benefit of your local community and represents a truly transformative opportunity. However, upon receipt of the grant from E, your status as a publicly supported organization will be jeopardized.

Law:

Two sections of the Treasury Regulations set forth the criteria for an unusual grant. They are:

Treasury Regulation Section 1.170A-9(f)(6)(ii)

This section states that, for purposes of applying the 2% limitation to determine whether the 33 1/3% of-support test is satisfied or the 10 % support limitation is met, 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 Regulation Section 1.509(a)-3(c)(4)

This section 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 (IRC) 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 bullets a through 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 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:

Based on the information provided, the proposed 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 is unusual or unexpected with respect to the amount.
- The grant would by reason of its size adversely affect you as normally being publicly supported.

The grant also meets the requirements of Treas. Reg. Section 1.509(a)-3(c)(4) based on the following facts and circumstances:

- The grant is not being made by a person who created you.
- E has not previously contributed a substantial part or endowment to you and has not stood in a position of authority such as a foundation manager within the meaning of IRC Section 4946(b).
- E does not directly or indirectly exercise control over you, nor has been in a relationship described in IRC Section 4946(a)(1)(C) through 4946(a)(1)(G).
- The transfer of cash will further your exempt purpose and be used to fund your programs in the future.
- You carry on a program to solicit funds to support your activities and reasonably expect to attract public support after this transfer.
- No material restrictions or conditions within the meaning of Treas. Reg. Section 1.507-2(a)(7) have been imposed by E, the donor.

For all the foregoing reasons, the grant should be characterized as an unusual grant within the meaning of Treas. Reg. Section 1.509(a)-3(c)(4).

We'll make this determination letter available for public inspection after deleting personally identifiable information, as required by IRC Section 6110. We've enclosed Letter 437, Notice of Intention to Disclose - Rulings, and a copy of the letter that shows our proposed deletions.

- If you disagree with our proposed deletions, follow the instructions in the Letter 437 on how to notify us.
- If you agree with our deletions, you don't need to take any further action.

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

If you have questions, please contact the person listed at the top of this letter.

Sincerely,

Stephen A Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosures:
Redacted Letter 4787
Letter 437