



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
P.O. Box 2508
Cincinnati, OH 45201

Date:
12/05/2022
Employer ID number:

Person to contact:

Release Number: 202309021

Release Date: 3/3/2023

LEGEND

B = Date

C = State

d dollars = \$

E = Medical Center

Dear :

UIL: 509.02-01

We have considered your written 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 requested advance approval from the Internal Revenue Service that a potential grant or contribution of d dollars constitutes an unusual grant. The contribution is from E, an organization exempt under IRC Section 501 (c)(3) and classified as a hospital under Section 170(b)(1)(A)(iii). E is in the process of dissolving and has agreed to sell its assets to a third-party purchaser. E's board of directors agreed to distribute the funds in cash entirely to you in a one-time grant so that the use of funds continues to serve the community. Some of the board of directors of E will also serve as your board members. You have a representative governing body and no one person exercises control over you. There are no material restrictions on the grant other than you must keep a certain net worth for years from the closing of the sale to ensure that you are operated for exempt purposes.

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:

The exclusion of unusual grants is generally intended to apply to substantial contributions from disinterested parties (i.e., unusual, unexpected, attracted by the publicly supported nature of the organization) which implies that there are cases where the contribution is part of a prearranged plan but may still qualify as an unusual grant. You have a one-time transfer from a dissolving organization that would adversely affect your public support status.

The underlying facts and circumstances considered include:

- a. The grant is being made by an organization that qualifies under IRC Section 170(b)(1)(A)(iii), rather than an individual, business or private foundation.

- b. The hospital is dissolving and will no longer be in a position to exercise influence.
- c. The contribution is being made in cash to further your exempt purposes.
- d. This is a one-time grant and you will be expected to rely on the general public for future support.
- e. You have a representative governing board composed of community leaders.
- f. There are no material restrictions on the grant other than the condition that you must keep a certain net worth for years from the date of sale to ensure you are operating for exempt purposes rather than for the benefit of the transferor.

Therefore, the transfer from E to you is characterized as an unusual grant within the meaning of Treas. Reg. Sec. 1.170A-9(f)(6)(ii).

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,

Director, Exempt Organizations
Rulings and Agreements