



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

P.O. Box 2508
Cincinnati, OH 45201

Date: 08/18/2022

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

LEGEND

B = Name

C = Name

x 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 are tax exempt under Internal Revenue Code (IRC) Section 501(c)(3). You're currently classified as a public charity described in Sections 509(a)(1) and 170(b)(1)(A)(vi).

You will receive a grant from the B, which is a related private foundation exempt under IRC Section 501(c)(3). The grant is a _____ % interest in C, a related for-profit entity, that holds a single asset of a lease agreement with a construction use contract on a facility you will use to carry out your exempt activities. The grant is to be made free of any material restrictions or conditions and has an appraised value of x dollars.

Since your inception, you have carried on an actual program of public solicitation and exempt activities and have received a significant amount of public support. In previous years, you have 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). In addition, you are actively soliciting contributions from the general public and reasonably expect to attract a significant amount of public support after the particular grant is received.

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 % limitation to determine whether the % of-support test is satisfied or the % 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 grant meets the requirements of Treas. Reg. Section 1.170A-9(f)(6)(ii) because:

- The grant is unusual with respect to the amount
- 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:

- The grantor has not previously contributed a substantial part of your support
- The grant is in the form of assets which further your exempt purposes
- You have carried on an actual program of public solicitation and exempt activities and have received a significant amount of public support
- You expect to attract a significant amount of public support after the grant donation
- Prior to the year in which the particular grant is to be received, you 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)
- You have a representative governing body as described in Treas. Reg. Section 1.509(a)-3(d)(3)(i)
- No 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.

For all the forgoing 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,

Stephan A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosures:
Redacted Letter 4787
Letter 437