



# Exempt Organizations Technical Guide

## TG 3-33: Foundation Classification – Type III Supporting Organizations – IRC Section 509(a)(3)

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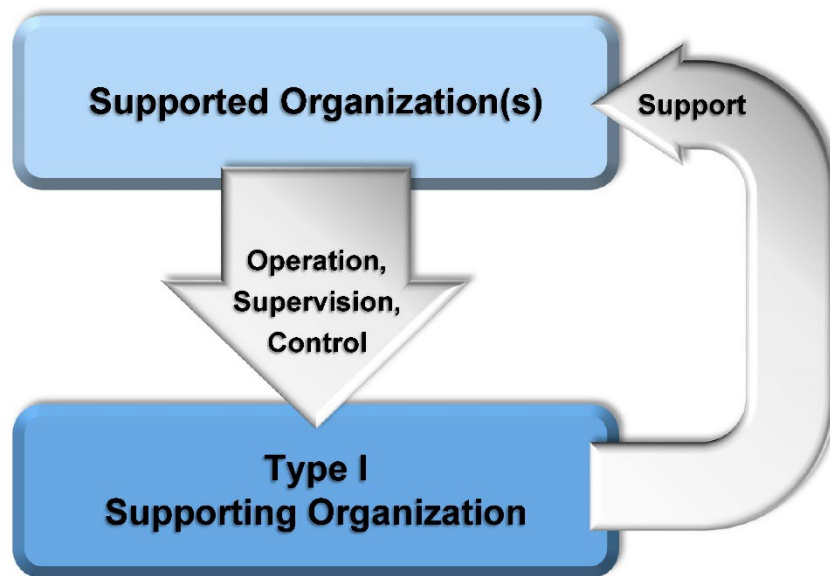
## I. Overview

- (1) Section 501(c)(3) of the Internal Revenue Code (IRC) describes organizations exempt from federal income tax:
  - a. Corporations and any community chest, fund or foundation that are organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals.
  - b. No part of the net earnings inures to the benefit of any private shareholder or individual.
  - c. No substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided in subsection (h)) and which doesn't participate in or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.
- (2) Organizations exempt under Section 501(c)(3) are classified as either a private foundation or public charity under Section 509. An organization is a private foundation within the meaning of Section 509 unless it is described under:
  - a. Section 509(a)(1) – Organizations described in Section 170(b)(1)(A) (except clauses (vii) and (viii)), which includes:
    - Section 170(b)(1)(a)(i) – Churches
    - Section 170(b)(1)(a)(ii) – Schools
    - Section 170(b)(1)(a)(iii) – Hospitals and Medical Research Organizations
    - Section 170(b)(1)(a)(iv) – Organizations that Benefit Colleges and Universities
    - Section 170(b)(1)(a)(v) – Governmental Entities
    - Section 170(b)(1)(a)(vi) – Substantial Public Support
  - b. Section 509(a)(2) – Broad Public Support
  - c. Section 509(a)(3) – Supporting Organizations
  - d. Section 509(a)(4) – Testing for Public Safety
- (3) This Technical Guide (TG) discusses the requirements for a Section 501(c)(3) organization described under Section 509(a)(3) as a supporting organization. Organizations that qualify as public charities under Section 509(a)(3) are organized and operated exclusively to support one or more Section 509(a)(1) or (2) organizations. 509(a)(3) supporting organizations are further subdivided into

Types I, II, and III, based on the type of relationship they have with their supported organization(s).

This Technical Guide describes Type III, while Types I and II are described in their own respective guides.

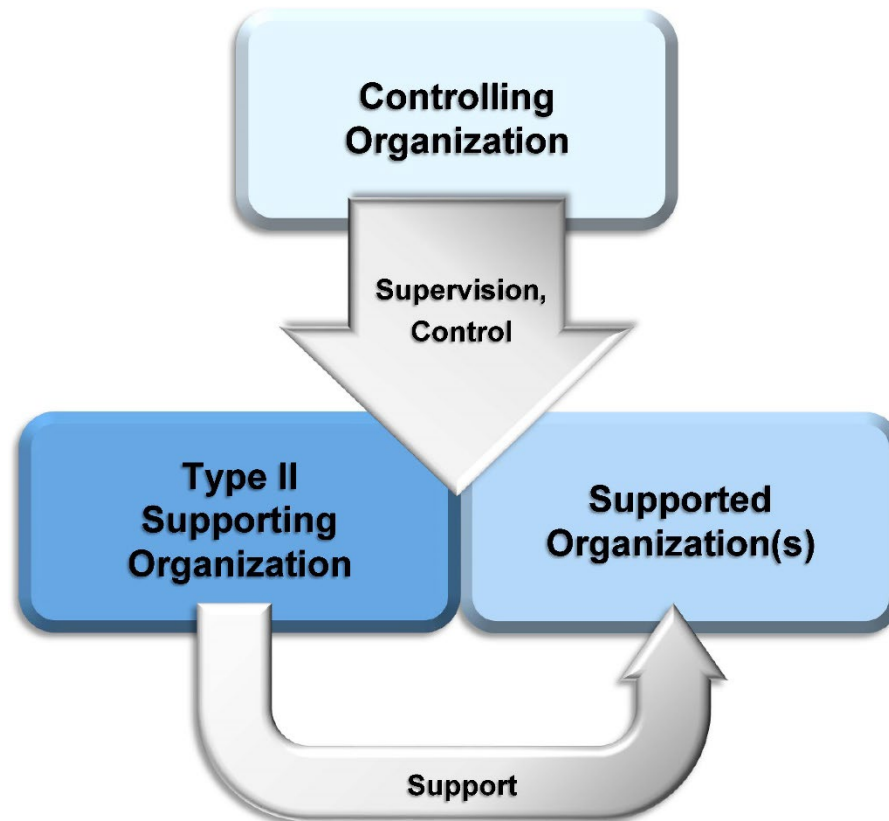
- a. **Type I.** A Type I supporting organization is operated, supervised, or controlled by its supported organization(s). The distinguishing feature of this relationship is the presence of a substantial degree of direction by the publicly supported organization(s) over the conduct of the supporting organization. The relationship between the supported organization(s) and the supporting organization is like a parent-subsidiary relationship. A Type I supporting organization must satisfy an organizational test, an operational test, a relationship requirement, and a control test.



Diagrammatic overview of a Type I supporting organization.

- b. **Type II.** A Type II supporting organization is supervised or controlled in connection with its supported organization(s). The distinguishing feature is the presence of common supervision or control among the governing bodies of all organizations involved, such as the presence of common directors. The relationship between the supported organization(s) and the supporting organization is like a brother-sister relationship. A Type II

supporting organization must satisfy an organizational test, an operational test, a relationship requirement, and a control test.



Diagrammatic overview of a Type II supporting organization.

- c. **Type III.** A Type III supporting organization is operated in connection with one or more publicly supported organizations. All supporting organizations must be responsive to the needs and demands of, and must constitute an integral part of or maintain significant involvement in, each of their supported organizations. While Type I and Type II supporting organizations are deemed to accomplish these responsiveness and integral part requirements by virtue of their governance structures, the distinguishing feature in Type III is that the supporting organization is responsive to, and significantly involved in the operations of, the publicly supported organization. Because a Type III supporting organization is not subject to the same level of governance by its supported organization(s), a Type III supporting organization must pass separate responsiveness and integral part tests, in addition to the organizational test, operational test, relationship requirement, and control test applicable to all supporting organizations. A Type III supporting organization is either “functionally

integrated” or “non-functionally integrated,” depending on the manner in which it meets the integral part test.



**Diagrammatic overview of a Type III supporting organization.**

**Functional Integration.** A Type III supporting organization is either “functionally integrated” or “non-functionally integrated,” depending on the manner in which it meets the integral part test. Type III functionally integrated supporting organizations (FISOs) are subject to fewer restrictions and requirements than Type III non-functionally integrated supporting organizations (non-FISOs). In particular, distributions from private foundations to non-FISOs are not qualifying distributions for purposes of satisfying a private foundation’s required annual distributions under Section 4942, and are taxable expenditures under Section 4945, unless the foundation exercises expenditure responsibility. In addition, non-FISOs are subject to excess business holding rules under Section 4943 and must meet annual payout requirements.

## **A. Background / History**

- (1) **Section 509(a)(3) enactment.** Section 509(a)(3) was enacted as a part of the Tax Reform Act of 1969, when the private foundation classification also made its statutory debut. The private foundation classification, with its related restrictions, arose from the congressional conclusion that organizations described in Section 501(c)(3) which neither depend on public support nor conduct an inherently public activity, might be more responsive to the private interests of their creators than the public interests they purport to serve.

As it still stands, Section 509(a) defined a private foundation as any domestic or foreign organization described in Section 501(c)(3), other than one able to qualify under one of the four exclusion categories listed in Section 509(a)(1), 509(a)(2), 509(a)(3), or 509(a)(4).



The 1982 IRS CPE, Exclusion from Private Foundation Status Under IRC 509(a)(3), theorizes that the reason Section 509(a)(3) supporting organizations are an exception to private foundation classification:

[T]he public charity's control or involvement with the organization will render unlikely the potential for manipulation to private ends present in private foundations. The statute, therefore, requires that the organization meet [each of the four] tests.... Overall, these tests seek to define the extent of control or involvement by the IRC 509(a)(1) or (2) "supported" organization and the lack of control or involvement of others.

The 1997 IRS CPE, Public Charity Status on the Razor's Edge, remarked, "It is this element of a supported organization's oversight or accountability that legally allows the supporting organization (often sailing on the razor's edge between public charity and private foundation status) to navigate away from the shoals of Chapter 42 of the Code."

- (2) **Pre-Pension Protection Act of 2006.** Although the categories now commonly referred to as Types I, II, and III have existed for decades, prior to 2005, determination letters did not distinguish among different Section 509(a)(3) organizations. In 2005, the IRS began to include information regarding supporting organization Types in determination letters. However, the law at that time did not distinguish between FISOs and non-FISOs.
- (3) **Pension Protection Act of 2006.** Sections 1241 through 1243 of the Pension Protection Act (PPA) of 2006 revised the requirements for supporting organizations.
- (4) **2007 Advanced Notice of Proposed Rulemaking.** On August 2, 2007, the Treasury Department and the IRS published in the Federal Register an advanced notice of proposed rulemaking (ANPRM) in response to the PPA. The ANPRM described proposed rules to implement the changes made by the PPA to the Type III supporting organization requirements. (See 72 FR 42335-01.)
- (5) **2009 Proposed Regulations.** On September 24, 2009, the Treasury Department and the IRS published a notice of proposed rulemaking (NPRM) in the Federal Register proposing regulations regarding certain requirements to qualify as a Type III supporting organization under the PPA. (See 74 FR 48672-01.)

A memorandum from the Director of Exempt Organizations, Rulings and Agreements, dated September 24, 2007, stated that the IRS would begin issuing Type III FISO determinations to organizations meeting the requirements for FISOs stated in the 2007 ANPRM. However, these 2009 proposed regulations clarify that an organization that received a determination that it was a FISO under either the ANPRM or these proposed regulations would be required to meet the requirements established in final or temporary regulations as of the first taxable year beginning after final or temporary regulations were published in the Federal Register.

(6) **Procedures for determining types.** Section 3.04 of Rev. Proc. 2011-10, 2011-2, I.R.B. 294 announced procedures for obtaining a determination of supporting organization type, either upon initial application or as a standalone determination. In 2012, the IRS introduced Form 8940, Request for Miscellaneous Determination, to facilitate applications for modifications to determination letters for, among other things, supporting organization type. Form 8940 is the current form still used for this purpose. (See Rev. Proc. 2024-5, updated annually.)

(7) **2012 Temporary and Final Regulations.** On December 28, 2012, the Treasury Department and the IRS published a Treasury Decision (T.D. 9605) in the Federal Register containing final and temporary regulations under Treasury Regulation (Treas. Reg.) 1.509(a)-4 regarding the requirements to qualify as a Type III supporting organization. (See 77 FR 76382-01.)

Also on December 28, 2012, the Treasury Department and the IRS published a notice of proposed rulemaking in the Federal Register containing proposed regulations that incorporated the text of the temporary regulations in T.D. 9605 by cross-reference. (See 77 FR 76426-01.)

The temporary regulations in T.D. 9605 made significant changes to the distribution requirement for non-FISOs. T.D. 9605 adopted other aspects of the 2009 proposed regulations and provided transition relief for Type III supporting organizations in existence on December 28, 2012, that met and continued to meet the test under former Treas. Reg. 1.509(a)-4(i)(3)(ii), known as the “but for” test, as in effect prior to December 28, 2012, treating them as functionally integrated until the first day of their second taxable year beginning after December 28, 2012. Upon expiration of this relief period, T.D. 9605 requires these organizations to meet the same rules as all other supporting organizations to be considered functionally integrated.

(8) **Notice 2014-4.** On January 6, 2014, the Treasury Department and the IRS published Notice 2014-4, 2014-2 I.R.B. 274, to provide additional transition relief for any Type III supporting organization (1) supporting at least one supported organization that is a governmental entity to which the supporting organization is responsive and (2) engaging in activities for or on behalf of the governmental supported organization that perform the functions of, or carry out the purposes of, the governmental supported organization and that, but for the involvement of the supporting organization, would normally be engaged in by the governmental supported organization itself. Notice 2014-4 stated that such an organization will be treated as a functionally integrated Type III supporting organization until the earlier of the date final regulations under Treas. Reg. 1.509(a)-4(i)(4)(iv) are published in the Federal Register or the first day of the organization’s third taxable year beginning after December 31, 2013.

(9) **2015 Final Regulations.** On December 23, 2015, the Treasury Department and the IRS published a Treasury Decision (T.D. 9746) in the Federal Register containing final regulations under Treas. Reg. 1.509(a)-4(i) regarding the

distribution requirement for non-FISOs, finalizing the rule in the 2012 proposed and temporary regulations with very minor changes. (See 80 FR 79684-01.)

The preamble to the 2015 final regulations indicated that supporting organizations that support a governmental supported organization could continue to rely on Notice 2014-4 until the date of publication of the new proposed regulations.

- (10) **2016 Proposed Regulations.** On February 19, 2016, the Treasury Department and the IRS published a notice of proposed rulemaking in the Federal Register containing proposed regulations under Treas. Reg. 1.509(a)-4(f) and (i) regarding the prohibition on certain contributions to Type I and Type III supporting organizations and the requirements for Type III supporting organizations. These proposed regulations also extended reliance on Notice 2014-4 until the second taxable year beginning after February 19, 2016. (See 81 FR 8446-01.)
- (11) **2023 Final Regulations.** On October 16, 2023, the Treasury Department and the IRS published a Treasury Decision (T.D. 9981) in the Federal Register containing final regulations under Treas. Reg. 1.509(a)-4(i) regarding the prohibition on contributions from controlling donors of Type I and Type III supporting organizations and certain other requirements for Type III supporting organizations. (See 88 FR 71287-01.) These amendments reflected the changes in law enacted by the Pension Protection Act of 2006 and were largely consistent with the 2016 proposed regulations. Specifically, the 2023 final regulations featured the following updates:
- a. Defined *control* relating to contributions from controlling donors;
  - b. Clarified Notification Requirement elements;
  - c. Changed that supporting organizations must be responsive to the needs and demands of each of their supported organizations;
  - d. Changed requirements to be a parent of each of its supported organization(s);
  - e. Introduced requirements to be functionally integrated by supporting a governmental supported organization;
  - f. Changed calculation of the Distribution Requirement; and
  - g. Changed the list of distributions that count toward the Distribution Requirement.

## B. Relevant Terms

- (1) **Articles of Organization (Articles):** General term for an organization's organizing document. This exact type of document will vary based on whether the organization is formed as a corporation, unincorporated association, or trust.

- (2) **Control Test:** Disqualified persons may not control a supporting organization, whether directly or indirectly.
- (3) **Disqualified Persons:** For the purpose of Section 509(a)(3), disqualified persons are those stated in Section 4946, other than foundation managers or one or more organizations described in Section 509(a)(1) or (2).
- (4) **Functionally Integrated Supporting Organization (FISO):** One of the two classes of Type III supporting organizations. A FISO passes its integral part test because its structure is one of the following:
  - a. Substantially all activities directly further the exempt purposes of its supported organization(s), and but for the supporting organization's involvement, the supported organization(s) would normally engage in such activities;
  - b. Parent of each of its supported organization(s); or
  - c. Supports a governmental supported organization.
- (5) **Integral Part Test:** Type III supporting organizations must show that they are an integral part of the operations or funding of their supported organization(s) by maintaining significant involvement in the operations of the supported organization(s) and providing support on which the supported organization(s) are dependent. They may be functionally integrated or non-functionally integrated, depending on the manner in which they meet the integral part test.
- (6) **Non-Functionally Integrated Supporting Organization (Non-FISO):** One of the two classes of Type III supporting organizations. A non-FISO does not meet the Integral Part Test as a FISO, and instead must satisfy the distribution requirement and the attentiveness requirement. Alternatively, certain trusts established before November 20, 1970, may qualify if they meet certain requirements.
- (7) **Operational Test:** A supporting organization must engage solely in activities that support or benefit its supported organization(s). These activities may include making payments to or for the use of, or providing services or facilities for, individual members of the charitable class benefited by its supported organization(s).
- (8) **Organizational Test:** A supporting organization must be organized exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more specified Section 509(a)(1) or 509(a)(2) organizations. The organization's articles must also confirm this purpose with certain verbiage, depending on whether it is a Type I, II, or III supporting organization.
- (9) **Publicly Supported Organization:** An organization described in Section 509(a)(1) or 509(a)(2), and in some limited circumstances, Section 501(c)(4), (c)(5), or (c)(6). See Treas. Regs. 1.509(a)-4(a)(5) and 1.509(a)-4(k).
- (10) **Relationship Requirement:** A supporting organization is classified as a Type I, Type II, or Type III supporting organization based on the type of operation,

supervision, and governance structure it has with its supported organization(s). Type III supporting organizations are further classified as functionally integrated and non-functionally integrated.

(11) **Specified Publicly Supported Organization:** An organization, generally described in Section 509(a)(1) or 509(a)(2), that is specified in the articles of the supporting organization. See Treas. Reg. 1.509(a)-4(d)(2)(iv) and (d)(4).

(12) **Supported Organization:**

- a. An organization described in Section 509(a)(1) or (a)(2) for whose benefit the organization described in Section 509(a)(3) is organized and operated, or with respect to which the organization performs the functions of, or carries out the purposes of. See Section 509(f)(3).
- b. Alternatively, a Section 501(c)(4), (c)(5), or (c)(6) organization that would be described as publicly supported under Section 509(a)(2) (if it were a 501(c)(3) organization) may be a supported organization, subject to certain restrictions.

(13) **Supporting Organization:**

- a. Either an organization described in Section 509(a)(3) or an organization seeking Section 509(a)(3) status, depending upon its context. See Treas. Reg. 1.509(a)-4(a)(5).
- b. A supporting organization is classified as a public charity, rather than as a private foundation. A supporting organization is further classified as Type I, Type II, or Type III, depending on the relationship it has with its supported organization(s).

## C. Law / Authority

(1) Section 509(a)(3) of the Internal Revenue Code describes a supporting organization as an organization which —

(A) is organized, and at all times thereafter is operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more specified organizations described in paragraph 509(a)(1) or (2),

(B) is —

(i) operated, supervised, or controlled by one or more organizations described in paragraph 509(a)(1) or (2),

(ii) supervised or controlled in connection with one or more such organizations, or

(iii) operated in connection with one or more such organizations, and

(C) is not controlled directly or indirectly by one or more disqualified persons (as defined in section 4946) other than foundation managers

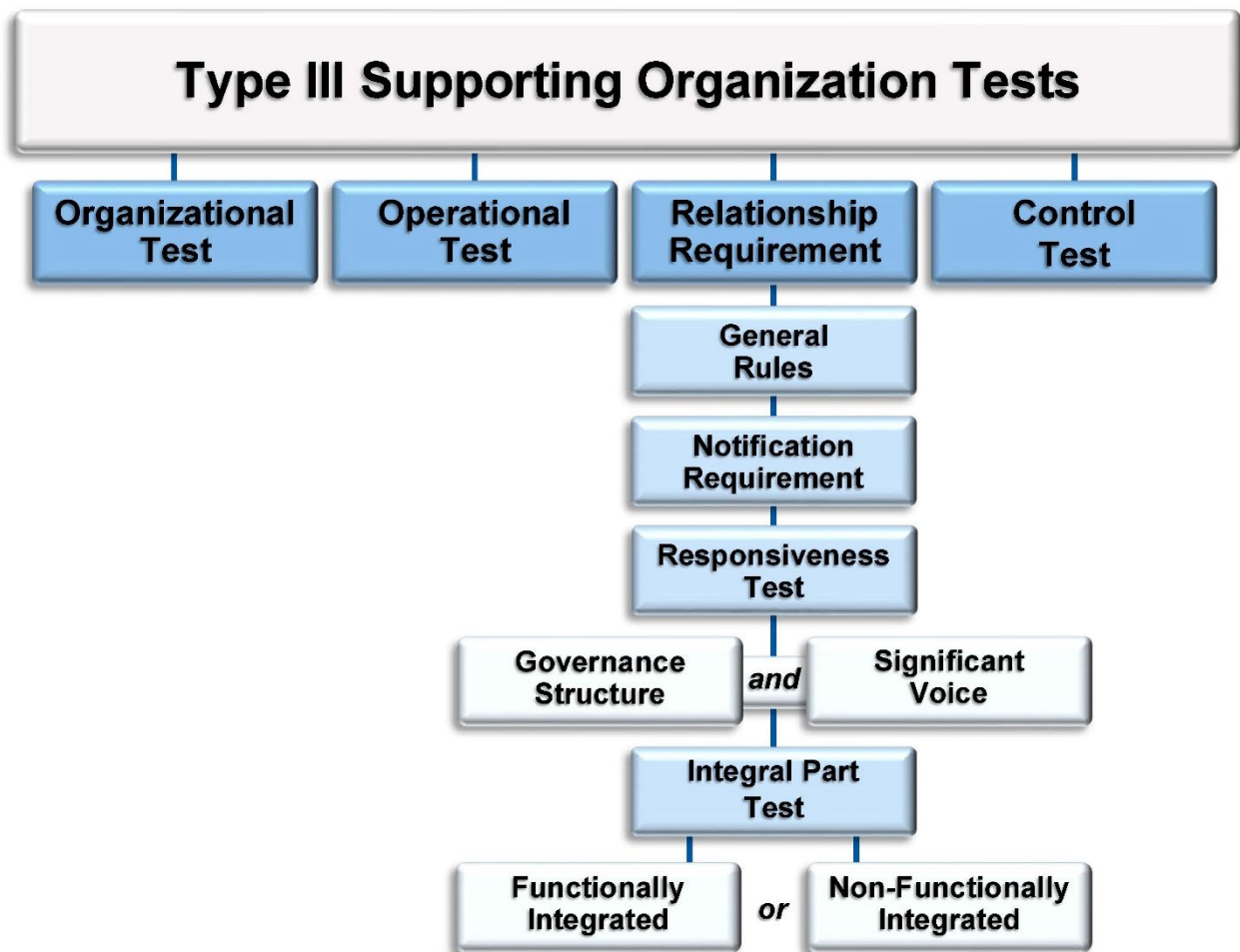
and other than one or more organizations described in paragraph 509(a)(1) or (2).

- (2) Section 509(f), Requirements for supporting organizations
- (3) Treasury Regulations 1.509(a)-4, Supporting Organizations

## **II. Overview of Section 509(a)(3) Supporting Organizations**

- (1) Section 509(a)(3) excludes from the classification of private foundation organizations that:
  - a. Are organized, and at all times thereafter, operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more specified organizations described in Section 509(a)(1) or (2),
  - b. Are in a relationship with a specified organization described in Section 509(a)(1) or (2) that qualifies as:
    - Type I: Operated, supervised, or controlled by one or more organizations described in Section 509(a)(1) or (2),
    - Type II: Supervised or controlled in connection with one or more such organizations, or
    - Type III: Operated in connection with one or more such organizations, and
  - c. Are not controlled directly or indirectly by one or more disqualified persons (as defined in Section 4946) other than foundation managers and organizations described in Section 509(a)(1) or (2).

## A. Overview of the Four Tests



(1) To qualify for public charity status under Section 509(a)(3), a supporting organization must meet the following four tests:

- a. Organizational Test
- b. Operational Test
- c. Relationship Requirement
- d. Control Test

(2) **Organizational and Operational Tests, in general**

Treas. Reg. 1.509(a)-4(b)(1) provides that a supporting organization must be organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more specified supported organizations.

### (3) **Organizational Test**

Treas. Reg. 1.509(a)-4(c)(1) provides that a supporting organization's organizing document must meet the following requirements:

- a. Limit the purposes of the organization to benefiting, performing the functions of, or carrying out the purposes of one or more specified organizations described in Sections 509(a)(1) or (2).
- b. Not expressly empower the organization to engage in activities that are not in furtherance of the authorized purposes.
- c. State the specified publicly supported organizations on whose behalf the organization is to be operated.
- d. Cannot expressly empower the organization to support or benefit any organization other than the specified publicly supported organizations.

See section "Organizational Test for Type III" below for additional information on the organizational test.

### (4) **Operational Test**

Treas. Reg. 1.509(a)-4(e)(1) provides that a supporting organization will be regarded as operated exclusively to support one or more specified publicly supported organizations only if it engages solely in activities which support or benefit the specified publicly supported organizations, such as:

- a. Making payments to or for the use of, or
- b. Providing services or facilities for, individual members of the charitable class benefited by the specified publicly supported organization.

Treas. Reg. 1.509(a)-4(e)(2) provides that a supporting organization may also satisfy the operational test by using its income to carry on an independent activity or program, which supports or benefits the specified publicly supported organization(s).

See section "Operational Test for Type III" below for additional information on the operational test.

### (5) **Relationship Requirement**

Supporting organizations are commonly referred to by the type of relationship they have with their supported organization(s). These types are:

- a. **Type I:** Operated, supervised, or controlled by one or more supported organizations. See Treas. Reg. 1.509(a)-4(g).
- b. **Type II:** Supervised or controlled in connection with one or more supported organizations. See Treas. Reg. 1.509(a)-4(h).
- c. **Type III:** Operated in connection with one or more publicly supported organizations. See Treas. Reg. 1.509(a)-4(i).



Additionally, the following are two further subdivisions for Type III supporting organizations:

- Functionally integrated supporting organizations
- Non-functionally integrated supporting organizations

If an organization does not fall within the requirements of a Type I, II, or III relationship, it is not described in Section 509(a)(3). See Treas. Reg. 1.509(a)-4(f)(1).

Based on the specific requirements for each Type, the relationship is intended to show that the supporting organization is responsive to the needs or demands its supported organization(s) and that it constitutes an integral part of, or maintains a significant involvement in, the operations of its supported organization(s). See Treas. Reg. 1.509(a)-4(f)(3).

A Type III supporting organization may not accept a gift or contribution from certain controlling donors. See Treas. Reg. 1.509(a)-4(f)(5).

See section “Relationship Requirement for Type III” below for additional information on the relationship requirements.

#### **(6) Control Test**

To meet the control test, a supporting organization may not be directly or indirectly controlled by one or more disqualified persons. Here, a disqualified person means anyone who is a disqualified person under Section 4946, except Section 509(a)(1) or 509(a)(2) organizations or a foundation manager of the supporting organization who is not a disqualified person for another reason.

See “Control Test” below for additional information on the control test.

#### **(7) Failure to Meet Any of the Four Tests**

If an organization fails to meet any of these four tests — organizational, operational, relationship, or control — then, the organization does not qualify as a Section 509(a)(3) supporting organization. Furthermore, according to Section 509(a), if the organization does not meet any of the other exceptions it will be classified as a private foundation.

The regulations discuss the requirement to meet each of the four tests to qualify as a Section 501(c)(3) supporting organization.

### **III. Organizational Test for Type III**

- (1) A supporting organization must be organized exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more specified organizations as described in Sections 509(a)(1) or 509(a)(2) (and in certain cases, organizations described in Section 501(c)(4), (5), or (6)). If an organization fails to meet the organizational test, it cannot qualify as a supporting organization. See Treas. Reg. 1.509(a)-4(b)(1).

- (2) According to Treas. Reg. 1.509(a)-4(c), a supporting organization's articles of organization must:
  - a. Limit the purposes of the organization to benefiting, performing the functions of, or carrying out the purposes of one or more specified organizations described in Sections 509(a)(1) or (2);
  - b. Not expressly empower the organization to engage in activities that aren't in furtherance of the benefit of specified publicly supported organization(s);
  - c. Specify the publicly supported organizations on whose behalf the organization is operated; and
  - d. Not expressly empower the organization to operate to support or benefit any organization other than the ones specified.
- (3) It is not sufficient for the supporting organization to simply state such purposes in its organizing document; it must also set out to fulfill those purposes in order to meet the organizational test.
- (4) Type III supporting organizations must designate their supported organization(s) by name in their articles. (Only Types I and II supporting organizations have exceptions allowing them to identify a beneficiary class or purpose, rather than having to name a specific supported organization.) See Treas. Reg. 1.509(a)-4(d).

## A. Law / Authority

- (1) Section 509(a)(3)(A) provides that a supporting organization must be organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more specified organizations described in Section 509(a)(1) or (2).
- (2) The regulations state that if an organization fails either the organizational or the operational test, it will not qualify as a supporting organization. See Treas. Reg. 1.509(a)-4(b)(1).

Note: An organization created prior to January 1, 1970, will satisfy the organizational and operational tests if, on and after January 1, 1970, it meets the tests. See Treas. Reg. 1.509(a)-4(b)(2).

- (3) **In general.** Treas. Reg. 1.509(a)-4(c)(1) states that an organization is organized exclusively for one or more of the purposes of Section 509(a)(3)(A) only if its articles of organization:
  - a. Limit the purposes of the organization to benefiting, performing the functions of, or carrying out the purposes of one or more specified organizations described in Sections 509(a)(1) or (2);
  - b. Do not empower the organization to engage in activities that do not further such purposes;

- c. Specify the publicly supported organization(s) for which they will operate; and
  - d. Do not empower the organization to operate, support, or benefit any organization other than the specified publicly supported organization(s).
- (4) **Purposes.** The supporting organization’s purposes, as stated in its articles, may be only as broad as the purposes stated in Section 509(a)(3)(A) (that is, to be organized and operated exclusively to support or benefit one or more specified publicly supported organizations). Thus, it is permissible verbiage for an organization to specify it is formed for the benefit of one or more specified publicly supported organizations. See Treas. Reg. 1.509(a)-4(c)(2).

See the section below called “Additional precedent on purpose” for a discussion of further precedent on this topic.

- (5) **Purposes of a supporting organization operated in conjunction with a publicly supported Section 501(c)(4), (5), or (6) organization.** A supporting organization operated in conjunction with a publicly supported Section 501(c)(4), (5), or (6) organization (which meets the public support tests for Section 509(a)(2) classification), will meet the purpose requirements if its articles require it to carry on charitable, etc., activities within the meaning of Section 170(c)(2). That is, the supporting organization’s purposes, as stipulated in its articles, must be those of a Section 501(c)(3) organization: exclusively for religious, charitable, scientific, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals.

See more in Treas. Reg. 1.509(a)-4(k) and the section below called “Organizations Operated in Conjunction with Certain Section 501(c)(4), (5), or (6) Organizations.”

- (6) **Limitations.** An organization will not meet the organizational test if its articles expressly permit it to benefit any organization other than the specified publicly supported organization(s), even if it has in fact limited its activities as such, as stated in Treas. Reg. 1.509(a)-4(c)(3).
- (7) **Specified organizations.** Treas. Reg. 1.509(a)-4(d)(2) states that a Type III supporting organization is required to specify the publicly supported organization(s) by name.

Treas. Reg. 1.509(a)-4(d)(2)(iv) provides one exception when a Type III that does not designate its supported organization(s) may still meet the organizational test. It may still meet the organizational test if:

- a. There has been an historic and continuing relationship between itself and the Section 509(a)(1) or (2) organizations, and
- b. Due to the relationship, there is a substantial identity of interests between the supporting and supported organizations.

See the section below called “Additional precedent on specified organizations” for a discussion of further precedent on this topic.

- (8) **Substitution of beneficiaries.** A Type III may make certain allowances for or substitutions of beneficiaries, according to Treas. Reg. 1.509(a)-4(d)(4)(i). However, if a supporting organization substituted a beneficiary other than a publicly supported organization and operated in support of that beneficiary organization, the supporting organization would fail the operational test. See Treas. Reg. 1.509(a)-4(d)(4)(ii).

An example for substitution of beneficiaries is presented in Treas. Reg. 1.509(a)-4(d)(4)(iii). A charitable trust was required to pay all its income to a designated a Section 509(a)(1) university medical school. The trust instrument designated a second Section 509(a)(1) medical school to receive the income in the event the first organization was unable or unwilling to apply the funds for the specified purposes, but also authorized the trustees to choose a similar organization in the event the second designated organization was unwilling or unable to apply the funds for the specified purposes. In the years the trust operated, it paid all its income to the first designated organization. Although it is possible that the trustees could choose a “similar organization” that was not publicly supported, the possibility is a remote contingency and does not preclude the trust from being considered operated for the benefit of a specified publicly supported organization. However, if they did substitute a nonpublicly supported organization, they would fail the operational test.

See the section below called “Additional precedent on substitution of beneficiaries” for a discussion of further precedent on this topic.

- (9) **Additional precedent on purpose:**

The Service has taken the position that the supporting organization’s organizing document must actually state that the organization is organized exclusively for the benefit of, to perform the functions of or to carry out the purposes of the specified supported organization(s). However, some courts have taken a more expansive view of the language in enabling documents.

- a. In *Warren M. Goodspeed Scholarship Fund v. Commissioner*, 70 T.C. 515 (1978), the Tax Court held that an organizing document requiring that the net income be used for “the education (including all college fees and charges, room, board, books and supplies) at Yale College of such graduates of Duxbury Massachusetts High School or bona fide residents of Duxbury, Massachusetts” under the particular circumstances of this case, met the organizational test for this Type III supporting organization.

Note: The Service maintains the organizational test is not met in *Goodspeed* because the supported parties are not specifically named beneficiaries within the organizing documents. (The Service also contends the operational test and relationship requirement are not met.) See 70 T.C. 515, Nonacq., 1981-1 C.B. 2; AOD- 1979-63, 1979.

- b. The Service did not acquiesce to the opinion in *Nellie Callahan Scholarship Fund v. Commissioner*, 73 T.C. 626 (1980). The Tax Court held that the named beneficiary requirement was satisfied even though the governing instrument referred only to pupils at a community high school. However, the IRS's non-acquiescence states that the court effectively disregarded the 'named beneficiary' standard. The Service asserted the only named beneficiaries in petitioner's organizing document were pupils selected from the high school, and these pupils are not a publicly supported organization within the meaning of Section 509(a)(1) or (2). Thus, the organizing document did not name a publicly supported organization as a named beneficiary. See AOD- 1980-42, 1980.
- c. In *Trust Under Will of Bella Mabury v. Commissioner*, 80 T.C. 733 (1983), the organization did not meet the supporting organization organizational test because the record before the Tax Court contained no evidence that two of the three possible beneficiaries designated in the trust's instrument were Section 509(a)(1) or (2) organizations. Thus, the court found that the trust instrument expressly empowered the trust to benefit organizations other than "specified" publicly supported organizations. The terms of the decedent's trust described in Section 4947(a)(1) provided that the trust would terminate upon the earlier of: (a) the publication of a book by a specified Section 509(a)(1) church, or (b) the expiration of 21 years from the date of the survivor of the persons named in the decedent's will. If (a) occurred, the trust estate would be distributed to the church. If (b) occurred, the trust estate would be distributed to two other organizations designated in the decedent's will not stipulated as Section 509(a)(1) or 509(a)(2) entities. The Tax Court held that the trust failed the organizational test because the trust's articles "expressly empower" the trust to benefit organizations other than specified organizations described in Section 509(a)(1) or 509(a)(2).
- d. In *Cockerline Memorial Fund v. Commissioner*, 86 T.C. 53 (1986), the Tax Court found that a trust formed to furnish scholarships for residents of Oregon who attend colleges and universities in Oregon, with preference given to students attending Northwest Christian College, had maintained an historic and continuing relationship with the colleges and universities in Oregon that resulted in a substantial identity of interests between it and the supported organizations, which were all Section 509(a)(1) organizations. Facts the court considered significant in making this determination were:
- Since its inception, the trust, in accordance with the creator's will, had distributed all its funds directly to colleges and universities in Oregon.
  - Funds were returned if the student on whose behalf they were provided failed to enroll full-time or did not maintain a 2.5 grade point average.

- The trust established a scholarship committee to recommend worthy students attending colleges or universities in Oregon.
- The trust and Northwest Christian College, one member of the class of benefitted publicly supported organizations, maintained a particularly close working relationship.
- The trust and the beneficiaries had a common ultimate goal in educating students in Oregon.

**(10)Additional precedent on specified organizations:**

- a. In Rev. Rul. 75-437, 1975-2 C.B. 218, an exempt charitable trust was found not to meet the organizational test because with a Type III, the specified publicly supported organization must be designated by name in the supporting organization's articles unless there has been an historic and continuing relationship between the supporting organization and the supported organization, and by reason of such relationship there has developed a substantial identity of interests between such organizations. Because the trust did not bear an historic and continuing relationship to the publicly supported schools and governmental units, the failure of the trust instrument to name the supported organizations prevented it from satisfying the organizational test.

Note: GCM 36050 (October 9, 1974), non-precedential, which was later published as Rev. Rul. 75-437, considered the concept of *an historic and continuing relationship*. Regarding the exception to not specifically designate the supported organization when there is an historic and continuing relationship, as provided in Treas. Reg. 1.509(a)-4(d)(2)(iv), Chief Counsel noted this provision should be applied only in exceptional cases where the relationship between the supporting and supported organizations has continued for many years and is well-known to the public. In concluding that a charitable trust that provided scholarships to graduates of high schools in a particular county did not fit within the exception in Treas. Reg. 1.509(a)-4(d)(2)(iv), Counsel stated that the provision should apply only where the relationship between the organizations is so well-known that there is no need to name the publicly supported organization or organizations.

Although GCMs are non-precedential and can't be cited, GCM 36050, rather than Rev. Rul. 75-437, defines the term *historic and continuing relationship* and provides the reasoning to apply this standard.

- b. In Rev. Rul. 79-197, 1979-1 C.B. 204, an organization's articles of organization require it to pay its future income to a specific supported organization named in the articles, until a specific sum is paid. After that, it will pay all its assets to public charities selected by the substantial contributor to the supporting organization. The articles do not require it to be operated to support organizations that are designated by name, class,

or purpose. The organization is not a supporting organization described in Section 509(a)(3) because it does not support a supported organization designated by name, class, or purpose.

- c. In *Change-All Souls Hous. Corp. v. United States*, 671 F.2d 463 (Ct. Cl. 1982), the court considered what an “historic” relationship entailed. The Service argued the plaintiff and their supported organization could not have an historic relationship because the plaintiff was only organized approximately five years prior to the suit. The court countered that the concept of “historic” in the regulation, however, relates to the history of the specific organizations and does not require that the relationship must have existed for any specified time. The plaintiff and their supported organization had been closely associated since the plaintiff was formed, and both served the same objective. There had been “an historic and continuing relationship” between the plaintiff and their supported organization that has resulted in “a substantial identity of interest” between the two organizations, within the regulations.

**(11) Additional precedent on substitution of beneficiaries:**

In *Quarrie Charitable Fund v United States*, 603 F.2d 1274 (7th Cir., 1979), the organizational test is not satisfied where the trustee had the power to substitute beneficiaries when, in the judgment of the trustee, the uses of the named beneficiaries became unnecessary, undesirable, impracticable, impossible or no longer adapted to the needs of the public. In this case, the trust document allowed the trustee to transfer the income to a different supported organization other than the designated charity when, in the trustee’s discretion, the charitable uses would become unnecessary, undesirable, impractical, or no longer adapted to the needs of the public. The court found that the language failed the organizational requirement of Treas. Reg. 1.509(a)-4(d)(4)(i)(A). The court explained that the problem was not that the charitable use may become impractical or undesirable, but that it was left to the trustee’s discretion. In contrast, the regulations establish objective standards of when the charitable recipient may be changed. The court’s view on the effect of the regulations was:

However, the requirement that an “operated in connection with” [Type III] organization specify its beneficiaries is intended to secure more than just supervision by the beneficiary. The organizational test which all supporting organizations must meet aims at a close identification of the supporting organization with its beneficiary. Treas. Reg. 1.509(a)-4(c). A supporting organization is to be linked to a specific public organization. If the linkage is by ownership or mutual control the beneficiary organization need not be named. Treas. Reg. 1.509(a)-4(d)(2). The relationship itself establishes the identification. Where the linkage is pragmatic, however, based on the magnitude of the support and the beneficiary’s related dependence, there is not the same sort of identification. In such circumstances the freer the supporting organization to substitute

beneficiaries, the weaker will its identification with the beneficiary be. In sum, the beneficiary's power to challenge a decision to substitute does not secure the same linkage as depriving the supporting organization of the power to substitute independently.

#### **IV. Operational Test for Type III**

- (1) A supporting organization must be operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more specified organizations as described in Sections 509(a)(1) or 509(a)(2). If an organization fails to meet the operational test, it cannot qualify as a supporting organization.
- (2) A supporting organization must engage solely in activities that support or benefit its specified supported organizations. These activities may include making payments to or for the use of, or providing services or facilities for, individual members of the charitable class benefited by its supported organization(s). The supporting organization also may engage in fundraising activities, such as solicitations, fundraising dinners, and unrelated trade or business, to raise funds for its supported organization(s) or for the permissible beneficiaries.

#### **A. Law / Authority**

- (1) Section 509(a)(3)(A) provides that a supporting organization must be organized, and at all times thereafter, operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of, one or more specified organizations described in Section 509(a)(1) or (2).
- (2) Treas. Reg. 1.509(a)-4(b)(1) states if an organization fails either the organizational or the operational test, it will not qualify as a supporting organization.

Note: An organization created prior to January 1, 1970, satisfies the organizational and operational tests if, on and after January 1, 1970, it complies with the tests. See Treas. Reg. 1.509(a)-4(b)(2).

#### **A.1. Permissible Beneficiaries**

- (1) According to Treas. Reg. 1.509(a)-4(e)(1), a supporting organization may only engage solely in activities which support or benefit its specified publicly supported organization(s).
  - a. Such activities may include making payments to or for the use of, or providing services or facilities for, individual members of the charitable class benefited by its specified publicly supported organization(s).
  - b. A supporting organization may, for example, make a payment indirectly through another unrelated organization to a member of a charitable class benefited by its specified publicly supported organization, but only if such a payment constitutes a grant to an individual rather than a grant to an



organization. To determine whether a grant is indirectly to an individual rather than to an organization, apply the standards of Treas. Reg. 53.4945-4(a)(4).

- c. A supporting organization may support a different supporting organization that also supports or benefits the instant supporting organization's specified publicly supported organization(s).
  - d. A supporting organization may support state colleges or universities described in Section 511(a)(2)(B).
- (2) However, an organization will not meet the operational test if any part of its activities is in furtherance of a purpose other than supporting or benefiting one or more specified publicly supported organizations.
  - (3) In Rev. Rul. 75-436, 1975-2 C.B. 217, an exempt charitable trust was held to be a supporting organization within the meaning of Section 509(a)(3) and is not a private foundation, where its sole purpose was to grant scholarships to students graduating from the public high schools in a certain city. The trust was trusteeed by the city council with its funds managed by the city treasurer. The city is a Section 509(a)(1) entity because it is a government unit described in Sections 170(b)(1)(A)(v) and 170(c)(1). In granting scholarships to the graduates of the public high school, the trust benefitted individual members of the charitable class benefitted by the city through its school system. Thus, the operational test was satisfied.
  - (4) In Rev. Rul. 75-437, 1975-2 C.B. 218, an exempt charitable trust, established solely to provide college scholarships to local high school graduates, and trusteeed by an independent bank trustee, was found to meet the operational test because in granting scholarships to the graduates of the high schools in the county, the trust benefitted members of the charitable class benefitted by the schools and governmental units which operated the schools.

## **A.2. Permissible Activities**

- (1) Treas. Reg. 1.509(a)-4(e)(2) states a supporting organization is not required to pay over its income to the publicly supported organizations in order to meet the operational test.
  - a. A supporting organization may use its income to carry on an independent activity or program which supports or benefits its specified supported organization(s).
  - b. A supporting organization may also engage in fundraising activities for its supported organization(s) or for its permissible beneficiaries. Examples include solicitations, fundraising dinners, and unrelated trade or business.

See Treas. Reg. 1.509(a)-4(e)(2).

- (2) Treas. Reg. 1.509(a)-4(e)(3) provides examples that consider the operational test:
- a. In Example 1, M is a separately incorporated, Section 501(c)(3) alumni association of X University. X University is designated in M's articles as the sole beneficiary of its support. M uses all of its dues and income to support its own program of educational activities for alumni, faculty, and students of X University and to encourage alumni to maintain a close relationship with the university and to make contributions to it. M does not distribute any of its income directly to X. M pays no part of its funds to, or for the benefit of, any organization other than X. M meets the operational test, even though it does not pay over any of its funds to X because it carries on a program which both supports and benefits X, its designated supported organization.
  - b. In Example 3, P is an organization described in Section 501(c)(3). Its primary activity is providing financial assistance to S, its designated publicly supported organization which aids underdeveloped nations in Central America. However, P also makes a small annual general-purpose grant to T, a private foundation engaged in work similar to that carried on by S. T performs a particular function that assists in the overall aid program carried on by S. Even though P is operating primarily for the benefit of S, its designated supported organization, P does not meet the operational test because of its grant to T, a private foundation.
  - c. Example 4 assumes the same facts as Example 3, except T is a Section 501(c)(3) organization, other than a private foundation, and is a supporting organization to S. Under these circumstances, P will meet the operational test.
  - d. Example 5 assumes the same facts as Example 3, except instead of the annual general-purpose grant made to T, each grant made by P to T is specifically earmarked for the training of social workers and teachers, designated by name, from Central America. Under these circumstances, P's grants to T would be treated as grants to the individual social workers and teachers under Section 4945(d)(3) and Treas. Reg. 53.4945-4(a)(4), rather than as grants to T private foundation under Section 4945(d)(4). Because these social workers and teachers are individuals who are part of the charitable class benefitted by S, P would meet the operational test.

### **A.3. Organizations Operated in Conjunction with Certain Section 501(c)(4), (5), or (6) Organizations**

- (1) A 509(a)(3) supporting organization may support an organization described in Section 501(c)(4), (c)(5), or (c)(6) if that supported organization would also be described as publicly supported under Section 509(a)(2) (if it were a Section 501(c)(3) organization). Thus, the Section 501(c)(4), (c)(5), or (c)(6) organization must meet the one-third support test and the not-more-than-one-

third support test described in Treas. Reg. 1.509(a)-3(a). See Treas. Reg. 1.509(a)-4(k)(1).

- (2) In an example, X is a Section 501(c)(6) medical association supported by membership dues and funds from exempt function activities. X organizes and operates an endowment fund for the purpose of advancing medical education. This support makes up more than one-third of X's support, and, therefore, it would meet the public support test under Section 509(a)(2) if it were a Section 501(c)(3) organization, rather than a Section 501(c)(6) organization. Thus, if a Section 501(c)(3) organization supports a charitable program of X, the Section 501(c)(3) organization could qualify as a Section 509(a)(3) supporting organization. See Treas. Reg. 1.509(a)-4(k)(2).

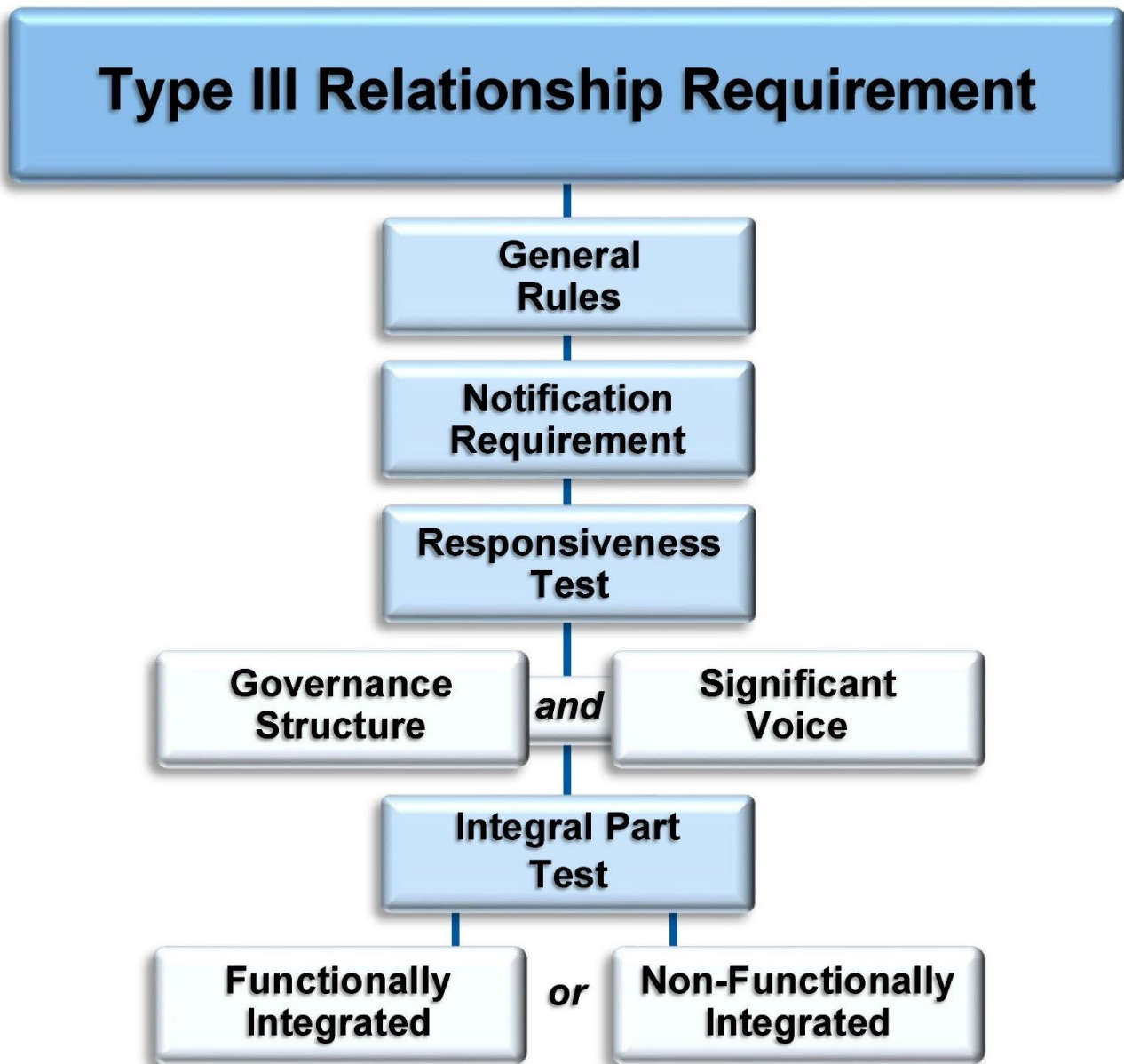
Note: While the regulations first mention this exception to support certain Section 501(c)(4), (c)(5), or (c)(6) organizations under the organizational test, there are also operational test considerations.

- (3) In Rev. Rul. 76-401, 1976-2 C.B. 175, an organization formed for educational and charitable purposes that was controlled by a civic league exempt under Section 501(c)(4) qualified as a supporting organization based on its relationship with the Section 501(c)(4) organization. The organization granted college scholarships to students graduating from local high schools. The civic league elected five of the organization's seven trustees and the remaining two trustees were the president and treasurer of the league. None of the trustees were disqualified persons with respect to the organization, except in their capacity as trustees. The civic league met the public support requirements for classification as an organization described in Section 509(a)(2). This ruling notes that, while the exception to allow supporting organizations to support certain Section 501(c)(4), (c)(5), and (c)(6) organizations resides under the organizational test in the regulations, it is equally applicable in determining whether a supporting organization satisfies that operational test.
- (4) See the section above called "Purposes of a supporting organization operated in conjunction with a publicly supported Section 501(c)(4), (5), or (6) organization" for the requirements to meet the organizational test.

## **V. Relationship Requirement for Type III**

- (1) A specific type of shared governance structure is required to satisfy each supporting organization Type (I, II, or III).
- (2) These relationships ensure that the supporting organization will be responsive to the needs or demands of its publicly supported organization(s) and that the supporting organization will constitute an integral part of, or maintain significant involvement in, the operations of its publicly supported organization(s).

## A. Relationship Requirement Overview



- (1) Section 509(a)(3)(B) states a Type III supporting organization must be operated in connection with one or more of its supported organizations.
- (2) **Type III Relationship, in general.** Treas. Reg. 1.509(a)-4(f)(4) states the distinguishing feature of a Type III relationship is the supporting organization is responsive to, and significantly involved in the operations of, the publicly supported organization(s).
- (3) **Meaning of *operated in connection with*.** Treas. Reg. 1.509(a)-4(i) states that to qualify as a Type III, the organization must satisfy the Notification Requirement, Responsiveness Test, and an Integral Part Test (either as functionally integrated or non-functionally integrated).

Additionally, a Type III supporting organization may not accept contributions from controlling donors nor support foreign organizations.

(Each topic is expanded upon below.)

## **A.1. Prohibition on Contributions from Controlling Donors**

- (1) Section 509(f)(2) and Treas. Reg. 1.509(a)-4(f)(5) state that an organization is not a Type III supporting organization if it accepts a gift or contribution from any person described in Section 509(f)(2)(B). Those prohibited sources are:
  - (i) A person (other than an organization described in Section 509(a)(1), (a)(2), or (a)(4)) who directly or indirectly controls, either alone or together with persons described in the item (ii) or (iii) below, the governing body of the supported organization;
  - (ii) A member of the family (per Section 4958(f)(4)) of an individual described in item (i) above; or
  - (iii) A 35% controlled entity in which persons described in item (i) or (ii) above own more than 35% of the total:
    - Combined voting power (for a corporation),
    - Profits and interest (for a partnership), or
    - Beneficial interest (for a trust or estate).
- (2) Treas. Reg. 1.509(a)-4(f)(5)(ii) provides the definition of the term *control* for the purposes of this paragraph.

## **A.2. Prohibition on Supporting Foreign Organizations**

- (1) Section 509(f)(2) and Treas. Reg. 1.509(a)-4(i)(10) state that a Type III supporting organization may not support a foreign organization.

## **B. Notification Requirement**

- (1) Section 509(f)(1)(A) states that for each taxable year, the supporting organization must provide to each supported organization such information as the Secretary may require to ensure the supporting organization is responsive to the needs or demands of the supported organization.
- (2) Treas. Reg. 1.509(a)-4(i)(2) states a Type III supporting organization must annually provide the following documents to each of its supported organizations:
  - a. A written notice, addressed to the principal officer, describing the type and amount of all of the support it provided to the supported organization (and for non-functionally integrated supporting organizations, including all the distributions that count toward the distribution requirement) during the preceding tax year, along with a brief narrative description of the support provided and sufficient financial detail for the recipient to identify the types and amounts of support;

- b. A copy of its most recently filed Form 990 or 990-EZ; and
- c. A copy of its current governing documents, including its articles of organization and bylaws (if any) and any amendments to such documents, unless such documents have been previously provided.

These documents must be delivered or electronically transmitted by the last day of the fifth month of the supporting organization's tax year.

## C. Responsiveness Test

- (1) A Type III supporting organization must be responsive to the needs or demands of each of its supported organization(s). Treas. Reg. 1.509(a)-4(i)(3) states that to be considered responsive to the needs or demands of each of its supported organization(s), a Type III must meet the two-part Responsiveness Test with each of its supported organizations:
  - a. **Part One – Governance Structure:** A supporting organization must maintain one of three prescribed governance structures with its supported organizations. See “Governance Structure” below.
  - b. **Part Two – Significant Voice:** Through its governance structure, a supporting organization must give each of its supported organizations a significant voice in the investment policies of the supporting organization, the timing of grants and the manner of making them, the selection of recipients, and generally the use of the income or assets of the supporting organization. See “Significant Voice” below.
- (2) However, a supporting organization operating before November 20, 1970, may qualify through alternate factors. (See “Pre-November 20, 1970” below.)

### C.1. Governance Structure

- (1) The first required aspect of the responsiveness test is the governance structure of the supporting organization with its supported organization(s).
- (2) A Type III can satisfy the governance structure requisite through one of the three ways described under Treas. Reg. 1.509(a)-4(i)(3)(ii):
  - a. One or more must be elected or appointed by the officers, directors, trustees, or membership of its supported organization(s);
  - b. One or more must be officers, directors, or trustees of, or hold other important offices in, its supported organization(s); or
  - c. They must maintain a close and continuous working relationship with the officers, directors, or trustees of its supported organization(s).
- (3) In *Change-All Souls Hous. Corp. v. United States*, 671 F.2d 463 (Ct. Cl. 1982), the court found the plaintiff was “operated in connection with one or more publicly supported organizations,” now known as Type III, and they met the organizational and operational tests for qualification as a supporting organization. The plaintiff had a connection with two different organizations, a



private foundation and a Section 501(c)(3) public charity. The plaintiff had 20 directors, half of whom were selected by the private foundation and half by the public charity. The benefits provided to the private foundation were not direct. The private foundation and the public charity supported organization shared the same exempt purpose. The supporting organization benefitted that exempt purpose through its own activity.

Among the points argued were:

- a. The Service argued that the plaintiff was a private foundation based on policy and the spirit of the law. They proffered that both the policy and spirit of the Tax Reform Act of 1969 limit the supporting organization exception of Section 509(a)(3) to those tax-exempt organizations that support or benefit only specified publicly supported organizations and that are controlled solely by publicly supported organizations.
- b. However, the court stated the regulations do not state that a tax-exempt organization cannot qualify under Section 509(a)(3) if its activities provide support or benefit in any way to a private foundation. The court declined to deviate from the regulations as they were written on the basis of amorphous notions of policy and the law's "spirit."
- c. The court found that the plaintiff was "operated in connection with one or more publicly supported organizations" (that is, it had a Type III relationship with its supported organizations) within the contemplation of the Code. The connection with the private foundation was not a disqualifying factor.

## **C.2. Significant Voice**

- (1) The second required aspect of the responsiveness test is the significant voice requirement.
- (2) Through its governance structure (above), a Type III supporting organization must give each of its supported organizations a significant voice in the following aspects of the supporting organization's operations:
  - a. Investment policies;
  - b. Timing of grants;
  - c. Manner of making grants;
  - d. Selection of grant recipients; and
  - e. In directing the use of its income or assets.

See Treas. Reg. 1.509(a)-4(i)(3)(iii).

- (3) Treas. Reg. 1.509(a)-4(i)(3)(iv) provides three examples to illustrate the responsiveness test:
- a. Organization X meets the responsiveness test by:
    - Having quarterly meetings with supported organization M to discuss M's projected needs and ways M would like X to use its income and invest its assets;
    - Communicating regularly regarding their investments and plans for distributions to M; and
    - Providing M with quarterly investment statements, an annual accounting statement, and documents required under the notification requirement.
  - b. Organization Y does not meet the responsiveness test because its interactions with its supported organizations are limited to making cash donations and annually sending the documents required under the notification requirement and an accounting statement. There are no other communications between Y and its supported organizations.
  - c. Organization Z satisfies the significant voice requirement because Z holds regularly scheduled meetings with its supported organizations; Z shares information about its activities and finances, and the supported organizations discuss their projected needs and Z's investment and grant making policies and practices; and Z encourages communications from its supported organizations regarding their needs and requests for distributions.
- (4) **Pre-November 20, 1970.** Treas. Reg. 1.509(a)-4(i)(3)(v) provides that for a Type III that was supporting an organization before November 20, 1970, alternate facts and circumstances, such as an historic and continuing relationship between the organizations, may be taken into account, along with the governance structure and significant voice, to establish the responsiveness test.
- (5) In Rev. Rul. 75-437, 1975-2 C.B. 218, an exempt charitable trust, established solely to provide college scholarships to local high school graduates, trustee by an independent bank trustee, was found to be a private foundation and not a supporting organization under Section 509(a)(3). It failed the responsiveness test of the relationship requirement (among other deficiencies).

Recipients of scholarships were selected by a committee composed of the county school superintendent, the city school superintendent, and a third member selected by the two superintendents. (The selection committee members are considered representatives of the supported organizations.)

The selection committee had no authority with respect to the administration and operation of the trust. The trustee held these powers.



The selection committee was not granted a voice in the investment policies of the trust, the timing of grants, nor the making of grants. The selection committee's authority extended only to the selection of grant recipients. Thus, the supported organizations did not have a significant voice in the operations of the supporting organization, so the trust failed the responsiveness test.

- (6) In *Windsor Foundation v. U.S.*, 40 A.F.T.R.2d 77-6004, the District Court held that the Windsor Foundation was a private foundation and not a supporting organization. Among other deficiencies, it failed the responsiveness test because the supported organizations did not have a significant voice in how the supporting organization managed and used its assets. The court concluded that the supported organizations had no significant voice in the timing of grants, the manner of making them, nor the selection of recipients.

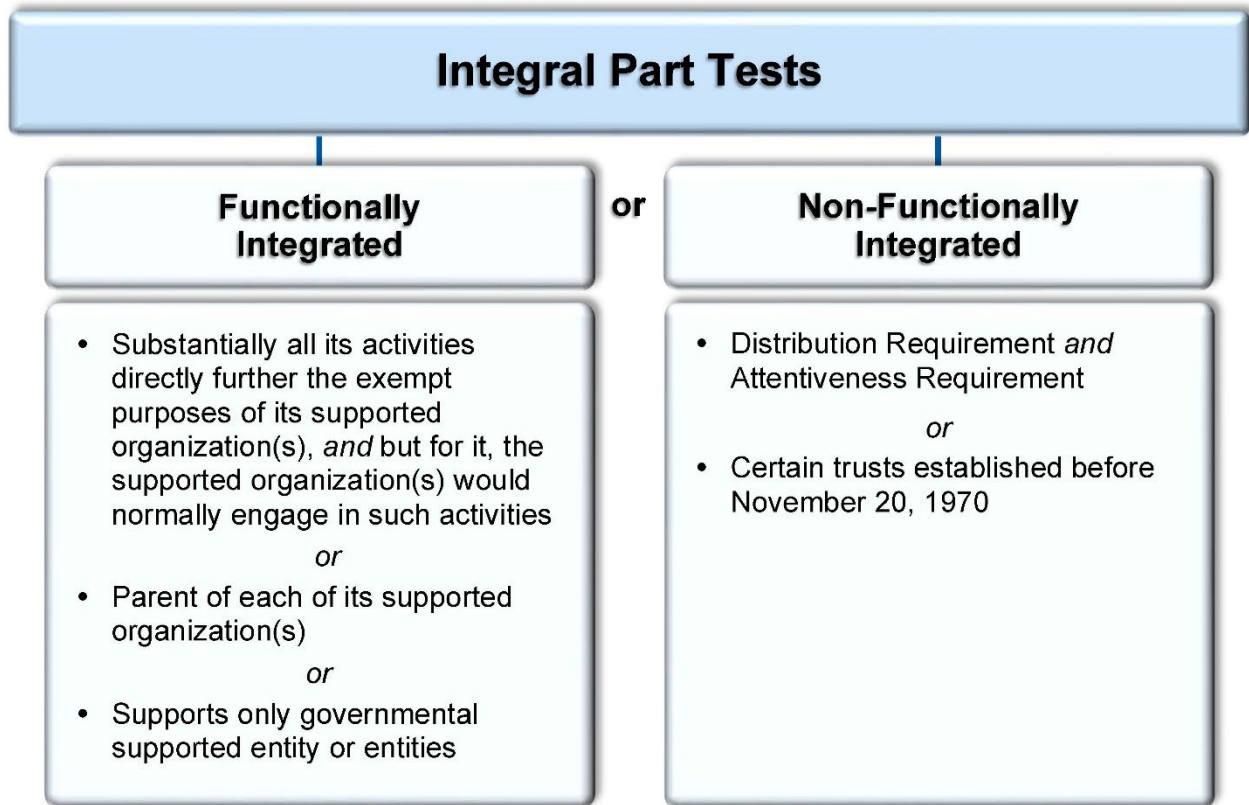
#### **D. Integral Part Tests Overview**

- (1) A Type III supporting organization must demonstrate it maintains significant involvement in the operations of its supported organization(s) and provides the support on which its supported organization(s) are dependent by satisfying one of the two integral part tests – the functionally-integrated test or the non-functionally-integrated test.
- (2) A functionally integrated supporting organization must meet one of the following:
  - a. Substantially all activities directly further the exempt purposes of its supported organization(s), and but for the supporting organization's involvement, the supported organization(s) would normally engage in such activities;
  - b. Is the parent of each of its supported organizations; or
  - c. Supports only governmental supported organizations.

See "Functionally Integrated Integral Part Test" below for more information.

- (3) Otherwise, a non-functionally integrated supporting organization must satisfy the distribution requirement and the attentiveness requirement. Alternatively, certain trusts established before November 20, 1970, may qualify if they meet certain requirements.

See "Non-Functionally Integrated Integral Part Test" below for more information.



### E. Functionally Integrated Integral Part Test

- (1) Treas. Reg. 1.509(a)-4(i)(1)(iii) states that a Type III supporting organization must demonstrate that it maintains significant involvement in the operations of its supported organization(s) and provides support on which its supported organization(s) are dependent by satisfying one of the two integral part tests – the functionally-integrated test *or* the non-functionally-integrated test.
- (2) A Type III supporting organization will meet the functionally integrated integral part test, if it meets any of the three following ways:
  - a. Substantially all activities directly further the exempt purposes of its supported organization(s), and but for the supporting organization’s involvement, the supported organization(s) would normally engage in such activities;
  - b. Is the parent of each of its supported organization(s); or
  - c. Supports a governmental supported organization.

Each way is described in detail below.

## E.1. Substantially All Activities Directly Further Exempt Purpose(s) of Supported Organization(s)

- (1) The first of the three ways a Type III supporting organization can meet the functionally integrated integral part test is that substantially all of its activities directly further the exempt purpose(s) of its supported organization(s).
- (2) The Type III must perform the functions of, or carry out the purposes of, the supported organization(s), and but for the involvement of the supporting organization, the supported organization(s) would normally engage in such activities. See Treas. Reg. 1.509(a)-4(i)(4)(ii).
- (3) To determine whether *substantially all* of a supporting organization's activities directly further the exempt purposes of one or more supported organization(s), all pertinent facts and circumstances will be taken into consideration. See Treas. Reg. 1.509(a)-4(i)(4)(ii)(B).
- (4) Activities *directly further* the exempt purposes of one or more supported organizations only if they are conducted by the supporting organization itself, rather than by a supported organization.
- (5) The regulations clarify that a supporting organization is *directly furthering* the exempt purposes of its supported organization when it:
  - a. Holds title to and manages exempt-use assets of the supported organization; and/or
  - b. Makes or awards grants, scholarships, or other payments to individual beneficiaries who are members of the charitable class benefited by the supported organization, only if:
    - (1) The individual beneficiaries are selected on an objective and nondiscriminatory basis;
    - (2) The governing body of the supported organization has a significant voice in the making and timing of the payments and the selection of recipients; and
    - (3) Awarding such grants is part of the supporting organization's active program that directly furthers the exempt purposes of the supported organization, and the supporting organization maintains significant involvement in that program. See Treas. Reg. 1.509(a)-4(i)(4)(ii)(D)(3).

According to Treas. Reg. 53.4942(b)-1(b)(2)(ii), the supporting organization maintains "significant involvement" in the making of grants, scholarships, or other payments to individual beneficiaries if:

- The supporting organization's exempt activities improve conditions among the poor or distressed, and the organization maintains a salaried or volunteer staff who directs such activities on a continuing basis; or

- The supporting organization develops some specialized skills or involvement in a particular discipline; maintains a salaried staff who directs such activities; and, as a part of such activities, awards grants to individuals to further their involvement in the particular discipline and in some segment of activities carried on by the organization (such as, grants under which the recipients, in addition to independent study, attend classes, seminars, or conferences sponsored or conducted by the organization).

Note: Unless it is described above, fundraising, making grants (whether to the supported organization or to third parties), and investing and managing non-exempt-use assets are not activities that directly further the exempt purposes of the supported organization.

(4) Treas. Reg. 1.509(a)-4(i)(4)(v) provides examples of supporting organizations where substantially all their activities directly further the exempt purposes of its supported organization(s):

- Organization V is a supporting organization that holds title to and maintains property where its supported organization, L, conducts religious services and community enrichment programs. Substantially all of V's activities consist of holding and maintaining these buildings, which L continues to use, free of charge, to further its exempt purposes. But for the activities of V, L would hold and maintain the buildings.
- Organization O operates a food pantry on the behalf of its eight supported organizations that are churches. All of O's activities directly further the exempt purposes of its supported organizations, and but for the activities of O, the churches would normally operate food pantries themselves.
- Organization J supports community foundation G. Substantially all of J's activities consist of maintaining all of the local parks in the area of G. But for the activities of J, G would normally engage in these efforts to beautify and maintain the local parks itself.

However, this Treas. Reg. also discusses a non-qualifying example. Organization M provides scholarships for School U's students. U establishes the scholarship criteria, publicizes the scholarship program, solicits and reviews applications, and selects the scholarship recipients. M invests its assets and disburses the funds for scholarships to the recipients selected by U. M does not provide the scholarships as part of an active program in which it maintains significant involvement.

## E.2. Parent of Each of Its Supported Organization(s)

- (1) The second of the three ways a Type III supporting organization can meet the functionally integrated integral part test is that it is the parent of each of its supported organizations.
- (2) Treas. Reg. 1.509(a)-4(i)(4)(iii) states that the organization will be considered to be the parent of each of its supported organization(s) if it meets the following three criteria:
  - a. The supporting organization and its supported organizations must be part of an integrated system (such as, for example, a hospital system);
  - b. The supporting organization must direct the overall policies, programs, and activities of the supported organizations (such as, for example, coordinating the activities of the supported organizations and engaging in overall planning, policy development, budgeting, and resource allocation); and
  - c. The supporting organization's governing body, members of the governing body, or officers (acting in their official capacities) must appoint or elect, directly or indirectly, a majority of the officers, directors, or trustees of each supported organization and have the power to remove and replace such directors, officers, or trustees, or otherwise have an ongoing power to appoint or elect such directors, officers or trustees with reasonable frequency.

Note: A supporting organization may meet this appointment/ election requirement with respect to a second-tier (or lower) subsidiary provided that the supporting organization, by control of its first-tier subsidiary, has the power to appoint or elect a majority of the officers, directors, or trustees of the lower-tier subsidiary. For example, if the board of directors of supporting organization A elects a majority of the directors of supported organization B, and the board of directors of B, in turn elect, by a simple majority vote, a majority of the directors of supported organization C, the directors of supporting organization A will be treated as electing a majority of the directors of both supported organization B and supported organization C.

- (3) Treas. Reg. 1.509(a)-4(i)(4)(v)(A) provides an example of a supporting organization that is the parent of each of its supported organizations. Organization N is the parent organization of a healthcare system consisting of Hospital Q, Hospital R, and Outpatient Clinic S, each of which is described in Section 509(a)(1), and Taxable Subsidiary T. N is the sole member of each of Q, R, and S. Under the charter and bylaws of each of Q, R, and S, N appoints all members of the board of directors of each corporation. N engages in the overall coordination and supervision of the healthcare system's exempt subsidiary corporations Q, R, and S by approving their budgets, strategic planning, marketing, resource allocation, securing tax-exempt bond financing,

and community education. N also manages and invests assets that serve as endowments of Q, R, and S. Based on these facts, N is the parent of each of its supported organizations.

### **E.3. Supports a Governmental Supported Organization**

- (1) The third of the three ways a Type III supporting organization can meet the functionally integrated integral part test is that it supports a governmental supported organization.
- (2) Treas. Reg. 1.509(a)-4(i)(4)(iv) states that the organization will be considered to be supporting a governmental supported organization if it meets the following three criteria:
  - a. The supporting organization only supports one or more governmental supported organizations.
  - b. If the supporting organization supports more than one governmental supported organization, all of the governmental supported organizations must either –
    - (i) Operate within the same city, county, or metropolitan area; or
    - (ii) Work in close coordination or collaboration with one another to conduct a service, program, or activity that the supporting organization supports. (To be considered in close coordination or collaboration, the supporting organization must maintain on file a letter from each of the governmental supported organizations (or a joint letter from all of them) describing their coordination or collaboration efforts with respect to the particular service, program, or activity);and
  - c. A substantial part of the supporting organization's total activities must directly further the exempt purposes of at least one governmental supported organization. (The determination of whether a substantial part directly furthers exempt purposes is based on all the pertinent facts and circumstances.)
- (3) For organizations supporting a governmental supported organization in existence on or before February 19, 2016, see the exception and the transition rule in Treas. Reg. 1.509(a)-4(i)(4)(iv)(F) and (G).
- (4) Treas. Reg. 1.509(a)-4(i)(4)(v)(F) provides an example of a supporting organization supporting a governmental supported organization. Organization X is a supporting organization to two organizations, City and Park. X meets the responsiveness test with respect to both City and Park. City and Park are both governmental units described in Section 170(c)(1). Park maintains a state park located within the same county as City. X does not support any other organizations. X supports Park by operating an information center for visitors of Park. The information center provides educational material and informational

sessions to visitors of Park. X's activities related to operating the Park information center constitute a substantial part of X's activities. X also makes grants directly to City to fund City's other programs. X's grantmaking activities constitute a substantial part of X's activities. X meets the requirements to be considered supporting governmental supported organizations because:

- a. X only supports City and Park, both of which are governmental supported organizations;
- b. City and Park operate within the same geographic region; and
- c. A substantial part of X's activities directly further Park's exempt purposes, even though X's grants to City are also a substantial part of X's activities.

Based on these facts, X qualifies as a functionally integrated supporting organization supporting governmental supported organizations.

## F. Non-Functionally Integrated Integral Part Test

- (1) Treas. Reg. 1.509(a)-4(i)(5)(i) states that a Type III supporting organization will meet the non-functionally integrated integral part test if it meets either:
  - a. The **distribution requirement** and the **attentiveness requirement** (both described in detail below); or
  - b. The **alternate integral part test for certain trusts, which existed on November 20, 1970** (described in detail below).

### F.1. Distribution Requirement

- (1) Annually, the supporting organization must make distributions of its *distributable amount*. See Treas. Reg. 1.509(a)-4(i)(5)(ii).
- (2) Treas. Reg. 1.509(a)-4(i)(5)(ii)(B) states the *distributable amount* is the greater of:
  - a. 85% of the supporting organization's adjusted net income for the prior tax year (per Section 4942(f) and Treas. Reg. 53.4942(a)-2(d)); or
  - b. Its minimum asset amount for the prior tax year.

Its *minimum asset amount* for the prior tax year is 3.5% of the excess of the aggregate fair market value of all of its non-exempt-use assets over the acquisition indebtedness from such non-exempt-use assets (after certain adjustments). See Treas. Regs. 1.509(a)-4(i)(5)(ii)(C) and 1.509(a)-4(i)(8).
- (3) A distribution that counts toward the distribution requirement is the amount of cash or the fair-market value of property distributed. This is based on the cash receipts and disbursements method of accounting described in Section 446(c)(1).



Distributions that count toward the distribution requirement are limited to those listed in Treas. Reg. 1.509(a)-4(i)(6):

- (i) Any amount paid to a supported organization to accomplish the supported organization's exempt purposes;
  - (ii) Any amount paid by the supporting organization to perform an activity that satisfies the requirements of a functionally integrated supporting organization, but only to the extent such amount exceeds any income derived by the supporting organization from the activity;
  - (iii) Any reasonable and necessary administrative expenses or expenses paid to accomplish the supported organization's exempt purposes. These expenses do not include expenses incurred in producing investment income or fundraising, except expenses incurred to solicit certain contributions received directly by a supported organization. See Treas. Reg. 1.509(a)-4(i)(6)(iii);
  - (iv) Any amount paid to acquire an exempt-use asset described in Treas. Reg. 1.509(a)-4(i)(8)(ii); and
  - (v) Any amount set aside for a specific project that accomplishes the exempt purposes of its supported organization under the conditions described in Treas. Reg. 1.509(a)-4(i)(6)(v).
- (4) No distribution is required for the non-FISO's first taxable year. However, for any excess carryover in Treas. Reg. 1.509(a)-4(i)(7), the distributable amount is not zero, but is instead the amount that would otherwise be required if it were not its first year. See Treas. Reg. 1.509(a)-4(i)(5)(ii)(D).
- (5) If a non-FISO fails to meet the distribution requirement, reasonable cause criteria can be applied to save it from being classified as a private foundation. See Treas. Reg. 1.509(a)-4(i)(5)(ii)(F).
- (6) An excess amount of distributions can be carried over to certain future tax years as described in Treas. Reg. 1.509(a)-4(i)(7).

## **F.2. Attentiveness Requirement**

- (1) Each tax year, a non-functionally integrated Type III supporting organization must distribute one-third or more of its distributable amount (described above) to one or more supported organization(s) that are attentive to its operations. See Treas. Reg. 1.509(a)-4(i)(5)(iii).
- (2) A supported organization will be considered "attentive to the operations of the supporting organization" if at least one of the following requirements is satisfied:
  - a. The supporting organization distributed to the supported organization at least 10% of the supported organization's total support in the prior tax year. (In the case of a particular department or school of a university, hospital, or church, the total support considered will be that of the department or school.) See Treas. Reg. 1.509(a)-4(i)(5)(iii)(B)(1).



- b. The amount of support received from the supporting organization is necessary to avoid the interruption of the carrying on of a particular function or activity of the supported organization. The amount of support is considered to be *necessary* if it is earmarked for a particular program or activity, even if it is not the supported organization's primary activity, as long as it is a substantial one. See Treas. Reg. 1.509(a)-4(i)(5)(iii)(B)(2).
- c. The amount of support received by the supported organization from the supporting organization must be sufficient to ensure attentiveness by the supported organization, and there must be evidence of such attentiveness.

This is based on all pertinent factors, including the number of supported organizations, the length and nature of the relationship between the supported organization and supporting organization, and the purpose to which the funds are put. The greater the percentage of the supported organization's total support that is made up by the supporting organization's payments, the more likely the required degree of attentiveness will be present.

To determine whether the amount is sufficient to ensure the attentiveness of the supported organization to the operations of the supporting organization (including attentiveness to the nature and yield of the supporting organization's investments), evidence of actual attentiveness by the supported organization is of almost equal importance as the amount of support.

See Treas. Reg. 1.509(a)-4(i)(5)(iii)(B)(3).

- (3) Treas. Reg. 1.509(a)-4(i)(5)(iii)(D)(4) provides an example that applies the attentiveness requirement with multiple supported organizations.

Organization O is described in Section 501(c)(3). O is organized to support five private universities, V, W, X, Y, and Z. Each university is described in Section 509(a)(1). O is responsive to each of its supported organizations. Annually, O distributes an aggregate amount that equals its distributable amount, and it distributes an equal amount to each of the five universities. O distributes annually to each of V and W an amount that equals more than 10% of each university's total annual support. O meets the requirements of the attentiveness requirement because it distributes two-fifths (more than the required one-third) of its distributable amount to supported organizations that are attentive to O.

So, Organization O distributes 40% of its distributable amount to supported organizations that are attentive to its operations. V and W are attentive to its operations because the amount of support that each received is at least 10% of its total support.

- (4) Any amount received from the supporting organization that is held by the supported organization in a donor-advised fund described in Section 4966(d)(2)

will be disregarded when determining attentiveness. See Treas. Reg. 1.509(a)-4(i)(5)(iii)(C).

- (5) Two court cases that discuss prior requirements for attentiveness of supported organizations may aid in assessing attentiveness for a non-FISO:
  - a. In *Cuddeback v. Comm'r*, 84 T.C.M. (CCH) 623 (T.C. 2002-300), the court determined the petitioner was a private foundation and not a Section 509(a)(3) supporting organization because the amount of support given to the beneficiary organization was not sufficient to ensure the attentiveness of the beneficiary organization to the operations of the petitioner.
  - b. In *Lapham Foundation, Inc. v. Commissioner*, 389 F.3d 606 (6th Cir. 2004), the court determined that the foundation did not provide enough support to its supported organization to ensure the attentiveness of the supported organization. The court determined that the amounts planned to be allocated for the supported organization were insignificant as compared to the size of the supported organization, and that even though funds were earmarked for donations to a particular area, the projects of the supported organization in that area were not substantial.

Of note, these cases predate the Pension Protection Act of 2006 changes in law and the resulting regulatory changes. Thus, the analysis is based on past law and former regulations.)

### **F.3. Alternate Integral Part Test for Certain Trusts Existing on November 20, 1970**

- (1) A trust existing on November 20, 1970, that met and continues to meet the following requirements, will meet the non-functionally integrated integral part test, if for tax years beginning after October 16, 1972, the trustee makes annual written reports to all of the supported organizations, including a description of the trust's assets and a detailed list of the assets and the income produced by such assets. See Treas. Reg. 1.509(a)-4(i)(9).
- (2) Such a trust may request a ruling that it is described in Section 509(a)(3), if it meets the following requirements:
  - a. All the unexpired interests in the trust are devoted to one or more purposes described in Section 170(c)(1) or (c)(2)(B), and a deduction was allowed with respect to such interests.
  - b. The trust was created prior to November 20, 1970, and did not receive any grant, contribution, bequest or other transfer on or after such date. (There are additional special rules for a split-interest trust.)
  - c. The trust is required by its governing instrument to distribute all of its net income to a designated beneficiary supported organization. (There are additional special rules for multiple beneficiary organizations.)

- d. The trustee does not have discretion to vary either the beneficiary supported organizations or the amounts payable to the supported organizations.
- e. None of the trustees would be disqualified persons within the meaning of Section 4946(a) (other than foundation managers under Section 4946(a)(1)(B)) with respect to the trust.

## **VI. Control Test**

- (1) A supporting organization may not be controlled directly or indirectly by one or more disqualified persons (other than foundation managers or one or more publicly supported organizations).

### **A. Law / Authority**

- (1) Section 509(a)(3)(C) and Treas. Reg. 1.509(a)-4(j)(1) state a supporting organization may not be controlled directly or indirectly by one or more disqualified persons (as defined in Section 4946) other than foundation managers and other than one or more organizations described in Section 509(a)(1) or (2).
- (2) For purposes of the control test, as described in Section 4946(a), disqualified persons are the following persons:
  - a. A substantial contributor to the supporting organization. (A substantial contributor is a person who has given more than \$5,000 to the supporting organization if this amount is also more than 2% of the total amount given by the end of the taxable year.)
  - b. A creator of a trust that is a substantial contributor to the supporting organization.
  - c. An owner of more than 20% of the:
    - combined voting power of a corporation,
    - profit interest of a partnership, or
    - beneficial interest of a trust or unincorporated enterprise,which is a substantial contributor to the supporting organization.
  - d. A family member of one of the above persons. (Family includes only a spouse, ancestors, children, grandchildren, great grandchildren, and the spouses of children, grandchildren, and great grandchildren.)
  - e. A corporation, partnership, or trust in which one of the above persons owns more than 35% of the combined voting power, profit interest, or beneficial interest.

- (3) If someone who is a disqualified person to a supporting organization, such as a substantial contributor, is appointed to the role of foundation manager, they are still a disqualified person. See Treas. Reg. 1.509(a)-4(j)(1).

One way a supporting organization will be considered to be controlled is if the disqualified persons (by aggregating their votes or positions of authority) could compel the supporting organization to perform (or prevent) any act which significantly affects its operation. (This includes that no substantial contributor nor their spouse may designate annually the recipients for the portion of their contribution from among the supported organizations.)

A supporting organization is considered to be controlled directly or indirectly by disqualified persons if the voting power of such persons is 50% or more of the total voting power of the organization's governing body, or if one or more of such persons have the right to exercise veto power over the actions of the organization.

The regulations provide the example that if the governing body of an organization is composed of five trustees, none of whom has veto power over the actions of the organization, and no more than two trustees are at any time disqualified persons, the organization will not be considered to be controlled directly or indirectly by one or more disqualified persons by reason of this fact alone. See Treas. Reg. 1.509(a)-4(j)(1).

- (4) However, in determining whether a disqualified person does in fact indirectly control an organization, all pertinent facts and circumstances including the nature, diversity, and income yield of an organization's holdings, the length of time particular stocks, securities, or other assets are retained, and its manner of exercising its voting rights with respect to stocks in which members of its governing body also have some interest, will be taken into consideration. See Treas. Reg. 1.509(a)-4(j)(1).
- (5) An organization is permitted to try to prove to the satisfaction of the Commissioner that disqualified persons do not directly or indirectly control it. The regulations provide an example of an organization, which based on facts and circumstances, proved it was not controlled by disqualified persons due to its division of control over policies and decisions. See Treas. Reg. 1.509(a)-4(j)(2).

(6) **Additional precedent on the control test:**

- a. In Rev. Rul. 80-207, 1980-2 C.B. 113, an organization that makes distributions to a university does not qualify as a supporting organization within the meaning of Section 509(a)(3) because it was found to be controlled by a disqualified person and the employees of a disqualified person. This ruling provides an example of indirect control. Two of the four supporting organization directors were also employees of a corporation in which a substantial contributor to the organization owned more than 35% of the voting power of the corporation. This individual was also a director of the supporting organization. Because of the employment relationship of

the two employee board members, Rev. Rul. 80-207 concluded the supporting organization was controlled indirectly by the disqualified person.

- b. In Rev. Rul. 80-305, 1980-2 C.B. 71, a trust that was funded by multiple donors, and each donor had the right to designate charitable recipients of the income and *corpus* of the trust attributable to their own contribution, did not meet the requirements of Section 509(a)(3) because its donors were allowed to designate recipients, which constitutes control by substantial contributors who are disqualified persons.
- c. In *Polm Fam. Found., Inc. v. United States*, 655 F. Supp. 2d 125 (D.D.C. 2009), *aff'd* on different grounds, 644 F.3d 406 (D.C. Cir. 2011), the court found the plaintiff failed the control test. Mr. Polm, a disqualified person, held all the power to appoint all directors, including managing directors, to the foundation's board. Additionally, two of the three initial directors were disqualified persons. Of this, the court stated, "In light of the Treasury Regulations governing what amounts to "control" with respect to Section 509(a)(3)(C), the Court considers the extensive power and authority of Mr. Polm to constitute indirect control over the Foundation in violation of Section 509(a)(3)(C)."

## VII. Examination Techniques

- (1) The information in this section is intended to guide the examiner in identifying and developing issues particular to Section 509(a)(3) Type III supporting organizations. These guidelines are meant to supplement the guidelines provided by IRM 4.70, TE/GE Examinations, and are not all-inclusive nor meant to limit the examiner in identifying issues nor using additional examination and legal resources (for example, CPE articles, examination tools and techniques, etc.) that are not included here.

### A. Organizational Test Considerations

- (1) The supporting organization's governing documents must:
  - a. Limit the purposes of the organization to benefiting, performing the functions of, or carrying out the purposes of one or more specified organizations described in Sections 509(a)(1) or (2). Ensure that there is a statement indicating that the supporting organization is organized and operated exclusively for the benefit of a publicly supported organization.
  - b. State the specified publicly supported organization. Review the organizing documents to ensure the publicly supported organization is a named beneficiary.
  - c. Not benefit any organization that is not expressly listed. Review the organizing document to verify the supporting organization is not

empowered to support or benefit any organization other than those publicly supported organizations already specified.

## **B. Operational Test Considerations**

- (1) Review the organization's activities to ensure they are limited to support the purposes of benefiting, performing the functions of, or carrying out the purposes of one or more specified organizations described in Sections 509(a)(1) or (2).
- (2) Ensure payments are made solely to permissible beneficiaries:
  - a. Interview the organization
  - b. Review meeting minutes
  - c. Review cash disbursements, cancelled checks, invoices, etc.
- (3) If the supporting organization conducts an independent activity or program, perform an operational review of the activities to determine if the activities actually serve the exempt purposes of the beneficiary. The supporting organization may also engage in fundraising activities to raise funds for the permissible beneficiaries.

## **C. Relationship Requirement Considerations**

- (1) In order to determine if the organization meets the relationship requirement under Type III, the examiner must review the relationship:
  - a. Interview the organization to verify:
    - The supporting organization is responsive to the needs or demands of each of its supported organization(s), and
    - The supporting organization will constitute an integral part of, or maintain a significant involvement in, the operations of the publicly supported organization(s).
  - b. Review the governing documents to ensure such control is documented.

## **D. Control Test Considerations**

- (1) Ensure disqualified persons do not control the supporting organization, directly or indirectly. Disqualified persons include all persons listed in Section 4946, except Section 509(a)(1) and 509(a)(2) organizations or a foundation manager of the supporting organization who is not a disqualified person for another reason.
- (2) Review board minutes, organizing documents, and financial documents to verify disqualified persons do not have more than 50% of the voting power or if one or more of such persons have the right to exercise veto power over the actions of the supporting organization.
- (3) Look at board members and determine if they are indirectly controlled by disqualified persons (for example, an employer/employee relationship).

## E. Excise Tax Considerations

- (1) Section 4958(c)(3)(A) states the following are excess benefit transactions for Section 509(a)(3) organizations:
  - a. Any grant, loan, compensation, or other similar payment provided by such organization to a person described in Section 4958(c)(3)(B), and
  - b. Any loan provided by such organization to a disqualified person (other than an organization described in Section 4958(c)(3)(C)(ii)), and
  - c. The “excess benefit” includes the amount of any such grant, loan, compensation, or other similar payment.

For more information, refer to TG 65: Excess Benefit Transactions – IRC Section 4958.

- (2) Regarding Section 4958, Taxes on excess benefit transactions:
  - a. Identify grants, loans, compensation, or other similar payments to substantial contributors, members of their families, or their 35% controlled entities and loans to disqualified persons.
  - b. Review Form 990-series returns for items that could indicate issues, including:
    - Supporting organization made loans to disqualified persons or substantial contributors;
    - Grants or other assistance were provided to disqualified persons or substantial contributors;
    - Compensation to disqualified persons or substantial contributors; or
    - Loans or receivables from disqualified persons, substantial contributors, or their related parties.

Note: Organizations are required to report transactions with interested parties, including excess benefit transactions, loans, grants, assistance, and business transactions on Schedule L.

- c. Review compensation paid to identify payments to individuals listed above.
- d. Examine disbursements. Look for payment of expenses to or for the benefit of disqualified persons, substantial contributors, or their related parties.
- e. Analyze grants to identify recipients that are substantial contributors or their related parties.
- f. Review loans and notes receivable for loans to disqualified persons, substantial contributors, or their related parties.

Note: Transactions that are not grants, loans, compensation, or other similar payments are still subject to the general rules of Section 4958. See TG 65: Excess Benefit Transactions – IRC Section 4958 for further information.

## **VIII. Other Considerations**

### **A. Application and Change in Foundation Classification**

- (1) An organization may request recognition of Section 509(a)(3) classification by one of the following:
  - a. When applying for recognition of exemption from federal tax, it will apply electronically on [www.Pay.gov](http://www.Pay.gov) by submitting Form 1023, Application for Recognition of Section 501(c)(3) Exemption, Schedule D to Form 1023, all required supplemental information according to the instructions, and the correct user fee.  
  
Note: Organizations requesting classification as Section 509(a)(3) organizations are not eligible to use Form 1023-EZ, Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code. See Rev. Proc. 2024-5 (updated annually).
  - b. When requesting a change in foundation classification, it will file Form 8940, Request for Miscellaneous Determination, electronically on [www.Pay.gov](http://www.Pay.gov) with all required supplemental information according to the instructions and the correct user fee.  
  
Note: A nonexempt charitable trust described in Section 4947(a)(1) may also request a determination that it is described in Section 509(a)(3), even though it has not been recognized as a 501(c)(3) organization, by filing Form 8940.
- (2) An organization that fails to meet the requirements for classification as a supporting organization might, based on facts and circumstances, qualify under another foundation classification, such as Section 509(a)(2) or Section 170(b)(1)(A)(vi), or even as a private foundation.
- (3) An adverse determination as to an organization's requested foundation classification is appealable. See Section 9, Procedures for Adverse Determination Letter, and Section 10, Declaratory Judgement Provisions of Section 7428, of Rev. Proc. 2024-5, 2024-1 I.R.B. 262 (updated annually).

### **B. Filing Requirements**

- (1) Each Section 509(a)(3) supporting organization is required to file Form 990 or 990-EZ with the IRS on an annual basis, regardless of the organization's gross receipts, unless it qualifies as one of the following:
  - a. An integrated auxiliary of a church described in Treas. Reg. 1.6033-2(h);
  - b. The exclusively religious activities of any religious order; or



- c. A supporting organization, the gross receipts of which are normally not more than \$5,000, that supports a Section 501(c)(3) religious organization. These organizations must submit Form 990-N (e-Postcard) unless it voluntarily files Form 990 or 990-EZ.

See Sections 6033(a), 6033(i), and 6033(l), and Treas. Regs. 1.6033-2(g), 1.6033-2(h), and 1.6033-6(b)(3).

- (2) The organization's gross receipts and its total assets determine which Form 990-series return it must file. IRS.gov's page "Form 990 Series - Which Forms Do Exempt Organizations File - Filing Phase In" provides a chart on gross receipts and asset levels.
- (3) On Schedule A (Form 990 or 990-EZ), Public Charity Status and Public Support, a supporting organization will:
  - a. List the organizations to which it provides support;
  - b. Indicate whether it is a Type I, Type II, or Type III supporting organization; and
  - c. Certify that the organization isn't controlled directly or indirectly by disqualified persons (other than by foundation managers and other than one or more publicly supported organizations).
- (4) Section 501(c)(3) supporting organizations are subject to automatic revocation under Section 6033(j). See IRS.gov's page "Automatic Exemption Revocation for Non-Filing: Frequently Asked Questions" for more information.
- (5) Organizations with unrelated business taxable income must electronically file Form 990-T, Exempt Organization Business Income Tax Return, and electronically pay any required periodic estimated tax payments.
- (6) Organizations with employees must file employment tax returns and unemployment tax returns and electronically pay any required periodic tax deposits. See Publication 15 (Circular E), Employer's Tax Guide, for more information.

## C. Resources





- (1) Publication 557, Tax-Exempt Status for Your Organization
- (2) 2004 CPE, Supporting Organization Reference Guide IRC 509(a)(3) Foundation Status Classification, "Special Health Care Issues" section
- (3) Articles on IRS.gov:
  - a. "Section 509(a)(3) Supporting Organizations"
  - b. "Supporting Organizations – Requirements and Types"
  - c. "Annual Filing Requirements for Supporting Organizations"


- d. "Exempt Organizations Annual Reporting Requirements – Form 990, Schedules A and B: Reporting "Issues for Section 509(a)(3) Supporting Organizations"
- e. "Forms 990, 990-EZ and 990-N – 509(a)(3) Supporting Organizations"

## IX. Exhibits

### A. Exhibit 1: Resource Matrix & Symbol Legend

- (1) This table is the legend for symbols used in Exhibits B-E of this Technical Guide.
- (2) As used in the other Exhibits, each symbol illustrates from which of the four tests (organizational, operational, relationship requirement, or control) the coded item stems.

Symbol	Tests and Related Treasury Regulation Sections	TG Section	Supporting Org. Type(s)
	<b>Organizational Test</b> <ul style="list-style-type: none"> <li>• 1.509(a)-4(a), In general</li> <li>• 1.509(a)-4(b), Organizational and operational tests</li> <li>• 1.509(a)-4(c), Organizational test</li> <li>• 1.509(a)-4(d), Specified organizations</li> <li>• 1.509(a)-4(k), Organizations operated in conjunction with certain section 501(c)(4), (5), or (6) organizations</li> </ul>	III	I, II, III
	<b>Operational Test</b> <ul style="list-style-type: none"> <li>• 1.509(a)-4(a), In general</li> <li>• 1.509(a)-4(b), Organizational and operational tests</li> <li>• 1.509(a)-4(e), Operational test</li> </ul>	IV	I, II, III
	<b>Relationship Requirement</b> <ul style="list-style-type: none"> <li>• 1.509(a)-4(a), In general</li> <li>• 1.509(a)-4(f), Nature of relationship required between organizations</li> <li>• 1.509(a)-4(g), Meaning of operated, supervised, or controlled by (Type I. See TG 31.)</li> <li>• 1.509(a)-4(h), Meaning of supervised or controlled in connection with (Type II. See TG 32.)</li> <li>• 1.509(a)-4(i), Meaning of operated in connection with (Type III)</li> </ul>	V	I, II, III
	<b>Additional Type III Relationship Requirements</b> <ul style="list-style-type: none"> <li>• 1.509(a)-4(a), In general</li> <li>• 1.509(a)-4(i), Meaning of operated in connection with</li> <li>• 1.509(a)-4(i)(2), Notification requirement</li> <li>• 1.509(a)-4(i)(3), Responsiveness test</li> <li>• 1.509(a)-4(i)(4), Functionally integrated</li> <li>• 1.509(a)-4(i)(5), Non-functionally integrated</li> </ul>	V	III

	<b>Control Test</b> <ul style="list-style-type: none"><li>• 1.509(a)-4(a), In general</li><li>• 1.509(a)-4(j), Control by disqualified persons</li></ul>	VI	I, II, III
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## **B. Exhibit 2: Form 1023 Schedule D with Symbols**

- (1) This exhibit contains Schedule D, Section 509(a)(3) Supporting Organizations, of Form 1023, Application for Exemption under Section 501(c)(3) of the Internal Revenue Code of 1986.
- (1) Symbols are used to illustrate from which of the four tests (organizational, operational, relationship requirement, or control) the coded items stem. Symbol legend is in Exhibit 1 of this Technical Guide.
- (2) Exhibit begins on next page.

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**Schedule D. Section 509(a)(3) Supporting Organizations**

**1** List the names, addresses, and EINs of the organizations you support.

**2** Are all your supported organizations public charities under section 509(a)(1) or (2)? If "Yes," continue to Line 3.

Yes  No

**2a** Are your supported organizations tax exempt under section 501(c)(4), 501(c)(5), or 501(c)(6) and do your supported organizations meet the public support test under section 509(a)(2)? If "No," explain how each organization you support is a public charity under section 509(a)(1) or 509(a)(2).

Yes  No

**3** Which of the following describes your relationship with your supported organization(s)?

- A majority of your governing board or officers are elected or appointed by your supported organization(s). (Type I supporting organization)
- Your control or management is vested in the same persons who control or manage your supported organization(s). (Type II supporting organization)
- One or more of your officers, directors, or trustees are elected or appointed by the officers, directors, trustees, or membership of your supported organization(s), or one or more of your officers, directors, trustees, or other important office holders, are also members of the governing body of your supported organization(s), or your officers, directors, or trustees maintain a close and continuous working relationship with the officers, directors, or trustees of your supported organization(s). (Type III supporting organization)

**4** Describe how your governing board and officers are selected. If you are a Type III organization, also describe how your officers, directors, or trustees maintain a close and continuous working relationship with the officers, directors, or trustees of your supported organization(s).

**Schedule D. Section 509(a)(3) Supporting Organizations** (continued)

- 5** Do any persons who are disqualified persons (except individuals who are disqualified persons only because they are foundation managers) with respect to you or persons who have a family or business relationship with any disqualified persons appoint any of your foundation managers? If "Yes," (1) describe the process by which disqualified persons appoint any of your foundation managers, (2) provide the names of these disqualified persons and the foundation managers they appoint, and (3) explain how control is vested over your operations (including assets and activities) by persons other than disqualified persons.  Yes  No

- 6** Do any persons who are disqualified persons (except individuals who are disqualified persons only because they are foundation managers) have any influence regarding your operations, including your assets or activities? If "Yes," (1) provide the names of these disqualified persons, (2) explain how influence is exerted over your operations (including assets and activities), and (3) explain how control is vested over your operations (including assets and activities) by individuals other than disqualified persons.  Yes  No

- 7** Does your organizing document specify your supported organization(s) by name?  Yes  No  
 If "Yes" and you selected Type I above, continue to Line 8.  
 If "Yes," and you selected Type II, do not complete the rest of Schedule D.  
 If "No" and you selected Type III above, amend your organizing document to specify your supported organization(s) by name or you will not meet the organizational test and need to reconsider your requested public charity classification; then continue to Line 8.

- 7a** Does your organizing document name a similar purpose or charitable class of beneficiaries as to your supported organization(s)? If "No," amend your organizing document to specify your supported organization(s) by name, purpose, or class or you will not meet the organizational test and need to reconsider your requested public charity classification.  Yes  No

If you selected Type II above, do not complete the rest of Schedule D.

- 8** Do you or will you receive contributions from any person who alone, or combined with family members or an entity at least 35% controlled by that person, controls any of your supported organizations, or will you receive contributions from any family member of, or an entity at least 35% controlled by, any person who controls any of your supported organizations? If "Yes," explain.  Yes  No

If you selected Type I above, do not complete the rest of Schedule D.

**Schedule D. Section 509(a)(3) Supporting Organizations** *(continued)*

**9** Do the officers, directors, or trustees of your supported organization have a significant voice in your investment policies, the timing and making of grants, the selection of grant recipients, and in otherwise directing the use of your income or assets? If "Yes," explain.  Yes  No

**10** In each taxable year, do you or will you provide each of your supported organizations with (a) a written notice addressed to a principal officer of the supported organization describing the type and amount of all of the support you provided to the supported organization during the immediately preceding taxable year, (b) a copy of your most recently filed Form 990-series return or notice, and (c) a copy of your governing documents? If 'No,' explain.  Yes  No

**11** Do you exercise a substantial degree of direction over the policies, programs, and activities of your supported organization(s) and appoint or elect (directly or indirectly) a majority of the officers, directors, or trustees of your supported organization(s)? If "Yes," explain.  Yes  No

**12** Do substantially all of your activities directly further the exempt purposes of one or more supported organizations to which you are responsive by performing the functions of, or carrying out the purposes of, such supported organization(s) and but for your involvement would normally be engaged in by such supported organization(s). If "Yes," explain and do not complete the rest of Schedule D.  Yes  No



**Schedule D. Section 509(a)(3) Supporting Organizations** *(continued)*

**13** Do you distribute at least 85% of your annual net income or 3.5% of the aggregate fair market value of all of your non-exempt-use assets (whichever is greater) to your supported organization(s)? If "No," explain.

Yes  No

Empty text box for explanation of "No" answer to question 13.

**13a** How much do you contribute annually to each supported organization?

Empty text box for answer to question 13a.

**13b** What is the total annual revenue of each supported organization?

Empty text box for answer to question 13b.

**13c** Do you or the supported organization(s) earmark your funds for support of a particular program or activity? If "Yes," explain.

Yes  No

Empty text box for explanation of "Yes" answer to question 13c.

### **C. Exhibit 3: Form 990 Schedule A with Symbols**

- (1) This exhibit contains Schedule A, Public Charity Status and Public Support, of Form 990.
- (2) This exhibit is not the entire Schedule A, but rather features the sections that apply specifically to Section 509(a)(3) supporting organizations. The sections applying to Sections 509(a)(1), 509(a)(2), and 170(b)(1)(A) have been hidden or the pages have been removed entirely.
- (3) Symbols are used to illustrate from which of the four tests (organizational, operational, relationship requirement, or control) the coded items stem. Symbol legend is in Exhibit 1 of this Technical Guide.
- (4) Exhibit begins on next page.

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**Public Charity Status and Public Support**

Complete if the organization is a section 501(c)(3) organization or a section 4947(a)(1) nonexempt charitable trust.

▶ Attach to Form 990 or Form 990-EZ.

▶ Go to [www.irs.gov/Form990](http://www.irs.gov/Form990) for instructions and the latest information.

Name of the organization

Employer identification number

**Part I Reason for Public Charity Status.** (All organizations must complete this part.) See instructions.

The organization is not a private foundation because it is: (For lines 1 through 12, check only one box.)



**12**  An organization organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more publicly supported organizations described in **section 509(a)(1)** or **section 509(a)(2)**. See **section 509(a)(3)**. Check the box on lines 12a through 12d that describes the type of supporting organization and complete lines 12e, 12f, and 12g.

**a**  **Type I.** A supporting organization operated, supervised, or controlled by its supported organization(s), typically by giving the supported organization(s) the power to regularly appoint or elect a majority of the directors or trustees of the supporting organization. **You must complete Part IV, Sections A and B.**

**b**  **Type II.** A supporting organization supervised or controlled in connection with its supported organization(s), by having control or management of the supporting organization vested in the same persons that control or manage the supported organization(s). **You must complete Part IV, Sections A and C.**

**c**  **Type III functionally integrated.** A supporting organization operated in connection with, and functionally integrated with, its supported organization(s) (see instructions). **You must complete Part IV, Sections A, D, and E.**

**d**  **Type III non-functionally integrated.** A supporting organization operated in connection with its supported organization(s) that is not functionally integrated. The organization generally must satisfy a distribution requirement and an attentiveness requirement (see instructions). **You must complete Part IV, Sections A and D, and Part V.**

**e**  Check this box if the organization received a written determination from the IRS that it is a Type I, Type II, Type III functionally integrated, or Type III non-functionally integrated supporting organization.

**f** Enter the number of supported organizations . . . . .




















**g** Provide the following information about the supported organization(s).

	(i) Name of supported organization	(ii) EIN	(iii) Type of organization (described on lines 1–10 above (see instructions))	(iv) Is the organization listed in your governing document?		(v) Amount of monetary support (see instructions)	(vi) Amount of other support (see instructions)
				Yes	No		
(A)							
(B)							
(C)							
(D)							
(E)							
<b>Total</b>							

**Part IV Supporting Organizations**

(Complete only if you checked a box in line 12 on Part I. If you checked box 12a, Part I, complete Sections A and B. If you checked box 12b, Part I, complete Sections A and C. If you checked box 12c, Part I, complete Sections A, D, and E. If you checked box 12d, Part I, complete Sections A and D, and complete Part V.)

**Section A. All Supporting Organizations**

	Yes	No
 <b>1</b> Are all of the organization's supported organizations listed by name in the organization's governing documents? If "No," describe in <b>Part VI</b> how the supported organizations are designated. If designated by class or purpose, describe the designation. If historic and continuing relationship, explain.		
 <b>2</b> Did the organization have any supported organization that does not have an IRS determination of status under section 509(a)(1) or (2)? If "Yes," explain in <b>Part VI</b> how the organization determined that the supported organization was described in section 509(a)(1) or (2).		
 <b>3a</b> Did the organization have a supported organization described in section 501(c)(4), (5), or (6)? If "Yes," answer lines 3b and 3c below.		
 <b>b</b> Did the organization confirm that each supported organization qualified under section 501(c)(4), (5), or (6) and satisfied the public support tests under section 509(a)(2)? If "Yes," describe in <b>Part VI</b> when and how the organization made the determination.		
 <b>c</b> Did the organization ensure that all support to such organizations was used exclusively for section 170(c)(2)(B) purposes? If "Yes," explain in <b>Part VI</b> what controls the organization put in place to ensure such use.		
 <b>4a</b> Was any supported organization not organized in the United States ("foreign supported organization")? If "Yes," and if you checked box 12a or 12b in Part I, answer lines 4b and 4c below.		
 <b>b</b> Did the organization have ultimate control and discretion in deciding whether to make grants to the foreign supported organization? If "Yes," describe in <b>Part VI</b> how the organization had such control and discretion despite being controlled or supervised by or in connection with its supported organizations.		
 <b>c</b> Did the organization support any foreign supported organization that does not have an IRS determination under sections 501(c)(3) and 509(a)(1) or (2)? If "Yes," explain in <b>Part VI</b> what controls the organization used to ensure that all support to the foreign supported organization was used exclusively for section 170(c)(2)(B) purposes.		
 <b>5a</b> Did the organization add, substitute, or remove any supported organizations during the tax year? If "Yes," answer lines 5b and 5c below (if applicable). Also, provide detail in <b>Part VI</b> , including (i) the names and EIN numbers of the supported organizations added, substituted, or removed; (ii) the reasons for each such action; (iii) the authority under the organization's organizing document authorizing such action; and (iv) how the action was accomplished (such as by amendment to the organizing document).		
 <b>b</b> <b>Type I or Type II only.</b> Was any added or substituted supported organization part of a class already designated in the organization's organizing document?		
 <b>c</b> <b>Substitutions only.</b> Was the substitution the result of an event beyond the organization's control?		
 <b>6</b> Did the organization provide support (whether in the form of grants or the provision of services or facilities) to anyone other than (i) its supported organizations, (ii) individuals that are part of the charitable class benefited by one or more of its supported organizations, or (iii) other supporting organizations that also support or benefit one or more of the filing organization's supported organizations? If "Yes," provide detail in <b>Part VI</b> .		
 <b>7</b> Did the organization provide a grant, loan, compensation, or other similar payment to a substantial contributor (as defined in section 4958(c)(3)(C)), a family member of a substantial contributor, or a 35% controlled entity with regard to a substantial contributor? If "Yes," complete Part I of Schedule L (Form 990).		
 <b>8</b> Did the organization make a loan to a disqualified person (as defined in section 4958) not described on line 7? If "Yes," complete Part I of Schedule L (Form 990).		
 <b>9a</b> Was the organization controlled directly or indirectly at any time during the tax year by one or more disqualified persons, as defined in section 4946 (other than foundation managers and organizations described in section 509(a)(1) or (2))? If "Yes," provide detail in <b>Part VI</b> .		
 <b>b</b> Did one or more disqualified persons (as defined on line 9a) hold a controlling interest in any entity in which the supporting organization had an interest? If "Yes," provide detail in <b>Part VI</b> .		
 <b>c</b> Did a disqualified person (as defined on line 9a) have an ownership interest in, or derive any personal benefit from, assets in which the supporting organization also had an interest? If "Yes," provide detail in <b>Part VI</b> .		
 <b>10a</b> Was the organization subject to the excess business holdings rules of section 4943 because of section 4943(f) (regarding certain Type II supporting organizations, and all Type III non-functionally integrated supporting organizations)? If "Yes," answer line 10b below.		
 <b>b</b> Did the organization have any excess business holdings in the tax year? (Use Schedule C, Form 4720, to determine whether the organization had excess business holdings.)		



**Part IV Supporting Organizations** (continued)

		Yes	No
◆ 11	Has the organization accepted a gift or contribution from any of the following persons?		
	a A person who directly or indirectly controls, either alone or together with persons described on lines 11b and 11c below, the governing body of a supported organization?	11a	
	b A family member of a person described on line 11a above?	11b	
	c A 35% controlled entity of a person described on line 11a or 11b above? If "Yes" to line 11a, 11b, or 11c, provide detail in <b>Part VI</b> .	11c	

**Section B. Type I Supporting Organizations**

		Yes	No
◆ 1	Did the governing body, members of the governing body, officers acting in their official capacity, or membership of one or more supported organizations have the power to regularly appoint or elect at least a majority of the organization's officers, directors, or trustees at all times during the tax year? If "No," describe in <b>Part VI</b> how the supported organization(s) effectively operated, supervised, or controlled the organization's activities. If the organization had more than one supported organization, describe how the powers to appoint and/or remove officers, directors, or trustees were allocated among the supported organizations and what conditions or restrictions, if any, applied to such powers during the tax year.	1	
	◆ 2 Did the organization operate for the benefit of any supported organization other than the supported organization(s) that operated, supervised, or controlled the supporting organization? If "Yes," explain in <b>Part VI</b> how providing such benefit carried out the purposes of the supported organization(s) that operated, supervised, or controlled the supporting organization.	2	

**Section C. Type II Supporting Organizations**

		Yes	No
◆ 1	Were a majority of the organization's directors or trustees during the tax year also a majority of the directors or trustees of each of the organization's supported organization(s)? If "No," describe in <b>Part VI</b> how control or management of the supporting organization was vested in the same persons that controlled or managed the supported organization(s).	1	

**Section D. All Type III Supporting Organizations**

		Yes	No
▲ 1	Did the organization provide to each of its supported organizations, by the last day of the fifth month of the organization's tax year, (i) a written notice describing the type and amount of support provided during the prior tax year, (ii) a copy of the Form 990 that was most recently filed as of the date of notification, and (iii) copies of the organization's governing documents in effect on the date of notification, to the extent not previously provided?	1	
◆ 2	Were any of the organization's officers, directors, or trustees either (i) appointed or elected by the supported organization(s) or (ii) serving on the governing body of a supported organization? If "No," explain in <b>Part VI</b> how the organization maintained a close and continuous working relationship with the supported organization(s).	2	
▲ 3	By reason of the relationship described on line 2, above, did the organization's supported organizations have a significant voice in the organization's investment policies and in directing the use of the organization's income or assets at all times during the tax year? If "Yes," describe in <b>Part VI</b> the role the organization's supported organizations played in this regard.	3	

**Section E. Type III Functionally Integrated Supporting Organizations**

▲ 1	Check the box next to the method that the organization used to satisfy the Integral Part Test during the year (see instructions).		
a	<input type="checkbox"/> The organization satisfied the Activities Test. Complete <b>line 2</b> below.		
b	<input type="checkbox"/> The organization is the parent of each of its supported organizations. Complete <b>line 3</b> below.		
c	<input type="checkbox"/> The organization supported a governmental entity. Describe in <b>Part VI</b> how you supported a governmental entity (see instructions).		
▲ 2	Activities Test. <b>Answer lines 2a and 2b below.</b>	Yes	No
a	Did substantially all of the organization's activities during the tax year directly further the exempt purposes of the supported organization(s) to which the organization was responsive? If "Yes," then in <b>Part VI identify those supported organizations and explain how these activities directly furthered their exempt purposes, how the organization was responsive to those supported organizations, and how the organization determined that these activities constituted substantially all of its activities.</b>	2a	
b	Did the activities described on line 2a, above, constitute activities that, but for the organization's involvement, one or more of the organization's supported organization(s) would have been engaged in? If "Yes," explain in <b>Part VI</b> the reasons for the organization's position that its supported organization(s) would have engaged in these activities but for the organization's involvement.	2b	
▲ 3	Parent of Supported Organizations. <b>Answer lines 3a and 3b below.</b>		
a	Did the organization have the power to regularly appoint or elect a majority of the officers, directors, or trustees of each of the supported organizations? If "Yes" or "No," provide details in <b>Part VI</b> .	3a	
b	Did the organization exercise a substantial degree of direction over the policies, programs, and activities of each of its supported organizations? If "Yes," describe in <b>Part VI</b> the role played by the organization in this regard.	3b	

**Part V Type III Non-Functionally Integrated 509(a)(3) Supporting Organizations**

- 1**  Check here if the organization satisfied the Integral Part Test as a qualifying trust on Nov. 20, 1970 (*explain in Part VI*). See instructions. All other Type III non-functionally integrated supporting organizations must complete Sections A through E.

<b>Section A—Adjusted Net Income</b>		(A) Prior Year	(B) Current Year (optional)
<b>1</b>	Net short-term capital gain	<b>1</b>	
<b>2</b>	Recoveries of prior-year distributions	<b>2</b>	
<b>3</b>	Other gross income (see instructions)	<b>3</b>	
<b>4</b>	Add lines 1 through 3.	<b>4</b>	
<b>5</b>	Depreciation and depletion	<b>5</b>	
<b>6</b>	Portion of operating expenses paid or incurred for production or collection of gross income or for management, conservation, or maintenance of property held for production of income (see instructions)	<b>6</b>	
<b>7</b>	Other expenses (see instructions)	<b>7</b>	
<b>8</b>	<b>Adjusted Net Income</b> (subtract lines 5, 6, and 7 from line 4)	<b>8</b>	

<b>Section B—Minimum Asset Amount</b>		(A) Prior Year	(B) Current Year (optional)
<b>1</b>	Aggregate fair market value of all non-exempt-use assets (see instructions for short tax year or assets held for part of year):		
<b>a</b>	Average monthly value of securities	<b>1a</b>	
<b>b</b>	Average monthly cash balances	<b>1b</b>	
<b>c</b>	Fair market value of other non-exempt-use assets	<b>1c</b>	
<b>d</b>	<b>Total</b> (add lines 1a, 1b, and 1c)	<b>1d</b>	
<b>e</b>	<b>Discount</b> claimed for blockage or other factors ( <i>explain in detail in Part VI</i> ):		
<b>2</b>	Acquisition indebtedness applicable to non-exempt-use assets	<b>2</b>	
<b>3</b>	Subtract line 2 from line 1d.	<b>3</b>	
<b>4</b>	Cash deemed held for exempt use. Enter 0.015 of line 3 (for greater amount, see instructions).	<b>4</b>	
<b>5</b>	Net value of non-exempt-use assets (subtract line 4 from line 3)	<b>5</b>	
<b>6</b>	Multiply line 5 by 0.035.	<b>6</b>	
<b>7</b>	Recoveries of prior-year distributions	<b>7</b>	
<b>8</b>	<b>Minimum Asset Amount</b> (add line 7 to line 6)	<b>8</b>	

<b>Section C—Distributable Amount</b>			Current Year
<b>1</b>	Adjusted net income for prior year (from Section A, line 8, column A)	<b>1</b>	
<b>2</b>	Enter 0.85 of line 1.	<b>2</b>	
<b>3</b>	Minimum asset amount for prior year (from Section B, line 8, column A)	<b>3</b>	
<b>4</b>	Enter greater of line 2 or line 3.	<b>4</b>	
<b>5</b>	Income tax imposed in prior year	<b>5</b>	
<b>6</b>	<b>Distributable Amount.</b> Subtract line 5 from line 4, unless subject to emergency temporary reduction (see instructions).	<b>6</b>	
<b>7</b>	<input type="checkbox"/> Check here if the current year is the organization's first as a non-functionally integrated Type III supporting organization (see instructions).		



**Part V Type III Non-Functionally Integrated 509(a)(3) Supporting Organizations** (continued)

<b>Section D – Distributions</b>		<b>Current Year</b>
<b>1</b>	Amounts paid to supported organizations to accomplish exempt purposes	<b>1</b>
<b>2</b>	Amounts paid to perform activity that directly furthers exempt purposes of supported organizations, in excess of income from activity	<b>2</b>
<b>3</b>	Administrative expenses paid to accomplish exempt purposes of supported organizations	<b>3</b>
<b>4</b>	Amounts paid to acquire exempt-use assets	<b>4</b>
<b>5</b>	Qualified set-aside amounts (prior IRS approval required—provide details in <b>Part VI</b> )	<b>5</b>
<b>6</b>	Other distributions (describe in <b>Part VI</b> ). See instructions.	<b>6</b>
<b>7</b>	<b>Total annual distributions.</b> Add lines 1 through 6.	<b>7</b>
<b>8</b>	Distributions to attentive supported organizations to which the organization is responsive (provide details in <b>Part VI</b> ). See instructions.	<b>8</b>
<b>9</b>	Distributable amount for 2021 from Section C, line 6	<b>9</b>
<b>10</b>	Line 8 amount divided by line 9 amount	<b>10</b>

<b>Section E – Distribution Allocations</b> (see instructions)	<b>(i) Excess Distributions</b>	<b>(ii) Underdistributions Pre-2021</b>	<b>(iii) Distributable Amount for 2021</b>
<b>1</b> Distributable amount for 2021 from Section C, line 6			
<b>2</b> Underdistributions, if any, for years prior to 2021 (reasonable cause required—explain in <b>Part VI</b> ). See instructions.			
<b>3</b> Excess distributions carryover, if any, to 2021			
<b>a</b> From 2016 . . . . .			
<b>b</b> From 2017 . . . . .			
<b>c</b> From 2018 . . . . .			
<b>d</b> From 2019 . . . . .			
<b>e</b> From 2020 . . . . .			
<b>f</b> <b>Total</b> of lines 3a through 3e			
<b>g</b> Applied to underdistributions of prior years			
<b>h</b> Applied to 2021 distributable amount			
<b>i</b> Carryover from 2016 not applied (see instructions)			
<b>j</b> Remainder. Subtract lines 3g, 3h, and 3i from line 3f.			
<b>4</b> Distributions for 2021 from Section D, line 7: \$			
<b>a</b> Applied to underdistributions of prior years			
<b>b</b> Applied to 2021 distributable amount			
<b>c</b> Remainder. Subtract lines 4a and 4b from line 4.			
<b>5</b> Remaining underdistributions for years prior to 2021, if any. Subtract lines 3g and 4a from line 2. For result greater than zero, explain in <b>Part VI</b> . See instructions.			
<b>6</b> Remaining underdistributions for 2021. Subtract lines 3h and 4b from line 1. For result greater than zero, explain in <b>Part VI</b> . See instructions.			
<b>7</b> <b>Excess distributions carryover to 2022.</b> Add lines 3j and 4c.			
<b>8</b> Breakdown of line 7:			
<b>a</b> Excess from 2017 . . . . .			
<b>b</b> Excess from 2018 . . . . .			
<b>c</b> Excess from 2019 . . . . .			
<b>d</b> Excess from 2020 . . . . .			
<b>e</b> Excess from 2021 . . . . .			



**Part VI**

**Supplemental Information.** Provide the explanations required by Part II, line 10; Part II, line 17a or 17b; Part III, line 12; Part IV, Section A, lines 1, 2, 3b, 3c, 4b, 4c, 5a, 6, 9a, 9b, 9c, 11a, 11b, and 11c; Part IV, Section B, lines 1 and 2; Part IV, Section C, line 1; Part IV, Section D, lines 2 and 3; Part IV, Section E, lines 1c, 2a, 2b, 3a, and 3b; Part V, line 1; Part V, Section B, line 1e; Part V, Section D, lines 5, 6, and 8; and Part V, Section E, lines 2, 5, and 6. Also complete this part for any additional information. (See instructions.)




Area with horizontal dashed lines for supplemental information.






## D. Exhibit 4: Form 1023 Schedule D and Form 990 Schedule A Questions Organized into the Four Tests


- (1) This chart organizes the questions, as published in Form 1023's Schedule D and Form 990's Schedule A, into each of the four supporting organization tests.
- (2) Symbols are used to illustrate from which of the four tests the coded items stem. Symbol legend is in Exhibit 1 of this Technical Guide.


 <b>Organizational Test</b>	
<b>Form 1023, Schedule D</b>	
Line 1.	List the names, addresses, and EINs of the organizations you support.
Line 2a.	Are your supported organizations tax exempt under Section 501(c)(4), 501(c)(5), or 501(c)(6) and do your supported organizations meet the public support test under Section 509(a)(2)? If "No," explain how each organization you support is a public charity under Section 509(a)(1) or 509(a)(2).
Line 7.	Does your organizing document specify your supported organization(s) by name? If "No" and you selected Type III above, amend your organizing document to specify your supported organization(s) by name or you will not meet the organizational test and need to reconsider your requested public charity classification; then continue to Line 8.
Line 7a.	Does your organizing document name a similar purpose or charitable class of beneficiaries as to your supported organization(s)? If "No," amend your organizing document to specify your supported organization(s) by name, purpose, or class or you will not meet the organizational test and need to reconsider your requested public charity classification.
<b>Form 990, Schedule A</b>	
<b>Part I</b>	
Line 12.	An organization organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more publicly supported organizations described in Section 509(a)(1) or Section 509(a)(2). See Section 509(a)(3). Check the box in lines 12a through 12d that describes the type of supporting organization and complete lines 12e, 12f, and 12g.
Line 12g.	(i) Name of supported organization; (ii) EIN; (iii) Type of organization; (iv) Is the organization listed in your governing document? (v) Amount of monetary support; and (vi) Amount of other support.
<b>Part IV, Section A</b>	
Line 1.	Are all of the organization's supported organizations listed by name in the organization's governing documents? If "No," describe in Part VI how the supported organizations are designated. If designated by class or purpose, describe the designation. If historic and continuing relationship, explain.
Line 3a.	Did the organization have a supported organization described in Section 501(c)(4), (5), or

	(6)? If "Yes," answer (b) and (c) below.
Line 3b.	Did the organization confirm that each supported organization qualified under Section 501(c)(4), (5), or (6) and satisfied the public support tests under Section 509(a)(2)? If "Yes," describe in Part VI when and how the organization made the determination.
Line 3c.	Did the organization ensure that all support to such organizations was used exclusively for section 170(c)(2)(B) purposes? If "Yes," explain in Part VI what controls the organization put in place to ensure such use.
Line 5a.	Did the organization add, substitute, or remove any supported organizations during the tax year? If "Yes, answer (b) and (c) below (if applicable). Also, provide detail in Part VI, including (i) the names and EIN numbers of the supported organizations added, substituted, or removed; (ii) the reasons for each such action; (iii) the authority under the organization's organizing document authorizing such action; and (iv) how the action was accomplished (such as by amendment to the organizing document).
Line 5c.	Substitutions only. Was the substitution the result of an event beyond the organization's control?
<b>Operational Test</b>	
<b>Form 1023, Schedule D</b>	
Line 2.	Are all your supported organizations public charities under Section 509(a)(1) or (2)?
<b>Form 990, Schedule A</b>	
<b>Part I</b>	
Line 12.	An organization organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more publicly supported organizations described in Section 509(a)(1) or Section 509(a)(2). See Section 509(a)(3). Check the box in lines 12a through 12d that describes the type of supporting organization and complete lines 12e, 12f, and 12g.
<b>Part IV, Section A</b>	
Line 2.	Did the organization have any supported organization that does not have an IRS determination of status under Section 509(a)(1) or (2)? If "Yes," explain in Part VI how the organization determined that the supported organization was described in Section 509(a)(1) or (2).
Line 4a.	Was any supported organization not organized in the United States ("foreign supported organization")? If "Yes," and if you checked 12a or 12b in Part I, answer (b) and (c) below.
Line 4b.	Did the organization have ultimate control and discretion in deciding whether to make grants to the foreign supported organization? If "Yes," describe in Part VI how the organization had such control and discretion despite being controlled or supervised by or in connection with its supported organizations.
Line 4c.	Did the organization support any foreign supported organization that does not have an IRS determination under Sections 501(c)(3) and 509(a)(1) or (2)? If "Yes," explain in Part VI what controls the organization used to ensure that all support to the foreign supported organization was used exclusively for Section 170(c)(2)(B) purposes.
Line 6.	Did the organization provide support (whether in the form of grants or the provision of

	services or facilities) to anyone other than (i) its supported organizations, (ii) individuals that are part of the charitable class benefited by one or more of its supported organizations, or (iii) other supporting organizations that also support or benefit one or more of the filing organization's supported organizations? If "Yes," provide detail in Part VI.
Line 7.	Did the organization provide a grant, loan, compensation, or other similar payment to a substantial contributor (as defined in Section 4958(c)(3)(C)), a family member of a substantial contributor, or a 35% controlled entity with regard to a substantial contributor? If "Yes," complete Part I of Schedule L (Form 990 or 990-EZ).
Line 8.	Did the organization make a loan to a disqualified person (as defined in Section 4958) not described in line 7? If "Yes," complete Part I of Schedule L (Form 990 or 990-EZ).
Line 10a.	Was the organization subject to the excess business holdings rules of Section 4943 because of Section 4943(f) (regarding certain Type II supporting organizations, and all Type III non-functionally integrated supporting organizations)? If "Yes," answer 10b below.
Line 10b.	Did the organization have any excess business holdings in the tax year? (Use Schedule C, Form 4720, to determine whether the organization had excess business holdings.)
 <b>Relationship Requirement</b>	
<b>Form 1023, Schedule D</b>	
Line 3.	Which of the following describes your relationship with your supported organization(s)? Option 3. One or more of your officers, directors, or trustees are elected or appointed by the officers, directors, trustees, or membership of your supported organization(s), or one or more of your officers, directors, trustees, or other important office holders, are also members of the governing body of your supported organization(s), or your officers, directors, or trustees maintain a close and continuous working relationship with the officers, directors, or trustees of your supported organization(s). (Type III supporting organization)
Line 4.	Describe how your governing board and officers are selected. If you are a Type III organization, also describe how your officers, directors, or trustees maintain a close and continuous working relationship with the officers, directors, or trustees of your supported organization(s).
Line 8.	Do you or will you receive contributions from any person who alone, or combined with family members or an entity at least 35% controlled by that person, controls any of your supported organizations, or will you receive contributions from any family member of, or an entity at least 35% controlled by, any person who controls any of your supported organizations?
<b>Form 990, Schedule A</b>	
<b>Part I</b>	
Line 12.	An organization organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more publicly supported organizations described in Section 509(a)(1) or Section 509(a)(2). See Section 509(a)(3). Check the box in lines 12a through 12d that describes the type of supporting organization and complete lines 12e, 12f, and 12g.
Line 12c.	Type III functionally integrated. A supporting organization operated in connection with, and functionally integrated with, its supported organization(s) (see instructions). You must

	complete Part IV, Sections A, D, and E.
Line 12d.	Type III non-functionally integrated. A supporting organization operated in connection with its supported organization(s) that is not functionally integrated. The organization generally must satisfy a distribution requirement and an attentiveness requirement (see instructions). You must complete Part IV, Sections A and D, and Part V.
<b>Part IV, Section A</b>	
Line 11.	Has the organization accepted a gift or contribution from any of the following persons?
Line 11a.	A person who directly or indirectly controls, either alone or together with persons described in (b) and (c) below, the governing body of a supported organization?
Line 11b.	A family member of a person described in (a) above?
Line 11c.	A 35% controlled entity of a person described in (a) or (b) above? If "Yes" to a, b, or c, provide detail in Part VI.
<b>Part VI, Section D - All Type III Supporting Organizations</b>	
Line 2.	Were any of the organization's officers, directors, or trustees either (i) appointed or elected by the supported organization(s) or (ii) serving on the governing body of a supported organization? If "No," explain in Part VI how the organization maintained a close and continuous working relationship with the supported organization(s).
 <b>Notification Requirement</b>	
<b>Form 1023, Schedule D</b>	
Line 10.	In each taxable year, do you or will you provide each of your supported organizations with (a) a written notice addressed to a principal officer of the supported organization describing the type and amount of all of the support you provided to the supported organization during the immediately preceding taxable year, (b) a copy of your most recently filed Form 990-series return or notice, and (c) a copy of your governing documents? If 'No,' explain.
<b>Form 990, Schedule A</b>	
<b>Part VI, Section D - All Type III Supporting Organizations</b>	
Line 1.	Did the organization provide to each of its supported organizations, by the last day of the fifth month of the organization's tax year, (i) a written notice describing the type and amount of support provided during the prior tax year, (ii) a copy of the Form 990 that was most recently filed as of the date of notification, and (iii) copies of the organization's governing documents in effect on the date of notification, to the extent not previously provided?
 <b>Responsiveness Test</b>	
<b>Form 1023, Schedule D</b>	
Line 4.	Describe how your governing board and officers are selected. If you are a Type III organization, also describe how your officers, directors, or trustees maintain a close and continuous working relationship with the officers, directors, or trustees of your supported organization(s).

Line 9.	Do the officers, directors, or trustees of your supported organization have a significant voice in your investment policies, the timing and making of grants, the selection of grant recipients, and in otherwise directing the use of your income or assets? If "Yes," explain.
Line 11.	Do you exercise a substantial degree of direction over the policies, programs, and activities of your supported organization(s) and appoint or elect (directly or indirectly) a majority of the officers, directors, or trustees of your supported organization(s)? If "Yes," explain.
Line 12.	Do substantially all of your activities directly further the exempt purposes of one or more supported organizations to which you are responsive by performing the functions of, or carrying out the purposes of, such supported organization(s) and but for your involvement would normally be engaged in by such supported organization(s). If "Yes," explain and do not complete the rest of Schedule D.
<b>Form 990, Schedule A</b>	
<b>Part VI, Section D - All Type III Supporting Organizations</b>	
Line 3.	By reason of the relationship described in (2), did the organization's supported organizations have a significant voice in the organization's investment policies and in directing the use of the organization's income or assets at all times during the tax year? If "Yes," describe in Part VI the role the organization's supported organizations played in this regard.
 <b>Integral Part Tests</b>	
<b>Form 1023, Schedule D</b>	
Line 13.	Do you distribute at least 85% of your annual net income or 3.5% of the aggregate fair market value of all of your nonexempt-use assets (whichever is greater) to your supported organization(s)? If "No," explain.
Line 13a.	How much do you contribute annually to each supported organization?
Line 13b.	What is the total annual revenue of each supported organization?
Line 13c.	Do you or the supported organization(s) earmark your funds for support of a particular program or activity? If "Yes," explain.
<b>Form 990, Schedule A</b>	
<b>Part I</b>	
Line 12c.	Type III functionally integrated. A supporting organization operated in connection with, and functionally integrated with, its supported organization(s) (see instructions). You must complete Part IV, Sections A, D, and E.
Line 12d.	Type III non-functionally integrated. A supporting organization operated in connection with its supported organization(s) that is not functionally integrated. The organization generally must satisfy a distribution requirement and an attentiveness requirement (see instructions). You must complete Part IV, Sections A and D, and Part V.
<b>Part VI, Section E - Type III Functionally Integrated Supporting Organizations</b>	
Line 1.	Check the box next to the method that the organization used to satisfy the Integral Part Test during the year (see instructions).

Line 1a.	The organization satisfied the Activities Test. Complete line 2 below.
Line 1b.	The organization is the parent of each of its supported organizations. Complete line 3 below.
Line 1c.	The organization supported a governmental entity. Describe in Part VI how you supported a government entity (see instructions).
Line 2.	Activities Test. Answer (a) and (b) below.
Line 2a.	Did substantially all of the organization's activities during the tax year directly further the exempt purposes of the supported organization(s) to which the organization was responsive? If "Yes," then in Part VI identify those supported organizations and explain how these activities directly furthered their exempt purposes, how the organization was responsive to those supported organizations, and how the organization determined that these activities constituted substantially all of its activities.
Line 2b.	Did the activities described in (a) constitute activities that, but for the organization's involvement, one or more of the organization's supported organization(s) would have been engaged in? If "Yes," explain in Part VI the reasons for the organization's position that its supported organization(s) would have engaged in these activities but for the organization's involvement.
Line 3.	Parent of Supported Organizations. Answer (a) and (b) below.
Line 3a.	Did the organization have the power to regularly appoint or elect a majority of the officers, directors, or trustees of each of the supported organizations? Provide details in Part VI.
Line 3b.	Did the organization exercise a substantial degree of direction over the policies, programs, and activities of each of its supported organizations? If "Yes," describe in Part VI the role played by the organization in this regard.
<b>Part V, Type III Non-Functionally Integrated 509(a)(3) Supporting Organizations</b>	
Line 1.	<p>Check here if the organization satisfied the Integral Part Test as a qualifying trust on Nov. 20, 1970 (explain in Part VI). See instructions.</p> <p>All other Type III non-functionally integrated supporting organizations must complete Sections A through E.</p> <p>Section A – Adjusted Net Income</p> <p>Section B – Minimum Asset Amount</p> <p>Section C – Distributable Amount</p> <p>Section D – Distributions</p> <p>Section E – Distribution Allocations</p>
 <b>Control Test</b>	
<b>Form 1023, Schedule D</b>	
Line 5.	Do any persons who are disqualified persons (except individuals who are disqualified persons only because they are foundation managers) with respect to you or persons who have a family or business relationship with any disqualified persons appoint any of your foundation managers? If "Yes," (1) describe the process by which disqualified persons appoint any of your foundation managers, (2) provide the names of these disqualified persons and the foundation managers they appoint, and (3) explain how control is vested

	over your operations (including assets and activities) by persons other than disqualified persons.
Line 6.	Do any persons who are disqualified persons (except individuals who are disqualified persons only because they are foundation managers) have any influence regarding your operations, including your assets or activities? If "Yes," (1) provide the names of these disqualified persons, (2) explain how influence is exerted over your operations (including assets and activities), and (3) explain how control is vested over your operations (including assets and activities) by individuals other than disqualified persons.
<b>Form 990, Schedule A</b>	
<b>Part IV, Section A</b>	
Line 9a.	Was the organization controlled directly or indirectly at any time during the tax year by one or more disqualified persons as defined in Section 4946 (other than foundation managers and organizations described in Section 509(a)(1) or (2))? If "Yes," provide detail in Part VI.
Line 9b.	Did one or more disqualified persons (as defined in line 9a) hold a controlling interest in any entity in which the supporting organization had an interest? If "Yes," provide detail in Part VI.
Line 9c.	Did a disqualified person (as defined in line 9a) have an ownership interest in, or derive any personal benefit from, assets in which the supporting organization also had an interest? If "Yes," provide detail in Part VI.

## **E. Exhibit 5: Guide Sheet with Symbols – Section 509(a)(3) Type III Supporting Organizations**

- (1) Guide sheet can be employed to determine whether each of the four tests (organizational, operational, relationship requirement, and control) is met, or whether issues may need to be developed.
- (2) Symbols are used to illustrate from which of the four tests the coded items stem. Symbol legend is in Exhibit 1 of this Technical Guide.
- (3) Exhibit begins on next page.

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# Guide Sheet

## Section 509(a)(3) Type III Supporting Organizations “Operated in Connection with”

**Organization Name** \_\_\_\_\_

**EIN** \_\_\_\_\_

**Specialist Name** \_\_\_\_\_

**Date** \_\_\_\_\_




### Part 1 – Overview



A Type III supporting organization is (1) organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of, one or more qualifying supported organizations; (2) operated in connection with its supported organization(s); and (3) not controlled by certain disqualified persons.

An organization seeking to qualify as a Type III supporting organization must meet an Organizational Test, an Operational Test, a Relationship Test, and a Control Test. In addition, the organization must satisfy the general requirements applicable to all public charities (no inurement, limited lobbying, no political intervention, etc.). This guide sheet does not directly address those additional general requirements.

For the organization to qualify as a Type III supporting organization, each of **A** through **E** must be answered “Yes.” In answering question **E**, consider the additional circumstances discussed in Part 6 below.

A Type III supporting organization will be further classified as either functionally integrated or non-functionally integrated based on the criteria described in Part 4, Section IV below (Integral Part Test). Indicate in **C(1)** whether the organization meets one of the Integral Part Tests.




Results – Supporting Organization Tests for Type III		Yes	No
<b>A</b> 	Does the organization satisfy the <b>Organizational Test</b> ? (See Part 2.)	<input type="checkbox"/>	<input type="checkbox"/>
<b>B</b> 	Does the organization satisfy the <b>Operational Test</b> ? (See Part 3.)	<input type="checkbox"/>	<input type="checkbox"/>
<b>C</b> 	Does the organization satisfy the <b>Relationship Requirement’s General Rules</b> ? (See Part 4.)	<input type="checkbox"/>	<input type="checkbox"/>





<p><b>C(1)</b>  Does the organization meet one of the <b>Relationship Requirement's Integral Part Tests</b> as either functionally integrated or non-functionally integrated with its supported organization(s), as well as the <b>Notification Requirement, and Responsiveness Test?</b> (See Part 4, Sections IV (A), (B), and (C).)</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>D</b>  Does the organization satisfy the <b>Control Test?</b> (See Part 5.)</p>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Results – Consideration of Facts and Circumstances</b>	<b>Yes</b>	<b>No</b>
<p><b>E</b> Based on all the <b>facts and circumstances</b>, including the circumstances described in <b>Part 6</b> below, does the organization appear to be organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more qualifying supported organizations, and to be operated, supervised, or controlled by its supported organization(s)? (See Part 6.)</p>	<input type="checkbox"/>	<input type="checkbox"/>

## Part 2 – Organizational Test

A Type III supporting organization must be organized exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more specified organizations described in Section 509(a)(1) or 509(a)(2). The organization's articles must not expressly empower the organization to engage in activities not in furtherance of these purposes, must state the specified publicly supported organizations on whose behalf the supporting organization is to be operated, and must not expressly empower the organization to operate to support or benefit any organization other than its specified supported organization(s).

Either **A** or **A(1)** must be answered "Yes." **B, C, D,** and **F** must be answered "No." **E** must be answered "Yes."



Organizational Test Criteria		Yes	No
<p><b>A</b>  Does the supporting organization's organizing document specify its supported organization(s) by name? (See Treas. Reg. 1.509(a)-4(d)(4).)</p>	<input type="checkbox"/>	<input type="checkbox"/>	
<p><b>A(1)</b>  If the supporting organization's organizing document does not specify its supported organization(s) by name, do the supporting organization and the supported organization(s) have an historic and continuing relationship such that there is a substantial identity of interests between the two?</p>	<input type="checkbox"/>	<input type="checkbox"/>	
<p><b>B</b>  Does the supporting organization support any organization other than:</p> <ol style="list-style-type: none"> <li>1. Section 509(a)(1) organizations;</li> <li>2. Section 509(a)(2) organizations; or</li> <li>3. Organizations that both (a) are described in Sections 501(c)(4), (5), or (6) and (b) meet the one-third public support tests applicable to Section 509(a)(2) organizations?</li> </ol>	<input type="checkbox"/>	<input type="checkbox"/>	



<p><b>C</b></p> 	<p>Does the supporting organization’s organizing document allow substitution or addition of supported organizations in any circumstance except for substitution, designated by class or purpose, conditioned upon the occurrence of an event which is beyond the control of the supporting organization, such as loss of exemption, substantial failure or abandonment of operations, or dissolution of the designated supported organization?  (See <i>Quarrie Charitable Fund v United States</i>, 603 F.2d 1274 (7th Cir.,1979).)</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>D</b></p> 	<p>Does the supporting organization’s organizing document allow for the possibility of operating for the benefit of any non-publicly supported organization other than pursuant to a remote contingency?  (See <i>Treas. Reg. 1.509(a)-4(d)(4)(iii).</i>)</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>E</b></p> 	<p>Does the supporting organization’s organizing document limit its purposes to:</p> <ol style="list-style-type: none"> <li>1. That it is organized, and at all times thereafter is operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of, its supported organization(s); and</li> </ol> <p>If the organization supports one or more Section 501(c)(4), (5), or (6) organizations, that its purposes are limited to those appropriate for an organization described in Section 501(c)(3)?</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>F</b></p> 	<p>Does the supporting organization’s organizing document expressly empower it to engage in activities which are not in furtherance of the purposes stated in <b>E.</b> above?</p>	<input type="checkbox"/>	<input type="checkbox"/>

### Part 3 – Operational Test

A Type III supporting organization must engage solely in activities which support or benefit its specified supported organization(s).







**A** must be answered “No,” and each of **B** and **C** must be answered “Yes.” If the organization supports one or more Section 501(c)(4), (5), or (6) organizations, **D** must also be answered “Yes.”

Operational Test Criteria		Yes	No
<p><b>A</b></p> 	<p>Does the supporting organization make any grants other than grants to or for the use of, or provide any services or facilities for anyone other than:</p> <ol style="list-style-type: none"> <li>1. Its supported organization(s);</li> <li>2. Individual members of the charitable class benefited by one or more of its supported organizations;</li> <li>3. Other supporting organizations that also support or benefit one or more of the applicant organization’s supported organizations; or</li> <li>4. State colleges or universities described in Section 511(a)(2)(B)?</li> </ol> <p>(See <i>Treas. Reg. 1.509(a)-4(e)</i> and <i>Rev. Rul. 75-436, 1975-2 C.B. 217.</i>)</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>B</b></p> 	<p>If the supporting organization engages in fundraising activities or unrelated trade or business, does it do so exclusively to raise funds for the permissible beneficiaries described in <b>A</b> above?  (See <i>Treas. Reg. 1.509(a)-4(e)(3)</i> and <i>Rev. Rul. 75-436, 1975-2 C.B. 217.</i>)</p>	<input type="checkbox"/>	<input type="checkbox"/>

	<p><b>C</b> Based on all the facts and circumstances, does the supporting organization engage solely in activities which support or benefit its supported organization(s)? (See Treas. Reg. 1.509(a)-4(e)(3) and Rev. Rul. 75-436, 1975-2 C.B. 217.)</p>	<input type="checkbox"/>	<input type="checkbox"/>
	<p><b>D</b> If the supporting organization supports one or more Section 501(c)(4), (5), or (6) organizations, does the supporting organization have sufficient safeguards to ensure its support is used exclusively for charitable purposes? (See Rev. Rul. 68-489, 1968-2 C.B. 210, and Rev. Rul. 76-401, 1976-2 C.B. 175.)</p>	<input type="checkbox"/>	<input type="checkbox"/>



### Part 4 – Relationship Requirement

To satisfy the general rules and relationship requirement as a Type III Supporting Organization, each of **A**, **B**, and **C** below must be answered “Yes.” Either **D(1)** or **D(2)** must be answered “Yes.”

<b>Results – Relationship Requirement</b> (General Rules, Notification Requirement, Responsiveness Test, and Integral Part Test)		<b>Yes</b>	<b>No</b>
	<p><b>A</b> Does the supporting organization satisfy the <b>General Rules</b> (Section I below)?</p>	<input type="checkbox"/>	<input type="checkbox"/>
	<p><b>B</b> Does the supporting organization satisfy the <b>Notification Requirement</b> (Section II below)?</p>	<input type="checkbox"/>	<input type="checkbox"/>
	<p><b>C</b> Does the supporting organization satisfy the <b>Responsiveness Test</b> (Section III below)?</p>	<input type="checkbox"/>	<input type="checkbox"/>
	<p><b>D</b> Does the supporting organization satisfy one of the <b>Integral Part Tests</b>?</p>		
	<p><b>D(1)</b> Does the supporting organization satisfy the Integral Part Test as <b>functionally integrated</b> (Section IV (Option A) below)?</p>	<input type="checkbox"/>	<input type="checkbox"/>
	<p><b>D(2)</b> Does the supporting organization satisfy the Integral Part Test as <b>non-functionally integrated</b> (Section IV (Option B) or IV (Option C) below)?</p>	<input type="checkbox"/>	<input type="checkbox"/>





## Section I – General Rules of Relationship Requirement

To satisfy the general rules, **A** and **B** must be answered “No.”

General Rules of Relationship Requirement Criteria		Yes	No
 <b>A</b>	Does the supporting organization accept gifts or contributions from any person (other than a public charity described in Section 509(a)(1), (2) or (4)) who directly or indirectly controls (alone, or together with family members or a 35% controlled organization) the governing body of a supported organization?  (See Section 509(f)(2) and Treas. Reg. 1.509(a)-4(f)(5).)	<input type="checkbox"/>	<input type="checkbox"/>
 <b>B</b>	Does the supporting organization support one or more organizations not organized in the United States?  (See Section 509(f)(2) and Treas. Reg. 1.509(a)-4(i)(10).)	<input type="checkbox"/>	<input type="checkbox"/>

## Section II – Notification Requirement of Relationship Requirement

To satisfy the notification requirement, each of **A**, **B**, **C**, and **D** must be answered “Yes.” If the supporting organization has not yet reached the end of its second taxable year (including any partial year for which an information return is due), the supporting organization satisfies each requirement by indicating that it will provide the necessary information annually.

Notification Requirement of Relationship Requirement Criteria		Yes	No
 <b>A</b>	Does the supporting organization provide annually a written notice addressed to a principal officer of each supported organization describing the type and amount of all of the support (including all the distributions provided by a non-functionally integrated supporting organization) it provided to the supported organization during the preceding tax year, including a narrative description of the support provided and sufficient financial detail for the recipient to identify the types and amounts of support?	<input type="checkbox"/>	<input type="checkbox"/>
 <b>B</b>	Does the supporting organization provide annually to each supported organization a copy of the organization’s Form 990, Return of Organization Exempt from Income Tax, or other annual information return filed under Section 6033 (for example, 990-EZ), that was most recently filed as of the date the notification is provided?	<input type="checkbox"/>	<input type="checkbox"/>
 <b>C</b>	Does the supporting organization provide annually to each supported organization a current copy of the organization’s governing documents as in effect on the date the notification is provided, including its articles of organization and bylaws (if any) and any amendments to such documents, unless such documents have been previously provided and not subsequently amended?	<input type="checkbox"/>	<input type="checkbox"/>
 <b>D</b>	Are all of the above items delivered or electronically transmitted to the supported organization(s) by the last day of the fifth month of the tax year?	<input type="checkbox"/>	<input type="checkbox"/>

### Section III – Responsiveness Test of Relationship Requirement






A Type III supporting organization must be responsive to the needs or demands of *each* of its supported organizations.


The applicant organization can satisfy the Responsiveness Test by meeting the requirements for governance structure and significant voice *with each of its supported organizations*.

- For governance structure, with regard to *each* of the supported organizations, either **A(1)**, **A(2)**, or **A(3)** must be answered “Yes.” (For example, if an organization supports three organizations, it must have one of the three required governance structures with *each* of its supported organizations. It could be responsive to the first in manner A(1), the second in manner A(2), the third in manner A(3), or any other combination, as long as a required governance structure is present with *each*.)
- For significant voice, with regard to *each* of the supported organizations, **B** must be answered “Yes.”

However, an alternate responsiveness test is available if the applicant organization supported an organization prior to November 20, 1970. If they wish to meet the Responsiveness Test in this manner, **C** must be answered “Yes.”

Thus, for each supported organization, **A** and **B** must be answered “Yes.” If A and B are not answered “Yes” for each supported organization, the applicant organization might be able to satisfy the Responsiveness Test by answering “Yes” to **C**.

Responsiveness Test of Relationship Requirement Criteria		Yes	No
<b>A</b> 	Governance structure. Does it maintain one of the required governance structures ( <b>A(1)</b> , <b>A(2)</b> , or <b>A(3)</b> below) with <i>each</i> of its supported organizations?	<input type="checkbox"/>	<input type="checkbox"/>
<b>A(1)</b> 	Do the officers, directors, trustees, or membership of the supported organization regularly elect or appoint one or more of the supporting organization’s officers, directors, or trustees?	<input type="checkbox"/>	<input type="checkbox"/>
<b>A(2)</b> 	Are one or more members of the governing body of the supporting organization also officers, directors, or trustees or hold other important offices in the supported organization?	<input type="checkbox"/>	<input type="checkbox"/>
<b>A(3)</b> 	Do the officers, directors, or trustees of the supporting organization maintain a close and continuous working relationship with the officers, directors, or trustees of the supported organization?	<input type="checkbox"/>	<input type="checkbox"/>
<b>B</b> 	Significant voice. By reason of the relationship described in <b>A(1)</b> , <b>A(2)</b> , or <b>A(3)</b> above, does <i>each</i> supported organization have a significant voice in the supporting organization’s investment policies, the manner of making grants, the timing of grants, and the selection of recipients of grants, and in otherwise directing the use of the supporting organization’s income or assets?	<input type="checkbox"/>	<input type="checkbox"/>

<b>C</b> 	<p>Pre-November 20, 1970. For an organization that has supported or benefited a supported organization since before November 20, 1970, is it responsive to the needs or demands of the supported organization because it meets the following criteria:</p> <ol style="list-style-type: none"> <li>1. Facts and circumstances, such as a continuing and historic relationship with the supported organization since before November 20, 1970;</li> <li>2. Meets one of the governance structures described in <b>A(1)</b>, <b>A(2)</b>, or <b>A(3)</b> above;</li> <li>3. Gives the supported organization a significant voice as described in <b>B</b> above?</li> </ol> <p>(See Treas. Reg. 1.509(a)-4(i)(3)(v).)</p>	<input type="checkbox"/>	<input type="checkbox"/>
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### Section IV – Integral Part Tests

There are two categories of Integral Part Tests – functionally integrated and non-functionally integrated. Additionally, there is an alternative integral part test for certain trusts.

- If an organization that otherwise qualifies as a Type III supporting organization meets **Section IV (Option A)** below, it is a functionally integrated Type III supporting organization.
- If it meets either **Section IV (Option B)** or **Section IV (Option C)** below, it is a non-functionally integrated Type III supporting organization.

### Section IV, Option A – Functionally Integrated Integral Part Test







To satisfy the Integral Part Test as a functionally integrated Type III supporting organization, one of **A**, **B**, or **C** must be answered “Yes.” If all three are answered “No,” the organization may still qualify as a non-functionally integrated Type III supporting organization if it meets the tests in Section IV (Option B) or IV (Option C) below.

Results – Functionally Integrated Group 1, 2, or 3		Yes	No
<b>A</b> 	<p><b>Group 1 – Functionally Integrated: Substantially All Activities Directly Further Exempt Purposes</b></p> <p>Does the organization engage in activities substantially all of which directly further the exempt purposes of one or more supported organizations? Answer “Yes” if the requirements of <b>Group 1</b> below are met.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<b>B</b> 	<p><b>Group 2 – Functionally Integrated: Parent of Each of its Supported Organization(s)</b></p> <p>Is the organization the parent of each of its supported organizations? Answer “Yes” if the requirements of <b>Group 2</b> below are met.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<b>C</b> 	<p><b>Group 3 – Functionally Integrated: Supporting a Governmental Supported Organization</b></p> <p>Does the organization support a governmental supported organization? Answer “Yes” if the requirements of <b>Group 3</b> below are met.</p>	<input type="checkbox"/>	<input type="checkbox"/>

## Group 1 – Functionally Integrated: Substantially All Activities Directly Further Exempt Purposes

To satisfy the requirements of **Group 1 (Substantially All Activities Directly Further Exempt Purposes)**, both **A** and **B** below must be answered “Yes.”

(See Treas. Reg. 1.509(a)-4(i)(4)(ii).)




Functionally Integrated Group 1 (Substantially All Activities Directly Further Exempt Purposes) Criteria		Yes	No
<b>A</b> 	Does the organization engage in activities substantially all of which directly further the exempt purposes of one or more supported organizations by performing the functions of, or carrying out the purposes of, such supported organization(s)? Consider all facts and circumstances. Activities must be performed directly by the organization to count toward meeting this test. Such activities may include holding title to and managing exempt-use assets described in Treas. Reg. 1.509(a)-4(i)(4)(ii). However, such activities do not include fundraising, making grants to organizations, or investing and managing non-exempt use assets. In addition, grants, scholarships, or other payments to individuals who are part of the charitable class of a supported organization also do not count as direct furtherance activities unless each of <b>A(1)</b> , <b>A(2)</b> , <b>A(3)</b> , and <b>A(4)</b> below is answered “Yes.”  (See examples 2, 3, 4, and 5 in Treas. Reg. 1.509(a)-4(i)(4)(v).)	<input type="checkbox"/>	<input type="checkbox"/>
<b>A(1)</b> 	Are the grants, scholarships, or other payments made to individual beneficiaries who are members of the charitable class benefited by the supported organization?	<input type="checkbox"/>	<input type="checkbox"/>
<b>A(2)</b> 	Are the individual beneficiaries selected on an objective and nondiscriminatory basis (as described in Treas. Reg. 53.4945-4(b))?	<input type="checkbox"/>	<input type="checkbox"/>
<b>A(3)</b> 	Do the officers, directors, or trustees of the supported organization have a significant voice in the timing of the payments, the manner of making them, and the selection of recipients?	<input type="checkbox"/>	<input type="checkbox"/>
<b>A(4)</b> 	Is the making or awarding of such payments part of an active program of the supporting organization that directly furthers the exempt purposes of the supported organization and in which the supporting organization maintains significant involvement, as defined in Treas. Reg. 53.4942(b)-1(b)(2)(ii) (except that “supporting organization” shall be substituted for “foundation”)?	<input type="checkbox"/>	<input type="checkbox"/>
<b>B</b> 	But for the involvement of the supporting organization, would the activities normally be engaged in by the supported organization(s)?	<input type="checkbox"/>	<input type="checkbox"/>



## Group 2 – Functionally Integrated: Parent of Each of Its Supported Organization(s)

To satisfy the requirements of **Group 2 (Parent of Each of Its Supported Organization(s))**, each of **A**, **B**, and **C** must be answered “Yes.”



(See Treas. Reg. 1.509(a)-4(i)(4)(iii).)







Functionally Integrated Group 2 (Parent of Each of Its Supported Organization(s)) Criteria		Yes	No
 <b>A</b>	Are the supporting organization and s supported organizations a part of an integrated system (such as, for example, a hospital system)?	<input type="checkbox"/>	<input type="checkbox"/>
 <b>B</b>	Does the supporting organization direct the overall policies, programs, and activities of the supported organizations? (This includes, for example, coordinating the activities of the supported organizations and engaging in overall planning, policy development, budgeting, and resource allocation.)	<input type="checkbox"/>	<input type="checkbox"/>
 <b>C</b>	Does the supporting organization’s governing body, members of its governing body, or its officers (acting in their official capacities) appoint or elect, directly or indirectly, a majority of the officers, directors, or trustees of each supported organization and have the power to remove and replace such directors, officers, or trustees, or otherwise have an ongoing power to appoint or elect such directors, officers or trustees with reasonable frequency?  (See Treas. Reg. 1.509(a)-4(i)(4)(iii)(B) for a discussion of how subsidiary organizations can meet this requirement.)	<input type="checkbox"/>	<input type="checkbox"/>



## Group 3 – Functionally Integrated: Supporting a Governmental Supported Organization

To satisfy the requirements of **Group 3 (Supporting a Governmental Supported Organization)**, either **A** or **B** must be answered “Yes.”

(See Treas. Reg. 1.509(a)-4(i)(4)(iv).)





Functionally Integrated Group 3 (Supporting a Governmental Supported Organization) Criteria		Yes	No
 <b>A</b>	Does the supporting organization support a governmental supported organization under the requirements of Treas. Reg. 1.509(a)-4(i)(4)(iv)(A)?  To satisfy the requirements, each of <b>A(1)</b> , <b>A(2)</b> , and <b>A(3)</b> below must be answered “Yes.”	<input type="checkbox"/>	<input type="checkbox"/>
 <b>A(1)</b>	Does the supporting organization only support one or more governmental supported organizations?  Note: The term <i>governmental supported organization</i> means a supported organization that is either:  (1) A governmental unit described in Section 170(c)(1), including all of its agencies, departments, and divisions (all of	<input type="checkbox"/>	<input type="checkbox"/>



	<p>which shall be treated as one governmental supported organization).</p> <p>(2) An organization described in Section 170(c)(2) and 170(b)(1)(A) (other than in clauses (vii) and (viii)) that is an instrumentality of one or more governmental units described in Section 170(c)(1).</p>		
<p><b>A(2)</b></p> 	<p>If the supporting organization supports more than one governmental supported organization:</p> <p>Do all of the governmental supported organizations do either of the following?:</p> <p>(i) Operate within the same city, county, or metropolitan area, <i>or</i></p> <p>(ii) Work in close coordination or collaboration with one another to conduct a service, program, or activity that the supporting organization supports.</p> <p>Note: To satisfy the close coordination or collaboration requirement, the supporting organization shall maintain on file a letter from each of the governmental supported organizations (or a joint letter from all of them) describing their coordination or collaboration efforts with respect to the particular service, program, or activity.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>A(3)</b></p> 	<p>Does a substantial part of the supporting organization's total activities directly further (as defined in Treas. Reg. 1.509(a)-4(i)(4)(ii)(D)) the exempt purposes of at least one governmental supported organization?</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>B</b></p> 	<p>Does the supporting organization support a governmental supported organization according to the exception under Treas. Reg. 1.509(a)-4(i)(4)(iv)(E)?</p> <p>Note: A transition rule for supporting organizations in existence on or before February 19, 2016, was available until the first day of the organization's second taxable year after February 19, 2016. See Treas. Reg. 1.509(a)-4(i)(4)(iv)(F).</p> <p>To satisfy the requirements, each of <b>B(1)-B(5)</b> below must be answered "Yes."</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>B(1)</b></p> 	<p>Was the organization in existence on or before February 19, 2016?</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>B(2)</b></p> 	<p>Has the supporting organization continuously supported one or more governmental supported organizations described in Treas. Reg. 1.509(a)-4(i)(4)(iv)(C)?</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>B(3)</b></p> 	<p>Has the supporting organization continuously supported only one supported organization that is not a governmental supported organization?</p>	<input type="checkbox"/>	<input type="checkbox"/>

<b>B(4)</b> 	Are each of the supported organizations designated by the supporting organization as provided in Treas. Reg. 1.509(a)-4(d)(4) on or before February 19, 2016?	<input type="checkbox"/>	<input type="checkbox"/>
<b>B(5)</b> 	Has a substantial part (as defined in Treas. Reg. 1.509(a)-4(i)(4)(iv)(D)) of the supporting organization's total activities continuously directly furthered (as defined by Treas. Reg. 1.509(a)-4(i)(4)(ii)(C)) the exempt purposes of its governmental supported organization(s)?	<input type="checkbox"/>	<input type="checkbox"/>

### Section IV, Option B – Non-Functionally Integrated Integral Part Test

To satisfy the integral part test as a non-functionally integrated Type III supporting organization, both **A** and **B** must be answered “Yes.” If either is answered “No,” the organization may still qualify as a non-functionally integrated Type III supporting organization under the alternative integral part test in **Section IV (Option C)**, below. If the organization has not yet made any distributions, the organization satisfies each requirement by indicating that it will satisfy the distribution and attentiveness requirements annually.




Criteria		Yes	No
<b>A</b> 	<p><b>Distribution Requirement – Non-Functionally Integrated</b></p> <p>Does the organization distribute to or for the use of one or more supported organizations an amount equaling or exceeding the supporting organization's distributable amount (85% of the supporting organization's adjusted net income for the prior tax year, or the supporting organization's minimum asset amount for the prior tax year)?</p> <p>(See Treas. Reg. 1.509(a)-4(i)(5)(ii) for a list of types of distributions and expenditures that may count toward the distribution requirement.)</p>	<input type="checkbox"/>	<input type="checkbox"/>
<b>B</b> 	<p><b>Attentiveness Requirement – Non-Functionally Integrated</b></p> <p>Does the organization distribute one-third or more of its distributable amount to one or more supported organizations that are attentive to the operations of the supporting organization?</p> <p>(See Treas. Reg. 1.509(a)-4(i)(5)(iii).)</p> <p>Answer <b>B(1)</b> through <b>(3)</b> for <i>each</i> supported organization receiving distributions from the organization.</p> <p>To meet the attentiveness requirement, one of <b>B(1)</b>, <b>B(2)</b>, or <b>B(3)</b> must be answered “Yes” and <b>B(4)</b> must be answered “Yes.”</p>	<input type="checkbox"/>	<input type="checkbox"/>
<b>B(1)</b> 	Did the amount distributed in satisfaction of this requirement equal or exceed 10% of the total support of a supported organization (or, in the case of a particular department or school of a university, hospital, or church, the total support of the department or school) received during the supported organization's last taxable year ending before the beginning of the supporting organization's taxable year?	<input type="checkbox"/>	<input type="checkbox"/>
<b>B(2)</b> 	Was the amount of support received from the supporting organization necessary to avoid the interruption of the carrying on of a particular function or activity of a supported organization?	<input type="checkbox"/>	<input type="checkbox"/>

	<b>B(3)</b> Based on the consideration of all pertinent factors (including evidence of actual attentiveness by a supported organization), was the support received from the supporting organization a sufficient part of a supported organization's total support (or, in the case of a particular department or school of a university, hospital, or church, the total support of the department or school) to ensure attentiveness?	<input type="checkbox"/>	<input type="checkbox"/>
	<b>B(4)</b> Did the distributions to the supported organizations that are attentive to the organization equal at least one-third of the organization's distributable amount?	<input type="checkbox"/>	<input type="checkbox"/>

### Section IV, Option C – Non-Functionally Integrated – Alternative Integral Part Test for Trusts in Existence on November 20, 1970



An alternate integral part test applies to certain trusts that meet the criteria in **A** through **C** below, including requirements **1** through **5** below. Such trusts are deemed to have satisfied the Integral Part Test as non-FISOs. This test generally has application to non-exempt charitable trusts under Section 4947(a)(1) that seek supporting organization status without having applied for exemption as provided by Rev. Proc. 2013-10. Such organizations may file for recognition as supporting organizations using Form 8940, Request for Miscellaneous Determination.

To satisfy the alternative integral part test for a non-functionally integrated Type III supporting organization, each of **A**, **B**, and **C** below must be answered "Yes."

Criteria		Yes	No
	<b>A</b> Is the organization a trust that was in existence on November 20, 1970?	<input type="checkbox"/>	<input type="checkbox"/>
	<b>B</b> Has the trustee of such trust made annual written reports beginning after October 16, 1972, to all of the trust's supported organizations, setting forth a description of the trust's assets, including a detailed list of the assets and the income produced by such assets?	<input type="checkbox"/>	<input type="checkbox"/>
	<b>C</b> Did the trust satisfy the five requirements below on November 20, 1970, and does the trust continue to satisfy those requirements?	<input type="checkbox"/>	<input type="checkbox"/>



### Requirement 1 – Trusts in Existence on November 20, 1970

The answer to **A** and **B** must be "Yes."

Criteria		Yes	No
	<b>A</b> Are all the unexpired interests in the trust devoted to one or more purposes described in Section 170(c)(1) or (c)(2)(B)?	<input type="checkbox"/>	<input type="checkbox"/>
	<b>B</b> Was a deduction allowed with respect to all the unexpired interests in the trust under Sections 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), 2522, or corresponding provisions of prior law (or would such deduction have been allowed if the trust had not been created before 1913)?	<input type="checkbox"/>	<input type="checkbox"/>




## Requirement 2 – Trusts in Existence on November 20, 1970

The answer to **A** must be “Yes,” and the answer to **B** must be “No.”

Criteria		Yes	No
 <b>A</b>	Was the trust created prior to November 20, 1970? If the trust is a split-interest trust described in Section 4947(a)(2) that was created prior to November 20, 1970, was irrevocable on that date, and became a charitable trust described in Section 4947(a)(1) after that date, it is treated for purposes of this requirement as having been created prior to November 20, 1970.	<input type="checkbox"/>	<input type="checkbox"/>
 <b>B</b>	Did the trust receive any grant, contribution, bequest, or other transfer on or after November 20, 1970?	<input type="checkbox"/>	<input type="checkbox"/>



## Requirement 3 – Trusts in Existence on November 20, 1970


The answer to **A**, **B**, or **C** must be “Yes.”

Criteria		Yes	No
 <b>A</b>	Is the trust required by its governing instrument to distribute all of its net income currently to one designated beneficiary supported organization?	<input type="checkbox"/>	<input type="checkbox"/>
 <b>B</b>	If the governing instrument of the trust designates more than one beneficiary supported organization, is the trust required to distribute all of its net income currently to each of such supported organizations in fixed shares?	<input type="checkbox"/>	<input type="checkbox"/>
 <b>C</b>	If the governing instrument does not name a specific supported organization, does it describe the charitable purpose of the trust so completely that such description (i) can apply to only one existing supported organization and (ii) is of sufficient particularity as to vest in such organization rights against the trust enforceable in a court possessing equitable powers?	<input type="checkbox"/>	<input type="checkbox"/>

## Requirement 4 – Trusts in Existence on November 20, 1970


The answer to **A** must be “No.”

Criteria		Yes	No
 <b>A</b>	Does the trustee of the trust have discretion to vary either the beneficiary supported organizations or the amount payable to the supported organizations? If the only discretion regarding distributions is the discretion described in <b>A(1)</b> or <b>A(2)</b> , below, answer “No.”	<input type="checkbox"/>	<input type="checkbox"/>
 <b>A(1)</b>	Does the trustee have discretion to make payments of principal to the single supported organization that is currently entitled to receive all of the trust’s income?	<input type="checkbox"/>	<input type="checkbox"/>

<b>A(2)</b> 	Does the trustee have discretion to cease making income payments to a particular supported organization in the event of certain specific occurrences, such as the loss of exemption under Section 501(c)(3) or classification under Section 509(a)(1) or (a)(2) by the supported organization or the failure of the supported organization to carry out its charitable purpose properly?	<input type="checkbox"/>	<input type="checkbox"/>
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### Requirement 5 – Trusts in Existence on November 20, 1970






The answer to **A** must be “No.”

Criteria		Yes	No
<b>A</b> 	Would any of the trustees be disqualified persons within the meaning of Section 4946(a) (other than foundation managers under Section 4946(a)(1)(B)) with respect to the trust if such trust were treated as a private foundation?	<input type="checkbox"/>	<input type="checkbox"/>

### Part 5 – Control Test

A supporting organization may not be controlled directly or indirectly by disqualified persons (other than foundation managers or one or more publicly supported organizations).

**A** through **F** below must be answered “No.” **G** through **M** below are facts and circumstances questions that require additional consideration if answered “Yes.”

Criteria		Yes	No
<b>A</b> 	Is the supporting organization controlled directly or indirectly by disqualified persons because disqualified persons on the governing board can potentially aggregate their votes together to control the operations of the supporting organization?  (See <i>Polm Fam. Found., Inc. v. United States</i> , 655 F. Supp. 2d 125 (D.D.C. 2009), <i>aff'd</i> , 644 F.3d 406 (D.C. Cir. 2011).)	<input type="checkbox"/>	<input type="checkbox"/>
<b>B</b> 	Is the supporting organization controlled directly or indirectly by disqualified persons because disqualified persons on the governing board can potentially aggregate their votes together with other board members or employees who are controlled by or beholden to the disqualified persons to control the operations of the supporting organization?  (See <i>Rev. Rul. 80-207</i> , 1980-2 C.B. 113.)	<input type="checkbox"/>	<input type="checkbox"/>
<b>C</b> 	Do disqualified persons have the right to appoint the nominating committee or successor governing board members?	<input type="checkbox"/>	<input type="checkbox"/>
<b>D</b> 	Is the supporting organization controlled directly by disqualified persons because the disqualified persons have 50% of the voting power on the governing board?	<input type="checkbox"/>	<input type="checkbox"/>
<b>E</b> 	Is the supporting organization controlled directly or indirectly by disqualified persons because disqualified persons have veto power over any significant activity of the supporting organization?	<input type="checkbox"/>	<input type="checkbox"/>

<b>F</b> ★	Is the supporting organization controlled indirectly because disqualified persons control the primary assets of the supporting organization?	<input type="checkbox"/>	<input type="checkbox"/>
<b>G</b> ★	Does a disqualified person own a general partnership interest in a limited partnership in which the supporting organization owns an interest? (The general partner of a limited partnership generally is responsible for the management of the partnership, and usually the general partner makes most of or all of the important decisions for the partnership, including the distribution of income to partners. Consider whether the partnership represents a significant enough asset of the supporting organization that the general partner's exercise of control over the partnership allows that general partner to require the supporting organization to perform any act that significantly affects its operation or may prevent the supporting organization from performing such an act. This may be true even if the general partner only holds a 1% interest in the partnership.)	<input type="checkbox"/>	<input type="checkbox"/>
<b>H</b> ★	Does a disqualified person own an interest of 51% or more of the voting stock of a corporation in which the supporting organization is a stockholder? (As an example, if a disqualified person holds 85% of the stock of a closely held corporation and transfers 5% of such stock to the supporting organization, which constitutes the supporting organization's only or primary asset, the 80% ownership of the corporation may allow the disqualified person to effectively influence the economic rights associated with ownership of a minority interest in the corporation, such as the 5% stock held by the supporting organization.)	<input type="checkbox"/>	<input type="checkbox"/>
<b>I</b> ★	Does a disqualified person hold 51% or more control of a corporation through a voting trust or other voting arrangement in which the supporting organization is a stockholder? (Control of a closely held corporation might also be maintained through a voting trust or voting rights. Thus, if the supporting organization owns 90% of the stock of a closely held corporation and the disqualified person holds only 5% of the stock, the disqualified person might still be entitled to maintain voting control of such corporation through a voting trust arrangement or other voting rights.)	<input type="checkbox"/>	<input type="checkbox"/>
<b>J</b> ★	Does a disqualified person have a controlling interest in a limited liability company (LLC) in which the supporting organization has an interest?	<input type="checkbox"/>	<input type="checkbox"/>
<b>K</b> ★	Does a disqualified person have an ownership interest in assets such as real estate, insurance, artwork, collectibles, intellectual property, promissory notes, or other assets in which the supporting organization also has an interest?	<input type="checkbox"/>	<input type="checkbox"/>
<b>L</b> ★	Do donors or their family members have the right to provide advice to the supporting organization regarding investments or grant making?	<input type="checkbox"/>	<input type="checkbox"/>
<b>M</b> ★	Taking into account all of the facts and circumstances, including information described in <b>G</b> through <b>L</b> above, are disqualified persons in a position to directly or indirectly control the decisions made by the supporting organization?	<input type="checkbox"/>	<input type="checkbox"/>

## Part 6 – Consideration of Facts and Circumstances

Most Type III supporting organizations further legitimate charitable purposes. However, the events leading up to enactment of the Pension Protection Act revealed the potential for supporting organizations to be used by donors to obtain a charitable deduction while retaining control of donated assets. As noted below, the Pension Protection Act added special provisions to Section 4958 that apply to supporting organization transactions with disqualified persons, as well as making the Section 4943 excess business holdings rules apply to certain supporting organizations. The questions below are aimed at identifying situations involving these Pension Protection Act provisions, as well as those that raise potential for impermissible inurement, private benefit, and other abuses. Additional questions needed to develop an issue should be tailored to the organization's specific situation.

### Section I – Compensation / Loans

The Pension Protection Act of 2006 tightened the rules regarding grants, loans, compensation or other similar payments provided by supporting organizations to substantial contributors (defined in Section 4958(c)(3)(C)), certain family members (defined in Section 4958(f)(4)), and entities in which such persons hold 35% or more of the voting, economic or beneficial interests. Under Section 4958(c)(3), any such payments are considered *per se* excess benefits in their entirety, regardless of the fairness or reasonableness of the payments, and are subject to the taxes described in Section 4958(a). The answer to these questions may be grounds for denial due to private benefit and/or inurement under Section 501(c)(3) (in the case of a Form 1023 application), failure of the operational test or disqualified person control test under Section 509(a)(3) (in the case of Form 1023 or Form 8940), or a referral to examination. Therefore, give extra consideration if one or more of **A**, **B**, or **C** below is answered "Yes."

Compensation / Loans Considerations		Yes	No
<b>A</b>	Is any grant, loan, compensation, or other similar payment provided to a substantial contributor (defined in Section 4958(c)(3)(C)), a family member of a substantial contributor, or a 35% controlled entity with regard to the substantial contributor? Under Section 4958(c)(3)(A)(i)(I), such payments are excess benefit transactions subject to tax.	<input type="checkbox"/>	<input type="checkbox"/>
<b>B</b>	Is any loan provided to a disqualified person (defined in Section 4958(f)(1))? Under Section 4958(c)(3)(A)(i)(II), such loans are excess benefit transactions subject to tax.	<input type="checkbox"/>	<input type="checkbox"/>
<b>C</b>	Is any payment, service, or loan not part of a reasonable compensation arrangement provided to any private person, including a disqualified person, an employee, an independent contractor, or a person with whom a donor or a family member of a donor has a business relationship?	<input type="checkbox"/>	<input type="checkbox"/>

### Section II – Assets Warranting Additional Consideration

Certain asset arrangements may benefit donors or other private persons. Of particular concern are assets over which a disqualified person may assert control (addressed in Part 5 above), that do not generate substantial income and cannot readily be used for exempt purposes, or that otherwise appear to be held for other than exempt purposes. In addition, the Pension Protection Act subjected certain Type II supporting organizations and Type III non-functionally integrated supporting organizations to the excess business holdings rules of Section 4943. The answer to these questions may be grounds for denial due to private benefit under Section 501(c)(3) (in the case of a Form 1023 application), failure of the operational



test or disqualified person control test under Section 509(a)(3) (in the case of Form 1023 or Form 8940), or a referral to examination. Give extra consideration if **A** or **B** below is answered "Yes."

<b>Assets Warranting Additional Consideration</b>		<b>Yes</b>	<b>No</b>
<b>A</b>	Does the supporting organization own illiquid assets (real estate, closely held stock, private equity investments, partnership or limited liability company interests, etc.) that are not explained in detail, that do not generate substantial income and cannot readily be used for exempt purposes, or that appear to be held for reasons other than furthering the organization's exempt purposes?	<input type="checkbox"/>	<input type="checkbox"/>
<b>B</b>	Does the supporting organization own, by itself or together with any disqualified persons, more than 20% of the stock of a corporation, partnership interest, or beneficial interest of an estate? Under Section 4943(f), non-functionally integrated Type III supporting organizations are generally subject to the excess business holding rules of Section 4943.	<input type="checkbox"/>	<input type="checkbox"/>