



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

06/13/05

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Dear *****:

This letter is in response to your request for a letter ruling, submitted on behalf of *****, concerning a charitable trust to be created as provided in her Last Will and Testament (“Will”). The requested ruling is that (1) scholarship grants awarded by the trust will not constitute taxable expenditures under section 4945 of the Internal Revenue Code (“Code”); (2) the trust is organized exclusively for educational purposes as described in section 501(c)(3) of the Code; and (3) the trust as proposed will be a private foundation described in section 509(a) of the Code.

We are unable to issue the ruling you have requested. As a matter of law, organizations seeking tax-exempt status under section 501(c)(3) of Code and determinations of private foundation status under section 509(a) must file the notice described in section 508 of the Code. The notice is filed by submitting a properly completed Form 1023 exemption application, which requires a showing that the applicant is a fully established legal entity. In the case of a trust the applicant is required to attach a signed and dated copy of the trust agreement. You may wish to read the recently revised Instructions for Form 1023 Application for Recognition of Exemption Under 501(c)(3) of the Internal Revenue Code which you may access on the IRS website to familiarize yourself with the process for applying for exemption for an organization.

The trust described in ***** Will has not been established and will be established only upon her death during the administration of her estate. Therefore, any requests for determinations regarding the exempt status or foundation status of the trust are premature. We cannot consider these issues prior to the establishment of the trust and the filing of Form 1023 by the executor. At that time, if the trust is classified as a private foundation, advance approval of the trust’s grant making procedures can be

requested by completing Schedule H of Form 1023.

We hope this information will be of assistance to you. This information letter is for your general information only. This information letter is not a ruling and it may not otherwise be used or cited as precedent. Any user fees your client has paid in connection with this ruling request will be refunded in full.

If you have any questions, please contact ***** (ID *****) at (**) ***-
****.

Sincerely,

Robert C. Harper, Jr.
Manager, Exempt Organizations
Technical Group 3