

**Internal Revenue Service  
Director, Exempt Organizations  
Rulings and Agreements**

**Department of the Treasury  
P.O. Box 2508  
Cincinnati, Ohio 45201**

Release Number: **201001025**  
Release Date: 1/8/10  
Date: 10/14/2009

**Person to Contact:**

**Contact Telephone Numbers:**

**Federal Identification Number:**

**UIL Number:**  
4940.03-00

Dear

This is in response to your request for a ruling that you are an exempt operating foundation described in section 4940(d)(2) of the Internal Revenue Code (IRC).

We previously held you to be a private operating foundation under IRC 4942(j)(3) in a 1975 ruling letter.

You stated that you have been actively working to preserve open space environments and natural resources. You acquired ecologically significant property and maintained it in order to retain the rural character of a town and provide scenic beauty for the townspeople and an attractive habitat for wildlife. You work to promote sound conservation practices for the public water resources, wetlands, animal and plant life. You have educated the local community as to with its history of the land and knowledge of biological sciences. Land maintained by you has provided passive recreational opportunities for individuals. You stated that you have been conducting these activities to further your exempt purposes since 1975. You stated that you acquired the first property in 1983.

You stated that you are led by five (5) trustees and less than 25% (no more than 1) of your trustees are disqualified persons. You stated that your trustees are representative of the community because they hold numerous community positions on boards and committees. You also stated that none of your officers are disqualified persons.

IRC 4940(d) provides that a private foundation that qualifies as an exempt operating foundation under IRC 4940(d)(2) for the taxable year is exempt from the excise tax on net investment income imposed by IRC 4940(a).

IRC 4940(d) provides that the term "exempt operating foundation", with respect to any taxable year, applies to any private foundation if:

- a. Such foundation is an operating foundation as defined in IRC 4942(j)(3);
- b. Such foundation has been publicly supported under IRC 170(b)(1)(A)(vi) or 509(a)(2) for at least ten years, or under section 302(c)(3) of the Tax Reform Act of 1984, Public Law 98-369, such foundation was an operating foundation as defined in IRC 4942(j)(3) as of January 1, 1983;
- c. At all times during the taxable year, the governing body of the such foundation (i) consists of individuals at least 75 percent of whom are not disqualified individuals, as defined in IRC 4940(d)(3)(B), and is broadly representative of the general public; and,
- d. At no time during the year does such foundation have an officer who is a disqualified person.

Section 1.170(a)-9(e)(3)(v) of the Income Tax Regulations indicates that the governing body of the organization may be considered to represent a broad interest of the public if it is composed of persons having special knowledge or expertise in the particular field or discipline in or appointed officials, clergymen, educators, civic leaders, or other such persons representing a broad cross-section of the views and interests of the community.

Based on the pertinent facts and law, we determined that you met all the criteria required for classification as an exempt operating foundation within the meaning of IRC 4940(d)(2) for the taxable year beginning May 1, 200 and ending April 30, 200 . You will continue to be classified as an exempt operating foundation in any future taxable year, provided that (a) You qualify as a private operating foundation; (b) at no time is any officer a disqualified individual; (c) at all times your governing body continues to be broadly representative of the general public; and, (d) at all times at least 75 percent of your directors are not disqualified persons.

Please report to us any material changes in the pertinent facts so that we may consider the effect on this determination.

We will make this determination letter available for public inspection under the provisions IRC 6110 after we delete the information that would identify you. Please see the enclosed Notice of Intent to Disclose, and the enclosed version of this letter that shows the deletions. If you

disagree with the deletions, follow the instructions provided in the Notice. If you agree with the deletions, take no further action.

Under the provisions of IRC 6110(k)(3), other taxpayers may not cite this determination as legal precedent.

Please keep a copy of this determination letter in your permanent records.

Sincerely,

Robert Choi  
Director, Exempt Organizations  
Rulings and Agreements