



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE
TE/GE: EO Examination
1100 Commerce, MS 4920 DAL
Dallas, Texas 75242-1100

Date: MAR 20 2018

Release Number: **201830021**

Release Date: 7/27/2018

UIL Code: 501.03-00

Employer Identification Number:

Person to Contact/ID Number:

Contact Numbers:

Voice:

Fax:

LAST DATE FOR FILING A PETITION
WITH THE TAX COURT:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dear :

This is a final determination regarding your foundation classification. This modifies our letter dated October 17, 20XX, in which we determined that you were an organization described in section 509(a)(1) of the Internal Revenue Code {Code}. We have modified your foundation status to that of a public charity described in sections 509(a)(3) of the Code, effective for tax years beginning January 1, 20XX.

Your tax-exempt status under section 501(c)(3) of the Internal Revenue Code is not affected. Grantors and contributors may rely on this determination, unless the Internal Revenue Service publishes a notice to the contrary. Because this letter could help resolve any questions about your private foundation status, please keep it with your permanent records.

We previously provided you a report of examination explaining the proposed modification of your tax-exempt status. At that time, we informed you of your right to contact the Taxpayer Advocate, as well as your appeal rights. On January 18, 20XX, you signed Form 6018, *Consent to Proposed Action – Section 7428*, in which you agreed to the modification of your foundation classification to 509(a)(3) organization. This is a final determination letter with regard to your Federal tax-exempt status under section 501(a) of the Code.

You are required to file Form 990, Return of Organization Exempt from Income Tax. Form 990 must be filed by the 15th day of the fifth month after the end of your annual accounting periods. A penalty of \$20 a day is charged when a return is filed late, unless there is a reasonable cause for the delay; however, the maximum penalty charged cannot exceed \$10,000 or 5 percent of your gross receipts for the year whichever is less. In addition

organizations with gross receipts exceeding \$1,000,000 for any year will be charged a penalty of \$100 a day when a return is filed late; however, the maximum penalty charged cannot exceed \$50,000. These penalties may also be charged if a return is not complete, so be sure your return is complete before you file it.

If you are subject to the tax on unrelated business income under section 511 of the Code, you must also file an income tax return on Form 990-T, Exempt Organization Business Income Tax Return.

If you decide to contest this determination in court, you must initiate a suit for a declaratory judgment in the United States Tax Court, the United States Claims Court, or the District Court of the United States for the District of Columbia before the 91st day after the date this final determination letter was mailed to you. Contact the clerk of the appropriate court for rules for initiating suits for declaratory judgment. You may write to the Tax Court at the following address:


United States Tax Court,
400 Second Street
Washington, D.C. 20217

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your rights. We can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for our assistance, which is always free, we will do everything possible to help you. Visit taxpayeradvocate@irs.gov or call 1-877-777-4778.

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter.

Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink that reads "Maria Hooke". The signature is written in a cursive, flowing style.

Maria Hooke
Director, Exempt Organizations Examinations



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

Date:
DEC 20 2017
Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:

Employee ID number:
Telephone number:
Fax:
Address:
Manager's contact information:

Employee ID number:
Telephone number:
Response due date:

CERTIFIED MAIL – Return Receipt Requested

Dear :

Why you're receiving this letter

We enclosed a copy of our audit report, Form 886-A, Explanation of Items, explaining that we propose to modify your organization's foundation status under Internal Revenue Code (IRC) Section 509(a).

Your exempt status under IRC Section 501(c)(3) is still in effect.

If you agree

If you haven't already, please sign the enclosed Form 6018, Consent to Proposed Action, and return it to the contact person shown at the top of this letter. We'll issue a final letter modifying your foundation status.

If you disagree

1. Request a meeting or telephone conference with the manager shown at the top of this letter.
2. Send any information you want us to consider.
3. File a protest with the IRS Appeals Office. If you request a meeting with the manager or send additional information as stated in 1 and 2, above, you'll still be able to file a protest with IRS Appeals Office after the meeting or after we consider the information.

The IRS Appeals Office is independent of the Exempt Organizations division and resolves most disputes informally. If you file a protest, the auditing agent may ask you to sign a consent to extend the period of limitations for assessing tax. This is to allow the IRS Appeals Office enough time to consider your case. For your protest to be valid, it must contain certain specific information, including a statement of the facts, applicable law, and arguments in support of your position. For specific information needed for a valid protest, refer to Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status.

Fast Track Mediation (FTM) referred to in Publication 3498, The Examination Process, generally doesn't apply now that we've issued this letter.

4. Request technical advice from the Office of Associate Chief Counsel (Tax Exempt Government Entities) if you feel the issue hasn't been addressed in published precedent or has been treated inconsistently by the IRS.

If you're considering requesting technical advice, contact the person shown at the top of this letter. If you disagree with the technical advice decision, you will be able to appeal to the IRS Appeals Office, as explained above. A decision made in a technical advice memorandum, however, generally is final and binding on Appeals.

If we don't hear from you

If you don't respond to this proposal within 30 calendar days from the date of this letter, we'll issue a final letter modifying your foundation status.

Contacting the Taxpayer Advocate Office is a taxpayer right

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 877-777-4778.

Additional information

You can get any of the forms and publications mentioned in this letter by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676).

If you have questions, you can contact the person shown at the top of this letter.

Sincerely,

Maria Hooke
Director, Exempt Organizations Examinations

Enclosures:

Report of Examination F 4621-A
F 6018
Form 886-A
Exhibit A, B, C, D, E
Publication 3498
Publication 892

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| Form 886-A (May 2017) | Department of the Treasury – Internal Revenue Service Explanations of Items | Schedule number or exhibit |
| Name of taxpayer | Tax Identification Number (last 4 digits) | Year/Period ended 12/31/20XX |

ISSUE

1. Whether _____ should be reclassified from a publicly supported organization described in sections 509(a)(1) and 170(b)(1)(A)(vi) of the Internal Revenue Code (the Code) to a type III functionally integrated supporting organization described in Treas. Reg. §1.509(a)-4(i)(5).

FACTS

_____ was formed in the State of _____ on April 11, 20XX. Purposes are charitable and educational and include (a) conduct of programs to improve and support education and economic development in the South _____ City area; and (b) to promote educational and charitable efforts of organizations that qualify as exempt organizations under Section 115 or 501(c)(3) of the Internal Revenue Code by acting as a property holding and management company for such organizations.

The organization receives financial support in the form of gross rents for services to _____ is a school described in section 170(b)(1)(A)(ii).

For the 4-year period immediately preceding the year under examination, the organization received the following support:

Exhibit A
Form 990 20XX Schedule A Public Charity Status and Public Support
Part II Support Schedule for Organizations Described in Sections 170(b)(1)(A)(iv) and 170(b)(1)(A)(vi)

Computation of the Public Support Percentage for tax year ending December 31, 20XX is zero percent. _____ does not meet the required support percentage of 33 1/3 % or more and fails as an organization described in IRC 170(b)(1)(A)(vi).

Exhibit B
Form 990 20XX Schedule A Public Charity Status and Public Support
Part III Support Schedule for Organizations Described in Section 509(a)(2)

Computation of the Public Support Percentage for tax year ending December 31, 20XX is zero percent. _____ does not meet the required support percentage of 33 1/3% or more and fails as an organization described in Section 509(a)(2).

Exhibit C
Form 990 20XX Schedule A Public Charity Status and Public Support
Part IV Supporting Organizations

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provides 0% of its support to ., a 501(c)(3)
organization described in section 170(b)(1)(A)(ii).
(See Exhibit D)
Exemption Letter from the Internal Revenue Service to .)

list . as a supported organization by name in
its By-Laws.
(See Exhibit E)

By-Laws of gives . the authority to elect its
Board of Directors. The Board of Directors of determine
investment policies and directs the use of assets.

sole supported organization is .

provides buildings and other facilities (classrooms) necessary for
to conduct its operations as a state-sponsored charter school.

works directly with . to identify buildings and
other facilities necessary for its operations as a state-sponsored charter school.
then acquires and maintains the buildings and other facilities specifically for use by
. All of assets are used to provide the necessary buildings and
facilities for use by . All of real property
(classrooms) are used by . and a relatively small bank account is
maintained for necessary working capital (day-to-day operations). Building and facilities
(classrooms) are necessary for . to provide a state-sponsored
education program to children in elementary school, middle school and high school.
Without involvement . would have to acquire
and maintain its own buildings and facilities (classrooms).

LAW

Section 509(a)(1) of the Code provides that the term “private foundation” means a domestic or foreign organization described in section 501(c)(3) other than an organization described in section 170(b)(1)(A) other than clauses (vii) or (viii). This includes organizations described in Section 170(b)(1)(A)(vi) of the Code that normally receive a substantial part of its support from a governmental unit or from direct or indirect contributions from the general public.

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The Treasury Regulations (Treas. Regs.) section 1.170A-9(e)(2) further define an organization as publicly supported if it receives 33 1/3 percent of its total support from contributions made by the general public.

Section 509(a)(2) of the Code excludes from the term “private foundation” an organization that normally receives more than one-third of its support in each taxable year from any combination of gifts, grants, contributions, or membership fees, and gross receipts from admissions, sales of merchandise, performance of services that is related to the exempt function and does not receive more than one-third of its support in each taxable year from the sum of gross investment income and unrelated business income.

Treas. Regs. section 1.170A-9(e)(7)(ii) states that organizations dependent primarily on gross receipts from related activities will not be treated as satisfying the 33 1/3 percent-of-support test under 509(a)(1) if it receives almost all of its support from gross receipts from related activities and an insignificant amount of its support from contributions made by the general public.

Treas. Regs. Section 1.509(a)—4 Supporting organizations.

(a) In general. (1) Section 509(a)(3) excluded from the definition of private foundation those organizations which meet the requirements of subparagraphs (A), (B), and (C) thereof.

(2) Section 509(a)(3)(A) provides that a section 509(a)(3) 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). Section 509(a)(3)(A) describes the nature of the support or benefit which a section 509(a)(3) organization must provide to one or more section 509(a)(1) or (2) organizations. For purposes of section 509(a)(3)(A), paragraph (b) of this section generally describes the organizational and operational tests; paragraph (c) of this section describes permissible purposes under the organizational test; paragraph (d) of this section describes the requirement of supporting or benefiting one or more specified publicly supported organizations; and paragraph (e) of this section describes permissible beneficiaries and activities under the operational test.

(3) Section 509(a)(3)(B) provides that a section 509(a)(3) organization must be operated, supervised, or controlled by or in connection with one or more organizations described in section 509(a)(1) or (2). Section 509(a)(3)(B) and paragraph (f) of this section describe the nature of the relationship which must exist between the section 509(a)(3) and section 509(a)(1) or (2) organizations. For purposes of section 509(a)(3)(B), paragraph (g) of this section defines operated, supervised, or controlled

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by; paragraph (h) of this section defines supervised or controlled in connection with; and paragraph (i) of this section defines operated in connection with.

- (4) Section 509(a)(3)(C) provides that a section 509(a)(3) organization must not be controlled directly or indirectly by disqualified persons (other than foundation managers or organizations described in section 509(a)(1) or (2)). Section 509(a)(3)(C) and paragraph (j) of this section prescribe a limitation on the control over the section 509(a)(3) organization.
- (5) For purposes of this section, the term supporting organization means either an organization described in section 509(a)(3) or an organization seeking section 509(a)(3) status, depending upon its context. For purposes of this section, the term publicly supported organization means an organization described in section 509(a)(1) or (2).
- (6) For purposes of paragraph (i) of this section, the term “supported organization” means a specified publicly supported organization described in paragraphs (d)(2)(iv) or (d)(4) of this section.
- (b) Organizational and operational tests. (1) Under subparagraph (A) of section 509(a)(3), in order to qualify as a supporting organization, an organization must be both organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of (hereinafter referred to in this section as being organized and operated to support or benefit) one or more specified publicly supported organizations. If an organization fails to meet either the organizational or the operational test, it cannot qualify as a supporting organization.
- (c) Organizational test—(1) In general. An organization is organized exclusively for one or more of the purposes specified in section 509(a)(3)(A) only if its articles of organization (as defined in § 1.501(c)(3)–1(b)(2)):
 - (i) Limit the purposes of such organization to one or more of the purposes set forth in section 509(a)(3)(A);
 - (ii) Do not expressly empower the organization to engage in activities which are not in furtherance of the purposes referred to in subdivision (i) of this subparagraph;
 - (iii) State the specified publicly supported organizations on whose behalf such organization is to be operated (within the meaning of paragraph (d) of this section); and

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(iv) Do not expressly empower the organization to operate to support or benefit any organization other than the specified publicly supported organizations referred to in subdivision (iii) of this subparagraph.

(2) Purposes. In meeting the organizational test, the organization's purposes, as stated in its articles, may be as broad as, or more specific than, the purposes set forth in section 509(a)(3)(A). Therefore, an organization which, by the terms of its articles, is formed for the benefit of one or more specified publicly supported organizations shall, if it otherwise meets the other requirements of this paragraph, be considered to have met the organizational test. Similarly, articles which state that an organization is formed to perform the publishing functions of a specified university are sufficient to comply with the organizational test. An organization which is operated, supervised, or controlled by (within the meaning of paragraph (g) of this section) or supervised or controlled in connection with (within the meaning of paragraph (h) of this section) one or more sections 509(a)(1) or (2) organizations to carry out the purposes of such organizations, will be considered as meeting the requirements of this paragraph if the purposes set forth in its articles are similar to, but no broader than, the purposes set forth in the articles of its controlling section 509(a)(1) or (2) organizations. If, however, the organization by which it is operated, supervised, or controlled is a publicly supported section 501(c)(4), (5), or (6) organization (deemed to be a section 509(a)(2) organization for purposes of section 509(a)(3) under the provisions of section 509(a)), the supporting organization will be considered as meeting the requirements of this paragraph if its articles require it to carry on charitable, etc., activities within the meaning of section 170(c)(2).

(3) Limitations. An organization is not organized exclusively for the purposes set forth in section 509(a)(3)(A) if its articles expressly permit it to operate to support or benefit any organization other than those specified publicly supported organizations referred to in subparagraph (1)(iii) of this paragraph. Thus, for example, an organization will not meet the organizational test under section 509(a)(3)(A) if its articles expressly empower it to pay over any part of its income to, or perform any service for, any organization other than those publicly supported organizations specified in its articles (within the meaning of paragraph (d) of this section). The fact that the actual operations of such organization have been exclusively for the benefit of the specified publicly supported organizations shall not be sufficient to permit it to meet the organizational test.

(d) Specified organizations—(1) In general. In order to meet the requirements of section 509(a)(3)(A), an organization must be organized and operated exclusively to support or benefit one or more specified publicly supported organizations. The manner in which the

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publicly supported organizations must be specified in the articles for purposes of section 509(a)(3)(A) will depend upon whether the supporting organization is operated, supervised, or controlled by or supervised or controlled in connection with (within the meaning of paragraphs (g) and (h) of this section) such organizations or whether it is operated in connection with (within the meaning of paragraph (i) of this section) such organizations.

(2) Nondesignated publicly supported organizations; requirements. (i) Except as provided in subdivision (iv) of this subparagraph, in order to meet the requirements of subparagraph (1) of this paragraph, the articles of the supporting organization must designate each of the specified organizations by name unless:

(a) The supporting organization is operated, supervised, or controlled by (within the meaning of paragraph (g) of this section), or is supervised or controlled in connection with (within the meaning of paragraph (h) of this section) one or more publicly supported organizations; and

(b) The articles of organization of the supporting organization require that it be operated to support or benefit one or more beneficiary organizations which are designated by class or purpose and which include:

(1) The publicly supported organizations referred to in (a) of this subdivision (without designating such organizations by name); or

(2) Publicly supported organizations which are closely related in purpose or function to those publicly supported organizations referred to in subdivision (i)(a) or this subparagraph (without designating such organization by name).

(ii) If a supporting organization is described in subdivision (i)(a) of this subparagraph, it will not be considered as failing to meet the requirements of subparagraph (1) of this paragraph that the publicly supported organizations be specified merely because its articles of organization permit the conditions described in subparagraphs (3)(i), (ii), and (iii) and (4)(i)(a) and (b) of this paragraph.

(iv) A supporting organization will meet the requirements of subparagraph (1) of this paragraph even though its articles do not designate each of the specified organizations by name if:

(a) There has been an historic and continuing relationship between the supporting organization and the section 509(a)(1) or (2) organizations, and

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(b) By reason of such relationship, there has developed a substantial identity of interests between such organizations.

(3) Nondesignated publicly supported organizations; scope of rule. If the requirements of subparagraph (2)(i)(a) of this paragraph are met, a supporting organization will not be considered as failing the test of being organized for the benefit of specified organizations solely because its articles:

(i) Permit the substitution of one publicly supported organization within a designated class for another publicly supported organization either in the same or a different class designated in the articles;

(ii) Permit the supporting organization to operate for the benefit of new or additional publicly supported organizations of the same or a different class designated in the articles; or

(iii) Permit the supporting organization to vary the amount of its support among different publicly supported organizations within the class or classes of organizations designated by the articles.

(4) Designated publicly supported organizations. (i) If an organization is organized and operated to support one or more publicly supported organizations and it is operated in connection with such organization or organizations, then, except as provided in subparagraph (2)(iv) of this paragraph, its articles of organization must, for purposes of satisfying the organizational test under section 509(a)(3)(A), designate the specified organizations by name. Under the circumstances described in this subparagraph, a supporting organization which has one or more specified organizations designated by name in its articles, will not be considered as failing the test of being organized for the benefit of specified organizations solely because its articles:

(a) Permit a publicly supported organization which is designated by class or purpose, rather than by name, to be substituted for the publicly supported organization or organizations designated by name in the articles, but only if such substitution is 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 publicly supported organization or organizations designated in the articles;

(b) Permit the supporting organization to operate for the benefit of a beneficiary organization which is not a publicly supported organization, but only if such supporting organization is currently operating for the benefit of a publicly supported organization and the possibility of its operating for the benefit of other than a publicly supported

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organization is a remote contingency; or

(c) Permit the supporting organization to vary the amount of its support between different designated organizations, so long as it meets the requirements of the integral part test set forth in paragraph (i)(3) of this section with respect to at least one beneficiary organization.

(ii) If the beneficiary organization referred to in subdivision (i)(b) of this subparagraph is not a publicly supported organization, the supporting organization will not then meet the operational test of paragraph (e)(1) of this section. Therefore, if a supporting organization substituted in accordance with such subdivision (i)(b) a beneficiary other than a publicly supported organization and operated in support of such beneficiary organization, the supporting organization would not be described in section 509(a)(3).

(e) Operational test—(1) Permissible beneficiaries. A supporting organization will be regarded as operated exclusively to support one or more specified publicly supported organizations (hereinafter referred to as the operational test) only if it engages solely in activities which support or benefit the specified publicly supported organizations. 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 the specified publicly supported organization.

(2) Permissible activities. A supporting organization is not required to pay over its income to the publicly supported organizations in order to meet the operational test. It may satisfy the test by using its income to carry on an independent activity or program which supports or benefits the specified publicly supported organizations. All such support must, however, be limited to permissible beneficiaries in accordance with subparagraph (1) of this paragraph. The supporting organization may also engage in fund raising activities, such as solicitations, fund raising dinners, and unrelated trade or business to raise funds for the publicly supported organizations, or for the permissible beneficiaries.

(f) Nature of relationship required between organizations—(1) In general. Section 509(a)(3)(B) describes the nature of the relationship required between a section 501(c)(3) organization and one or more publicly supported organizations in order for such section 501(c)(3) organization to qualify under the provisions of section 509(a)(3). To meet the requirements of section 509(a)(3), an organization must be operated, supervised, or controlled by or in connection with one or more publicly supported organizations. If an organization does not stand in one of such relationships (as provided in this paragraph) to one or more publicly supported organizations, it is not an organization described in section 509(a)(3).

Explanations of Items

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(2) Types of relationships. Section 509(a)(3)(B) sets forth relationships, one of which must be met in order to meet subparagraph (1) of this paragraph. Thus, a supporting organization

- (i) Operated, supervised, or controlled by,
- (ii) Supervised or controlled in connection with, or
- (iii) Operated in connection with, one or more publicly supported organizations.

(3) Requirements of relationships. Although more than one type of relationship may exist in any one case, any relationship described in section 509(a)(3)(B) must insure that:

- (i) The supporting organization will be responsive to the needs or demands of one or more publicly supported organizations; and
- (ii) The supporting organization will constitute an integral part of, or maintain a significant involvement in, the operations of one or more publicly supported organizations.

(4) General description of relationships. In the case of supporting organizations which are operated, supervised, or controlled by one or more publicly supported organizations, the distinguishing feature of this type of relationship is the presence of a substantial degree of direction by the publicly supported organizations over the conduct of the supporting organization, as described in paragraph (g) of this section. In the case of supporting organizations which are supervised or controlled in connection with one or more publicly supported organizations, 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, as described in paragraph (h) of this section. In the case of a supporting organization which is operated in connection with one or more publicly supported organizations, the distinguishing feature is that the supporting organization is responsive to, and significantly involved in the operations of, the publicly supported organization, as described in paragraph (i) of this section.

(g) Meaning of operated, supervised, or controlled by. (1)(i) Each of the items operated by, supervised by, and controlled by, as used in section 509(a)(3)(B), presupposes a substantial degree of direction over the policies, programs, and activities of a supporting organization by one or more publicly supported organizations. The relationship required under any one of these terms is comparable to that of a parent and subsidiary, where the

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subsidiary is under the direction of, and accountable or responsible to, the parent organization. This relationship is established by the fact that a majority of the officers, directors, or trustees of the supporting organization are appointed or elected by the governing body, members of the governing body, officers acting in their official capacity, or the membership of one or more publicly supported organizations.

(ii) A supporting organization may be operated, supervised, or controlled by one or more publicly supported organizations within the meaning of section 509(a)(3)(B) even though its governing body is not comprised of representatives of the specified publicly supported organizations for whose benefit it is operated within the meaning of section 509(a)(3)(A). A supporting organization may be operated, supervised, or controlled by one or more publicly supported organizations (within the meaning of section 509(a)(3)(B)) and be operated for the benefit of one or more different publicly supported organizations (within the meaning of section 509(a)(3)(A)) only if it can be demonstrated that the purposes of the former organizations are carried out by benefitting the latter organizations.

(h) Meaning of supervised or controlled in connection with. (1) In order for a supporting organization to be supervised or controlled in connection with one or more publicly supported organizations, there must be common supervision or control by the persons supervising or controlling both the supporting organization and the publicly supported organizations to insure that the supporting organization will be responsive to the needs and requirements of the publicly supported organizations. Therefore, in order to meet such requirement, the control or management of the supporting organization must be vested in the same persons that control or manage the publicly supported organizations.

(2) A supporting organization will not be considered to be supervised or controlled in connection with one or more publicly supported organizations if such organization merely makes payments (mandatory or discretionary) to one or more named publicly supported organizations, even if the obligation to make payments to the named beneficiaries is enforceable under State law by such beneficiaries and the supporting organization's governing instrument contains provisions whose effect is described in section 508(e)(1)(A) and (B). Such arrangements do not provide a sufficient connection between the payor organization and the needs and requirements of the publicly supported organizations to constitute supervision or control in connection with such organizations.

(i) Meaning of operated in connection with—(1) General rule. For each taxable year, a supporting organization is operated in connection with one or more supported organizations (that is, is a "Type III supporting organization") only if it is not disqualified by reason of paragraph (f)(5) (relating to acceptance of contributions from controlling donors) or

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paragraph (i)(10) (relating to foreign supported organizations) of this section, and it satisfies—

- (i) The notification requirement, which is set forth in paragraph (i)(2) of this section;
- (ii) The responsiveness test, which is set forth in paragraph (i)(3) of this section; and
- (iii) The integral part test, which is satisfied by maintaining significant involvement in the operations of one or more supported organizations and providing support on which the supported organization(s) are dependent; in order to satisfy this test, the supporting organization must meet the requirements either for—

(A) Functionally integrated Type III supporting organizations set forth in paragraph (i)(4) of this section; or

(B) Non-functionally integrated Type III supporting organizations set forth in paragraph (i)(5) of this section.

(2) Notification requirement—(i) Annual notification. For each taxable year, a Type III supporting organization must provide the following documents to each of its supported organizations:

- (A) A written notice addressed to a principal officer of the supported organization describing the type and amount of all of the support the supporting organization provided to the supported organization during the supporting organization's taxable year immediately preceding the taxable year in which the written notice is provided (and during any other taxable year of the supporting organization ending after December 28, 20XX, for which such support information has not previously been provided);
- (B) A copy of the supporting organization's Form 990, "Return of Organization Exempt from Income Tax," or other annual information return required to be filed under section 6033 (although the supporting organization may redact from the return the name and address of any contributor to the organization) that was most recently filed as of the date the notification is provided (and any such return for any other taxable year of the supporting organization ending after December 28, 20XX, that has not previously been provided to the supported organization); and
- (C) A copy of the supporting organization's governing documents as in effect on the

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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.

(ii) Electronic media. The notification documents required by this paragraph (i)(2) may be provided by electronic media.

(iii) Due date. The notification documents required by this paragraph (i)(2) for any taxable year shall be postmarked or electronically transmitted by the last day of the fifth calendar month following the close of that taxable year.

(iv) Principal officer. For purposes of paragraph (i)(2)(i)(A) of this section, a principal officer includes, but is not limited to, a person who, regardless of title, has ultimate responsibility for—

(A) Implementing the decisions of the governing body of a supported organization;

(B) Supervising the management, administration, or operation of the supported organization; or

(C) Managing the finances of the supported organization. Managing the finances of the supported organization.

(3) Responsiveness test—(i) General rule. A supporting organization meets the responsiveness test if it is responsive to the needs or demands of a supported organization. Except as provided in paragraph (i)(3)(v) of this section, in order to meet this test, a supporting organization must satisfy the requirements of paragraphs (i)(3)(ii) and (i)(3)(iii) of this section.

(ii) Relationship of officers, directors, or trustees. A supporting organization satisfies the requirements of this paragraph (i)(3)(ii) with respect to a supported organization only if—

(A) One or more officers, directors, or trustees of the supporting organization are elected or appointed by the officers, directors, trustees, or membership of the supported organization;

(B) One or more members of the governing body of the supported organization are also officers, directors, or trustees of, or hold other important offices in, the supporting organization; or

(C) The officers, directors, or trustees of the supporting organization maintain a close

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and continuous working relationship with the officers, directors, or trustees of the supported organization.

(iii) Significant voice. A supporting organization satisfies the requirements of this paragraph (i)(3)(iii) only if, by reason of paragraphs (i)(3)(ii)(A), (i)(3)(ii)(B), or (i)(3)(ii)(C) of this section, the officers, directors, or trustees of the supported organization have a significant voice in the investment policies of the supporting organization, the timing of grants, the manner of making grants, and the selection of grant recipients by such supporting organization, and in otherwise directing the use of the income or assets of the supporting organization.

(4) Integral part test—functionally integrated Type III supporting organization—(i) General rule. A supporting organization meets the integral part test and will be considered functionally integrated within the meaning of section 4943(f)(5)(B), if it—

(A) Engages in activities substantially all of which directly further the exempt purposes of one or more supported organizations and otherwise meets the requirements described in paragraph (i)(4)(ii) of this section;

(B) Is the parent of each of its supported organizations, as described in paragraph (i)(4)(iii) of this section; or

(C) Supports a governmental supported organization and otherwise meets the requirements of paragraph (i)(4)(iv) of this section.

(ii) Substantially all activities directly further exempt purposes—(A) In general. A supporting organization meets the requirements of this paragraph (i)(4)(ii) if it engages in activities substantially all of which—

(1) Directly further the exempt purposes of one or more supported organizations to which the supporting organization is responsive by performing the functions of, or carrying out the purposes of, such supported organization(s); and

(2) But for the involvement of the supporting organization, would normally be engaged in by such supported organization(s).

(B) Meaning of substantially all. For purposes of paragraph (i)(4)(ii)(A) of this section, in determining whether substantially all of a supporting organization's activities directly further the exempt purposes of one or more supported organization(s) to which the supporting organization is responsive, all pertinent facts and circumstances will be taken into consideration.

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(C) Meaning of directly further. Activities “directly further” the exempt purposes of one or more supported organizations for purposes of this paragraph (i)(4) only if they are conducted by the supporting organization itself, rather than by a supported organization. Holding title to and managing exempt-use assets described in paragraph (i)(8)(ii) of this section are activities that directly further the exempt purposes of the supported organization within the meaning of this paragraph (i)(4). Conversely, except as provided in paragraph (i)(4)(ii)(D) of this section, 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 within the meaning of this paragraph (i)(4).

(iii) Parent of supported organization(s). For purposes of paragraph (i)(4)(i)(B) of this section, a supporting organization is the parent of a supported organization if the supporting organization exercises a substantial degree of direction over the policies, programs, and activities of the supported organization and a majority of the officers, directors, or trustees of the supported organization is appointed or elected, directly or indirectly, by the governing body, members of the governing body, or officers (acting in their official capacity) of the supporting organization.

IRC § 514(c) Acquisition indebtedness

- (1) General rule. For purposes of this section, the term “acquisition indebtedness” means, with respect to any debt-financed property, the unpaid amount of-
- (A) the indebtedness incurred by the organization in acquiring or improving such property;
 - (B) the indebtedness incurred before the acquisition or improvement of such property if such indebtedness would not have been incurred but for such acquisition or improvement; and
 - (C) the indebtedness incurred after the acquisition or improvement of such property if such indebtedness would not have been incurred but for such acquisition or improvement and the incurrence of such indebtedness was reasonably foreseeable at the time of such acquisition or improvement.

IRC § 514(c)(9) Real property acquired by a qualified organization.

- (A) In general. Except as provided in subparagraph (B), the term “acquisition indebtedness” does not, for purposes of this section, include indebtedness incurred by a qualified organization in acquiring or improving any real property.
- (B) Exceptions.

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(C) Qualified organization. For purposes of this paragraph, the term “qualified organization” means-

- (i) an organization described in section 170(b)(1)(A)(ii) and its affiliated support organizations described in section 509(a)(3)

TAXPAYER’S POSITION:

is of the position that it meets the requirements of 509(a)(3) and is a Type III functionally integrated supporting organization operated in connection with, and functionally integrated with, its supported organization.

GOVERNMENT’S POSITION:

Of the \$0 in total support, \$0 or approximately 0% constitutes support from gross receipts from rental income, an unrelated business activity. Rental income is not a charitable, religious or educational activity and therefore is an unrelated business activity. However; if an organization qualifies as a 509(a)(3) Supporting organization then is a qualified organization and thereby real property acquired by or improved by a qualified organization is not acquisition indebtedness with respect to any debt-financed property and is excluded from the Unrelated Business Income Tax.

(IRC § 514(c)(9) Real property acquired by a qualified organization)

Also, not more than one-third of the support is received from investment income and unrelated business income.

Since Treas. Regs. section 1.170A-9(f)(7)(iii) precludes organizations receiving almost all of its support from gross receipts from related activities being treated as satisfying the support test under 509(a)(1), the organization does not meet the public support test under section 509(a)(1) and 170(b)(1)(A)(vi) of the Code.

Computation of the Public Support Percentage for tax year ending December 31, 20XX is zero percent. does not meet the required support percentage of 33 1/3 % or more and fails as an organization described in IRC 170(b)(1)(A)(vi).

Computation is shown in Exhibit A
Form 990 20XX Schedule A Public Charity Status and Public Support
Part II Support Schedule for Organizations Described in Sections 170(b)(1)(A)(iv) and 170(b)(1)(A)(vi)

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Section 509(a)(2) of the Code excludes from the term “private foundation” an organization that normally receives more than one-third of its support in each taxable year from any combination of gifts, grants, contributions, or membership fees, and gross receipts from admissions, sales of merchandise, performance of services that is related to the exempt function and does not receive more than one-third of its support in each taxable year from the sum of gross investment income and unrelated business income.

Computation of the Public Support Percentage for tax year ending December 31, 20XX is zero percent. does not meet the required support percentage of 33 1/3 % or more and fails as an organization described in Section 509(a)(2).

Computation is shown in Exhibit B

Form 990 20XX Schedule A Public Charity Status and Public Support
Part III Support Schedule for Organizations Described in Section 509(a)(2)

In general, (1) Section 509(a)(3) excludes from the definition of private foundation those organizations which meet the requirements of subparagraphs (A), (B), and (C) of Treas. Regs. (Section 1.509(a)-4 Supporting organizations.)

Section 509(a)(3)(A) provides that a section 509(a)(3) 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).

does list . as a supported organization by
name in its By-Laws. (See Exhibit E) meets the organizational
requirements set forth in Treas. Regs. Section 1.509(a)-4. is
specified by name in the By-Laws of
Treas. Reg. Section 1.509(a)(4)(6)(d) Specified organizations.

provides 0% of its support to ., a 501(c)(3)
organization described in section 170(b)(1)(A)(ii). is a 501(c)(3)
organization described in section 170(b)(1)(A)(ii) not an organization described in section
509(a)(1) or (2).

Section 509(a)(3)(B) provides that a section 509(a)(3) organization must be operated, supervised, or controlled by or in connection with one or more organizations described in section 509(a)(1) or (2).

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For purposes of section 509(a)(3)(B), paragraph (g) of this section defines operated, supervised, or controlled by; paragraph (h) of this section defines supervised or controlled in connection with; and paragraph (i) of this section defines operated in connection with.

(i) Meaning of operated in connection with—(1) General rule. For each taxable year, a supporting organization is operated in connection with one or more supported organizations (that is, is a “Type III supporting organization”) only if it is not disqualified by reason of paragraph (f)(5) (relating to acceptance of contributions from controlling donors) or paragraph (i)(10) (relating to foreign supported organizations) of this section, and it satisfies—

By-Laws of _____ gives _____ the authority to elect its Board of Directors. The Board of Directors of _____ determine investment policies and directs the use of _____ assets.

_____ operates in connection with _____ is a 501(c)(3) organization described in section 170(b)(1)(A)(ii).

Also, _____ must satisfy additional requirements in order to qualify as an organization described in IRC § 509(a)(3).

Additional requirements are:

(i) The notification requirement, which is set forth in paragraph (i)(2) of this section;

(2) Notification requirement—(i) Annual notification. For each taxable year, a Type III supporting organization must provide the following documents to each of its supported organizations:

(A) A written notice addressed to a principal officer of the supported organization describing the type and amount of all of the support the supporting organization provided to the supported organization during the supporting organization’s taxable year immediately preceding the taxable year in which the written notice is provided (and during any other taxable year of the supporting organization ending after December 28, 20XX, for which such support information has not previously been provided);

(B) A copy of the supporting organization’s Form 990, “Return of Organization Exempt from Income Tax,” or other annual information return required to be filed under section 6033 (although the supporting organization may redact from the return the name and address of any contributor to the organization) that was most recently filed as of the date the

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notification is provided (and any such return for any other taxable year of the supporting organization ending after December 28, 20XX, that has not previously been provided to the supported organization); and

(C) A copy of the supporting 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.

(ii) Electronic media. The notification documents required by this paragraph (i)(2) may be provided by electronic media.

(iii) Due date. The notification documents required by this paragraph (i)(2) for any taxable year shall be postmarked or electronically transmitted by the last day of the fifth calendar month following the close of that taxable year.

(iv) Principal officer. For purposes of paragraph (i)(2)(i)(A) of this section, a principal officer includes, but is not limited to, a person who, regardless of title, has ultimate responsibility for—

(A) Implementing the decisions of the governing body of a supported organization;

(B) Supervising the management, administration, or operation of the supported organization; or

(C) Managing the finances of the supported organization.

Based on the close relationship between _____ and _____, this information was constructively available and provided. _____ states it will timely document these notification requirements in future years.

(ii) The responsiveness test, which is set forth in paragraph (i)(3) of this section; and

(3) Responsiveness test—(i) General rule. A supporting organization meets the responsiveness test if it is responsive to the needs or demands of a supported organization. Except as provided in paragraph (i)(3)(v) of this section, in order to meet this test, a supporting organization must satisfy the requirements of paragraphs (i)(3)(ii) and (i)(3)(iii) of this section.

(ii) Relationship of officers, directors, or trustees. A supporting organization satisfies the requirements of this paragraph (i)(3)(ii) with respect to a supported organization only if—

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(A) One or more officers, directors, or trustees of the supporting organization are elected or appointed by the officers, directors, trustees, or membership of the supported organization;

(B) One or more members of the governing body of the supported organization are also officers, directors, or trustees of, or hold other important offices in, the supporting organization; or

(C) 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.

By-Laws of _____ give _____ the authority to elect its Board of Directors. _____ is responsive to the needs or demands of _____

(iii) Significant voice. A supporting organization satisfies the requirements of this paragraph (i)(3)(iii) only if, by reason of paragraphs (i)(3)(ii)(A), (i)(3)(ii)(B), or (i)(3)(ii)(C) of this section, the officers, directors, or trustees of the supported organization have a significant voice in the investment policies of the supporting organization, the timing of grants, the manner of making grants, and the selection of grant recipients by such supporting organization, and in otherwise directing the use of the income or assets of the supporting organization.

(iii) The integral part test, which is satisfied by maintaining significant involvement in the operations of one or more supported organizations and providing support on which the supported organization(s) are dependent; in order to satisfy this test, the supporting organization must meet the requirements either for—

The Board of Directors of _____ determine _____ assets.
investment policies and directs the use of _____

_____ sole supported organization is _____

_____ provides buildings and other facilities (classrooms) necessary for
to conduct its operations as a state-sponsored charter school.

_____ works directly with _____ to identify buildings and
other facilities necessary for its operations as a state-sponsored charter school.
then acquires and maintains the buildings and other facilities specifically for use by
. All of _____ assets are used to provide the necessary buildings and

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facilities for use by . All of , real property (classrooms) are used by . and a relatively small bank account is maintained for necessary working capital (day-to-day operations). Building and facilities (classrooms) are necessary for . to provide a state-sponsored education program to children in elementary school, middle school and high school. Without involvement . would have to acquire and maintain its own buildings and facilities (classrooms).

CONCLUSION:

foundation status should be reclassified from a publicly supported organization described in section 509(a)(1) and 170(b)(1)(A)(vi) to an organization described in section 509(a)(3) of the Code.

The effective date of this reclassification is January 1, 20XX.