

Internal Revenue Service
P. O. Box 2508
Cincinnati, OH 45201

Department of the Treasury

Release Number: 201952009
Release Date: 12/27/2019
Date: October 2, 2019

Employer Identification Number:

Person to Contact - ID#:

Contact Telephone Numbers:

LEGEND:

B = State
C = Date
D = Sport
E = Estate
x dollars = \$

UIL: 170.07-06

Dear :

We have considered your June 25, 2019, request for recognition of an unusual grant under Treasury Regulations Section 1.170A-9(f)(6)(ii) and related provisions.

Based on the information provided, we have concluded that the proposed grant constitutes an unusual grant under Section 1.170A-9(f)(6)(ii) and related provisions of the regulations. The basis for our conclusion is set forth below.

Facts:

You were formed in the State of B on C. You are classified as a public charity under Sections 509(a)(1) and 170(b)(1)(A)(vi) of the Code. You were formed for the purpose of promoting the sport of D for youth, especially those in need of financial assistance. You have expanded your programs to include programs for all ages, including youth, and programs for veterans' wheelchair D programs, under-served youth, and major D events. You provide grants for youth players in need of financial assistance. You have a continuous program to solicit contributions from the general public.

You are asking for advance approval of an unusual grant in the amount of \$x. The grant will come from E in the form of cash.

The grant request made to E was made by a third party without your knowledge. Neither the grant requestor nor E has any connection to you, any organizations related to you, nor to any of the D organizations that are the governing bodies for the sport of D. Further, the person who made the grant request to E has authority over decisions made by E.

Law:

Treasury Regulations Sections 1.170A-9(f)(6)(ii) and 1.509(a)-3(c)(4) set forth the criteria for an unusual grant.

Treasury Regulations Section 1.170A-9(f)(6)(ii) states that, for purposes of applying the 2-percent limitation to determine whether the 33 1/3 percent-of-support test is satisfied, one or more contributions may be excluded from both the numerator and the denominator of the applicable percent-of-support fraction. The exclusion is generally intended to apply to substantial contributions or bequests from disinterested parties which:

- are attracted by reason of the publicly supported nature of the organization;
- are unusual or unexpected with respect to the amount thereof; and
- would, by reason of their size, adversely affect the status of the organization as normally being publicly supported.

Treasury Regulations Section 1.509(a)-3(c)(4) states that all pertinent facts and circumstances will be taken into consideration to determine whether a particular contribution may be excluded. No single factor will necessarily be determinative. Such factors may include:

- Whether the contribution was made by a person who
 - a. created the organization
 - b. previously contributed a substantial part of its support or endowment
 - c. stood in a position of authority with respect to the organization, such as a foundation manager within the meaning of Section 4946(b)
 - d. directly or indirectly exercised control over the organization, or
 - e. was in a relationship described in Internal Revenue Code Section 4946(a)(1)(C) through 4946(a)(1) (G) with someone listed in bullets a, b, c, or d above.

A contribution made by a person described in a. - e. is ordinarily given less favorable consideration than a contribution made by others not described above.

- Whether the contribution was a bequest or an inter vivos transfer. A bequest will ordinarily be given more favorable consideration than an inter vivos transfer.
- Whether the contribution was in the form of cash, readily marketable securities, or assets which further the exempt purposes of the organization, such as a gift of a painting to a museum.
- Whether (except in the case of a new organization) prior to the receipt of the particular contribution, the organization (a) has carried on an actual program of public solicitation and exempt activities and (b) has been able to attract a significant amount of public support.
- Whether the organization may reasonably be expected to attract a significant amount of public support after the particular contribution. Continued reliance on unusual

grants to fund an organization's current operating expenses (as opposed to providing new endowment funds) may be evidence that the organization cannot reasonably be expected to attract future public support.

- Whether, prior to the year in which the particular contribution was received, the organization met the one-third support test described in Section 1.509(a)-3(a)(2) without the benefit of any exclusions of unusual grants pursuant to Section 1.509-3(c)(3);
- Whether the organization has a representative governing body as described in Treasury Regulations Section 1.509(a)-3(d)(3)(i); and
- Whether material restrictions or conditions within the meaning of Treasury Regulations Section 1.507-2(a)(7) have been imposed by the transferor upon the transferee in connection with such transfer.

Application of Law:

Based on the information provided, the grant meets the requirements of Treas. Reg. Section 1.170A-9(f)(6)(ii) because the grant is from a disinterested party, and:

- was attracted by reason of the publicly supported nature of the organization;
- was unusual or unexpected with respect to the amount thereof; and
- would, by reason of their size, adversely affect the status of the organization as normally being publicly supported.

Based on the information provided, the grant meets the requirements of Treas. Reg. Section 1.509(a)-3(c)(4) based on the following facts and circumstances:

- The prospective grant is not originating from a person who has not created you, nor has any prior business, nor relationship;
- The prospective grant will be an *inter vivos* transfer;
- The prospective grant will be in the form of cash;
- You have a long history of carrying on programs of public solicitation and exempt activities, and you have been able to attract a significant amount of public support;
- You plan to continue to attract a significant amount of public support after the particular contribution, and in fact, to increase your public support;
- You have not prior applied for exclusions of unusual grants;
- You have a representative governing body as described in Treas. Reg. Section 1.509(a)-3(d)(3)(i); and
- No material restrictions or conditions within the meaning of Treasury Regulations Section 1.507-2(a)(7) have been imposed by the prospective grantor upon you, regarding the disposition of this grant.

For all the foregoing reasons, the prospective grant should be characterized as an unusual grant within the meaning of Treas. Reg. Section 1.509(a)-3(c)(4).

We have sent a copy of this letter to your representative as indicated in your power of attorney.

If you have any questions, please contact the person listed in the heading of this letter.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements