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

200421010

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: FEB 20 2004

Contact Person:

Uniform Issue List: 4941.04-00
4958.00-00
0509.02-02
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Identification Number:

Telephone Number:

T:EO:B2

Legend:
T =
C =
D1 =
D2 =
S1 =
S2 =

Dear Sir or Madam:

This rulings letter is in reply to the rulings letters requested by T, C, D1, D2, S1, and S2. Rulings one through nine concern trust T's transfer of all of its assets to corporation C pursuant to section 507(b)(2) of the Internal Revenue Code, as in Situation 2 of Revenue Ruling 2002-28. Rulings ten, eleven, and twelve, concern supporting organization S1 under section 509(a)(3) of the Internal Revenue Code providing administrative support (such as allocated office space, allocated employees, allocated office equipment) for private foundation C and also C's disqualified persons D1 and D2.

T, a charitable trust, and C, a nonprofit charitable corporation, are exempt from federal income tax under section 501(c)(3) of the Code and are private foundations under section 509(a) of the Code. T and C are controlled by the same individuals. T will transfer all of its assets to C. C will continue to exercise expenditure responsibility on behalf of T if T has any grant(s) outstanding requiring such expenditure responsibility under section 4945(h) of the Code when T transfers of all of its assets to C. After T's transfer of all of its assets to C, T will dissolve and will terminate its private foundation status under section 509(a) of the Code by notice to the Internal Revenue Service pursuant to section 507(a)(1) of the Code.

T and C, D1 and D2, S1 and S2, together have a fair market value contractual arrangement providing for their allocated shared utilization of: office space; employees, including a secretary, receptionist, accounting staff, and an administrative assistant; and common office equipment and supplies, such as photocopy machine, facsimile machine, refreshments, supplies, computers, telephone system, and insurance premiums for policies covering the shared employees. S1, a supporting organization under section 509(a)(3) of the Code, represents that it can, and will, make and keep detailed allocation records as to each entity's use of the various allocated expenses. Payments by D1 and D2 will be to S1, not to C. S1 will be in charge of the expense allocation arrangements. This is intended to reduce duplication and thus save on the total costs of the allocated items. S1 has significant charitable programs of its own. Third party vendors, but not C or D1 or D2, will be paid by S1.

The following rulings are requested:

1. Under section 1.507-3(a)(9) of the Income Tax Regulations, for purposes of Chapter 42, and Part II of Subchapter F of Chapter 1, as a result of T's transfer of all of its assets to C, C will be treated as if C were T, and all of the savings provisions applicable to private foundations under the Tax Reform Act of 1969, as amended, will apply to C to the same extent and in the same manner as such provisions applied to T.

2. T's transfer of all of its assets to C:
   a. will be a reorganization between private foundations under section 507(b)(2) of the Code because T's transfer is a significant disposition of assets to one or more private foundations under section 1.507-3(c) of the regulations;
   b. will not result in termination of T's private foundation status pursuant to section 507(a) of the Code;
   c. will not result in imposition upon T of any termination tax under section 507(c) of the Code;
   d. will not result in C being treated as a newly created organization as provided under section 507(b)(2) of the Code and section 1.507-3(a)(1) of the regulations.

3. Voluntary termination of T under section 507(a)(1) of the Code by notice given to the Internal Revenue Service at least one day after T's asset transfer to C will not result in any termination tax under section 507(c) of the Code. T's preparation and/or filing of any final accounting and/or other documents required by state law in winding up, dissolving, and terminating T will not result in tax under section 507(c) of the Code.

4. The tax basis computed under section 4940(c)(4)(B) of the Code and the holding period of each asset received by C pursuant to the transfer will be determined in the same manner as if such assets had continued to be held uninterruptedly by T.

5. C will report the investment income of T for the year of the transfer and will pay any excise tax imposed under section 4940 of the Code.

6. T's transfer of all of its assets to C:
   a. will not itself be net investment income to T or C under section 4940 of the Code, will not be a sale or other disposition under section 4940(c)(4)(A) of the Code, and will not result in tax under section 4940 of the Code;
   b. will not be a direct or indirect act of self-dealing under section 4941 of the Code with regard to T, C, or any foundation managers, substantial contributors, or other disqualified persons of T or C;
   c. will not be an investment by T or C which jeopardizes the exempt purposes of T or C under section 4944 of the Code; and
   d. will not be a taxable expenditure under section 4945(d) of the Code by T. To the extent that T has any obligations requiring the exercise of expenditure responsibility under section 4945(h) of the Code at the time of the transfer, C will exercise T's expenditure responsibility with respect to such obligations.

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7. T's transfer will result in C being treated as T for purposes of section 4942 of the Code so that:
   a. T's distribution requirements under section 4942 of the Code for the tax year of T's assets transfer may be fulfilled by C;
   b. all qualifying distributions made by T during its tax year in which T's assets transfer occurs will be treated as if made by C as determined immediately prior to the transfer;
   c. C may reduce the amount of its required distributions, including those for the tax year of the assets transfer, under section 4942 of the Code by the amount, if any, of the excess qualifying distributions carryovers of T for prior years as set forth in section 4942(i) of the Code as determined prior to the assets transfer as if C had itself incurred such carryovers;
   d. T's payment of reasonable legal, accounting, and other expenses incurred by T in connection with this rulings request and in carrying out T's transfer of all of its assets to C will be qualifying distributions under section 4942(g)(1)(A) of the Code and section 53.4945-6(b)(2) of the Foundation and Similar Excise Tax Regulations, and will not be taxable expenditures under section 4945 of the Code;
   e. T will not be required to comply with the recordkeeping requirements of section 4942(g)(3)(B) of the Code with regard to the asset transfer; and
   f. T will not be subject to tax under section 4942 of the Code for the tax year of the transfer.

8. T's transfer will not adversely affect the tax-exempt status of T or C, and T and C will not be subject to federal income tax under Subtitle A with regard to the transfer.

9. Under sections 1.507-1(b)(9) and 1.507-3(a)(9)(i) of the regulations, T will not be required to file the annual information return required by section 6033 of the Code for any tax year following the tax year in which the transfer occurs if, during the subsequent tax years, T has neither legal nor equitable title to any assets and engages in no activity; provided that upon T's liquidation, dissolution, or termination, T will file a return required by section 6043(b) of the Code.

10. The participation of T and C, D1 and D2, with S1 and S2, in an arrangement providing for joint utilization of office space
    a. will not be an act of self-dealing between T and C, and D1 and D2 under section 4941 of the Code and, therefore, no excise taxes will be due under section 4941;
    b. will not be an act of self-dealing between T and C and either of S1 and S2 under section 4941 of the Code and, therefore, no excise taxes will be due under section 4941; and
    c. will not be an excess benefit transaction between either of S1 and S2 and D1 and D2 under section 4958 of the Code and, therefore, no excise taxes will be due under section 4958.

11. The participation of T and C, D1 and D2, with S1 and S2, in an arrangement providing for joint utilization of common employee services, including a secretary, receptionist, accounting staff, and an administrative assistant:
    a. will not constitute an act of self-dealing between T and C and D1 and D2 under section 4941 of the Code and, therefore, no excise taxes will be due under section 4941;
    b. will not constitute an act of self-dealing between T and C and either of S1 and S2 under section 4941 of the Code and, therefore, no excise taxes will be due under section 4941; and
    c. will not constitute an excess benefit transaction between either of D1 and D2 and S1 and S2 under section 4958 of the Code and, therefore, no excise taxes will be due under section 4958.

12. The participation of T and C, D1 and D2, with S1 and S2, in an arrangement providing for joint utilization of common office equipment and supplies, such as photocopy machine, facsimile machine, refreshments, supplies, computers, and telephone system:
    a. will not constitute an act of self-dealing between T and C and D1 and D2 under section 4941 of the Code and, therefore, no excise taxes will be due under section 4941;
    b. will not constitute an act of self-dealing between T or C and either S1 or S2 under section 4941 of the Code and, therefore, no excise taxes will be due under section 4941; and
    c. will not constitute an excess benefit transaction between either of S1 or S2 and D1 and D2 under section 4958 and, therefore, no excise taxes will be due under section 4958.

Section 501(c)(3) of the Code provides for the exemption from federal income tax of nonprofit organizations organized and operated exclusively for charitable and/or other exempt purposes stated in that section.

Section 509(a) of the Code describes organizations exempt from federal income tax under section 501(c)(3) of the Code that are private foundations subject to the private foundation provisions of Chapter 42 of the Code.

Section 507(b)(2) of the Code concerns the transfer of assets by one private foundation to one or more other private foundations, and provides that each transferee private foundation shall not be treated as a newly created organization.

Section 1.507-3(c)(1) of the Income Tax Regulations indicates that a transfer under section 507(b)(2) of the Code includes a transfer of assets from one private foundation to another private foundation pursuant to any reorganization, including a significant disposition of 25% or more of the transferor foundation's assets

Section 1.507-3(a)(1) of the regulations indicates that, in a transfer of assets from one private foundation to another private foundation pursuant to a reorganization, the transferee foundation shall not be treated as a newly created organization, but shall succeed to the transferor's aggregate tax benefits under section 507(d) of the Code.

Section 507(d) of the Code indicates, in general, that the aggregate tax benefits of an exempt private foundation refer to the value of its exemption from federal income tax and the deductions taken by its donors during its existence.

Section 1.507-1(b)(9) of the regulations provides that a private foundation which has transferred all of its net assets is not required to file annual information returns under section 6033 of the Code for tax years after the tax year of such transfer when the transferor has no assets or activities.

Section 1.507-3(a)(5) of the regulations indicates that a transferor private foundation is required to meet its own charitable distribution requirements under section 4942 of the Code, even for its tax year in which it makes a transfer of its assets to another private foundation pursuant to section 507(b)(2) of the Code.

Section 1.507-3(a)(7) of the regulations provides that a private foundation that has transferred all of its assets to another private foundation in a transfer pursuant to section 507(b)(2) of the Code is not subject to the expenditure responsibility requirement of section 4945(h) of the Code.

Section 1.507-3(a)(8) of the regulations provides that certain tax provisions will carry over to a transferee private foundation that is given a transfer of assets from a transferor private foundation pursuant to section 507(b)(2) of the Code.

Section 1.507-3(a)(9)(i) of the regulations indicates that, if a transferor private foundation transfers assets to one or more private foundations which are effectively controlled directly or indirectly by the same person or persons who effectively control the transferor foundation, then each transferee foundation will be treated as if it were the transferor foundation, for purposes of sections 4940 through 4948 and also sections 507 through 509. Each transferee is treated as the transferor in the proportion which the fair market value of the transferor's assets that were transferred bears to the fair market value of all of the assets of the transferor immediately before the transfer.

Section 1.507-3(a)(9)(ii) of the regulations indicates that a transfer of assets under section 507(b)(2) of the Code does not relieve the transferor private foundation from filing its own final returns.

Sections 1.507-1(b)(7) and 1.507-3(d) of the regulations provide that a transferor foundation's transfer of assets under section 507(b)(2) of the Code will not constitute any termination of the transferor foundation's status as a private foundation.

Section 1.507-4(b) of the regulations provides that the tax under section 507(c) of the Code on termination of private foundation status does not apply to a transfer of assets pursuant to section 507(b)(2) of the Code.

Revenue Ruling 2002-28, 2002-1 C.B. 942, in its holding 1, states that, if a private foundation chooses to provide notice under section 507(a)(1) of the Code to the Internal Revenue Service and therefore terminates its private foundation status under section 509(a) of the Code, it is subject to the tax under section 507(c) of the Code; however, if the private foundation has no assets on the day it provides such notice (for example, the private foundation provides such notice at least one day after it transfers all of its assets), the tax under section 507(c) of the Code will be zero. Holdings 3(a), 3(b), 3(e), and 3(f) state that the transfer does not result in tax under sections 4940, 4941, 4944, or 4945 of the Code.

Section 4941 of the Code imposes excise tax on any act of self-dealing between a private foundation and any of its disqualified persons under section 4946 of the Code.

Section 53.4946-1(a)(8) of the Foundation and Similar Excise Taxes Regulations provides that, for purposes of self-dealing under section 4941 of the Code, an exempt organization under section 501(c)(3) of the Code is not a disqualified person.

Section 4942 of the Code requires that a private foundation must expend qualifying distributions under section 4942(g) of the Code for the conduct of exempt purposes.

Revenue Ruling 78-387, 1978-2 C.B. 270, describes the carryover of a transferor foundation's excess qualifying distributions under section 4942(i) of the Code to a transferee foundation that is effectively controlled by the same persons under section 1.507-3(a)(9)(i) of the regulations. Under the regulation, the transferee is treated as the transferor and, thus, the transferee can reduce its own distributable amount under section 4942 of the Code by the amount, if any, of its transferor's excess qualifying distributions under section 4942(i) of the Code.

Section 4942(g)(1)(A) of the Code and section 53.4942(a)-3(a)(2)(i) of the regulations provide that a "qualifying distribution" is any amount, including that portion of reasonable and necessary administrative expenses, paid to accomplish one or more purposes described in section 170(c)(2)(B) of the Code, other than any contribution to: (i) an organization controlled directly or indirectly by the transferor foundation or one or more disqualified persons with respect to the foundation, except as provided in section 4942(g)(3) of the Code, or (ii) any private foundation that is not an operating foundation under section 4942(j)(3) of the Code, except as provided in section 4942(g)(3) of the Code.

Section 4944 of the Code imposes excise tax on any private foundation's making of an investment that jeopardizes its exempt purposes under section 501(c)(3) of the Code.

Section 4945 of the Code imposes excise tax on a private foundation's making of any taxable expenditure under section 4945(d) of the Code.

Section 4945(d)(4) of the Code requires that, in order to avoid making a taxable expenditure, a transferor private foundation must exercise "expenditure responsibility" under section 4945(h) of the Code on its grants to another private foundation.

Section 4945(h) of the Code defines expenditure responsibility in terms of a grantor private foundation requiring proper pre-grant inquiry and post-grant reports from a grantee private foundation on the grantee's uses of the grant.

Section 4945(d)(5) of the Code provides that a taxable expenditure also includes any amount expended by a private foundation for purposes other than exempt purposes.

Sections 53.4945-6(c)(3) allows a private foundation to make transfers of its assets pursuant to section 507(b)(2) of the Code to organizations exempt under section 501(c)(3) of the Code without the transfers being taxable expenditures under section 4945.

Section 509(a)(3) of the Code describe supporting organizations exempt from federal income tax under section 501(c)(3) of the Code which are not private foundations and, thus, are not subject to the private foundation provisions of section 4941 of the Code.

Section 4958 of the Code provides, in pertinent part, for taxes on disqualified persons under section 4958(f) (including therein brothers and sisters) who engage in "excess benefit transactions" with respect to their applicable public charities.

Section 4958(c)(1)(A) of the Code provides, in pertinent part, that the term "excess benefit transaction" means any transaction in which an economic benefit is provided by a tax-exempt organization under section 501(c)(3) of the Code that is not a private foundation, directly or indirectly, to, or for the use of, any disqualified person, if the value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing such benefit.

Section 6043(b) of the Code and section 1.6043-3(a)(1) of the regulations provides that a private foundation must file its tax return with respect to its dissolution.

Analysis

1.

Under section 1.507-3(a)(9)(i) of the regulations, transferee C will be treated as its transferor T for purposes of Chapter 42 of the Code and sections 507 through 509 of the Code.

Under section 1.507-3(a) of the regulations, transferee C will receive the carryover of any savings provisions that were applicable to T and that are carried over to C as described in sections 1.507-3(a)(1) through (8) of the regulations.

2.

Under section 1.507-3(c)(1) of the regulations, a transfer under section 507(b)(2) of the Code includes a transfer of assets from one private foundation to another private foundation pursuant to any reorganization, including a significant disposition of 25% or more of the transferor foundation's assets. Because T will transfer all of its assets to C, T's transfer will be a significant disposition of T's assets under section 1.507-3(c)(1) of the regulations and, thus, will be a transfer under section 507(b)(2) of the Code.

Under section 1.507-3(d) of the regulations, T's transfer of all of its assets to C pursuant to section 507(b)(2) of the Code will not be a termination of T's private foundation status under section 509(a) of the Code and, thus, will not result in termination tax under section 507(c) of the Code on T or C.

3.

Under section 507(a)(1) of the Code, when T notifies the Internal Revenue Service, at least one day after T transfers all of its net assets to C, of its intent to voluntarily terminate its private foundation status pursuant to section 507(a)(1) of the Code, T will thus terminate its private foundation status pursuant to that section 507(a)(1) of the Code.

Under section 507(e) of the Code, the value of T's assets after T has transferred all of its assets to C will be zero. Thus, as stated in holding 1 of Revenue Ruling 2002-28, T's voluntary notice of termination of its private foundation status pursuant to section 507(a)(1) will result in zero tax under section 507(c) of the Code.

The preparation and filing of any final accounting or other documents required by state law in winding up, dissolving, and terminating T will not result in termination tax under section 507(c) of the Code.

4.

Under section 1.507-3(a)(9)(i) of the regulations, the tax bases and holding periods of T's assets transferred to C will carry over to C for purposes of section 4940 of the Code.

5.

Under section 1.507-3(a)(9)(i) of the regulations, transferee C will be treated as its transferor T for purposes of Chapter 42 of the Code and, thus, C must report T's investment income for T's tax year of the transfer and pay T's excise tax under section 4940 of the Code.

6.

Under section 4940 of the Code, as stated in holding 3(a) of Revenue Ruling 2002-28, T's transfer of its assets to C will not result in tax to T or C.

Under section 4941 of the Code, as stated in holding 3(b) of Revenue Ruling 2002-28, T's transfer of assets to C will not be an act of self-dealing because T's transfer will be for exempt purposes to organization C which is exempt from federal income tax under section 501(c)(3) of the Code and which is not a disqualified person, for purposes of section 4941 of the Code, pursuant to section 53.4946-1(a)(8) of the regulations.

Under section 4944 of the Code, as stated in holding 3(e) of Revenue Ruling 2002-28, T's transfer of assets for exempt purposes under section 501(c)(3) of the Code will not be a jeopardizing investment or result in tax under that section.

Under section 4945 of the Code, as stated in holding 3(f) of Revenue Ruling 2002-28, section 53.4945-6(c)(3) of the regulations indicates that a private foundation can transfer its assets pursuant to section 507(b)(2) of the Code to an organization exempt under section 501(c)(3) of the Code without the transfer being a taxable expenditure under section 4945. Thus, T's transfer to C pursuant to section 507(b)(2) of the Code will not be a taxable expenditure under section 4945 of the Code.

As in section 1.507-3(a)(9)(iii), Example (2), of the regulations, as stated in holding 3(f) of Revenue Ruling 2002-28, C must continue T's expenditure responsibility under section 4945(h) of the Code with respect to any expenditure responsibility grant(s) made by T that remain outstanding at the time of T's transfer of its assets to C.

Under section 1.507-3(a)(7) of the regulations, T will not be required to exercise any expenditure responsibility under section 4945(h) of the Code with respect to its transfer of assets to C because T will transfer all of its assets to C.

7.

Under section 1.507-3(a)(9)(i) of the regulations, T's transfer will result in C being treated as T for purposes of section 4942 of the Code, so that: (a) T's distribution requirements under section 4942 of the Code for its tax year of its transfer may be satisfied by C; and (b) T's qualifying distributions during its tax year of its transfer may be treated as made by C.

As in Revenue Ruling 78-387 and in holding 3(c) of Revenue Ruling 2002-28, C may reduce its required distributions under section 4942 of the Code, including those for C's tax year of the transfer, by the amount, if any, of T's excess qualifying distributions carryover under section 4942(i) of the Code as of the time of T's transfer.

Under section 4942(g)(1)(A) of the Code and section 53.4942(a)-3(a)(2)(i) of the regulations, qualifying distributions include the reasonable and necessary administrative expenses paid to accomplish one or more exempt purposes. The legal, accounting, and other necessary expenses incurred to implement T's transfer to C, if reasonable in amount, will be paid to further the exempt purposes of T and C and will be qualifying distributions under section 4942(g)(1)(A) of the Code.

8.

Because T's transfer of its assets to C will be for exempt purposes to an organization exempt from federal income tax under section 501(c)(3) of the Code, T's transfer will not adversely affect the exemptions under section 501(c)(3) of T or C, and T and C will not be subject to federal income tax with regard to the transfer.

9.

Under section 1.507-1(b)(9) of the regulations and holding 2 of Revenue Ruling 2002-28, T will no longer be required to file its annual return, Form 990-PF, under section 6033 of the Code for any tax years subsequent to its tax year in which it transfers all of its assets.

10.a. , 11.a. , 12.a.

The participation of T and C, D1 and D2, with S1 and S2, in an arrangement providing for joint utilization of office space will not be an act of self-dealing between T and C and D1 and D2 under section 4941 of the Code because the sublessor or lessor of the rental office space is S1, which is a supporting organization exempt from federal income tax under section 501(c)(3) of the Code and is not a private foundation under section 509 of the Code. Section 4941 of the Code does not apply to S1 because S1 is a supporting organization under section 509(a)(3) of the Code and not a private foundation. Moreover, S1 will allocate to T/C, D1, and D2 their share of expenses on fair market terms, based on detailed records of actual usage, according to the parties' representations. The same analysis applies to joint use of employees and office equipment and supplies.

10.b. , 11.b , 12.b.

The participation of T/C, D1, and D2 with S1 and S2, in the above arrangements will not result in an act of self-dealing between T/C and either S1 or S2 under section 4941 of the Code because neither S1 nor S2 is a disqualified person with respect to T or C. See section 53.4946-1(a)(8) of the regulations.

10.c , 11.c. , 12.c.

Based on the representations that expenses will be allocated and paid at fair market value to S1, the participation of T/C, D1, and D2 with S1 and S2 in the above arrangements will not result in excess benefit transactions between either of S1 and S2 and D1 and D2 under section 4958 of the Code.

Accordingly, based on the representations and facts presented, we rule that:

1. Under section 1.507-3(a)(9) of the Income Tax Regulations, for purposes of Chapter 42, and Part II of Subchapter F of Chapter 1, as a result of T's transfer of all of its assets to C, C will be treated as if C were T, and all of the savings provisions applicable to private foundations under the Tax Reform Act of 1969, as amended, will apply to C to the same extent and in the same manner as such provisions applied to T.

2. T's transfer of all of its assets to C:
   a. will be a reorganization between private foundations under section 507(b)(2) of the Code because T's transfer is a significant disposition of assets to one or more private foundations under section 1.507-3(c) of the regulations;
   b. will not result in termination of T's private foundation status pursuant to section 507(a) of the Code;
   c. will not result in imposition upon T of any termination tax under section 507(c) of the Code;
   d. will not result in C being treated as a newly created organization as provided under section 507(b)(2) of the Code and section 1.507-3(a)(1) of the regulations.

3. Voluntary termination of T under section 507(a)(1) of the Code by notice given to the Internal Revenue Service at least one day after T's asset transfer to C will not result in any termination tax under section 507(c) of the Code. T's preparation and/or filing f any final accounting and/or other documents required by state law in winding up, dissolving, and terminating T will not result in tax under section 507(c) of the Code.

4. The tax basis computed under section 4940(c)(4)(B) of the Code and the holding period of each asset received by C pursuant to the transfer will be determined in the same manner as if such assets had continued to be held uninterruptedly by T.

5. C will report the investment income of T for the year of the transfer and will pay any excise tax imposed under section 4940 of the Code.

6. T's transfer of all of its assets to C:
   a. will not itself be net investment income to T or C under section 4940 of the Code, will not be a sale or other disposition under section 4940(c)(4)(A) of the Code, and will not result in tax under section 4940 of the Code;
   b. will not be a direct or indirect act of self-dealing under section 4941 of the Code with regard to T, C, or any foundation managers, substantial contributors, or other disqualified persons of T or C;
   c. will not be an investment by T or C which jeopardizes the exempt purposes of T or C under section 4944 of the Code; and
   d. will not be a taxable expenditure under section 4945(d) of the Code by T. To the extent that T has any obligations requiring the exercise of expenditure responsibility under section 4945(h) of the Code at the time of the transfer, C will exercise T's expenditure responsibility with respect to such obligations.

7. T's transfer will result in C being treated as T for purposes of section 4942 of the Code so that:
   a. T's distribution requirements under section 4942 of the Code for the tax year of T's assets transfer may be fulfilled by C;
   b. all qualifying distributions made by T during its tax year in which T's assets transfer occurs will be treated as if made by C as determined immediately prior to the transfer;
   c. C may reduce the amount of its required distributions, including those for the tax year of the assets transfer, under section 4942 of the Code by the amount, if any, of the excess qualifying distributions carryovers of T for prior years as set forth in section 4942(i) of the Code as determined prior to the assets transfer as if C had itself incurred such carryovers;
   d. T's payment of reasonable legal, accounting, and other expenses incurred by T in connection with this rulings request and in carrying out T's transfer of all of its assets to C will be qualifying distributions under section 4942(g)(1)(A) of the Code and section 53.4945-6(b)(2) of the Foundation and Similar Excise Tax Regulations, and will not be taxable expenditures under section 4945 of the Code;
   e. T will not be required to comply with the recordkeeping requirements of section 4942(g)(3)(B) of the Code with regard to the asset transfer; and
   f. T will not be subject to tax under section 4942 of the Code for the tax year of the transfer.

8. T's transfer will not adversely affect the tax-exempt status of T or C, and T and C will not be subject to federal income tax under Subtitle A with regard to the transfer.

9. Under sections 1.507-1(b)(9) and 1.507-3(a)(9)(i) of the regulations, T will not be required to file the annual information return required by section 6033 of the Code for any tax year following the tax year in which the transfer occurs if, during the subsequent tax years, T has neither legal nor equitable title to any assets and engages in no activity; provided that upon T's liquidation, dissolution, or termination, T will file a return required by section 6043(b) of the Code.

10. The participation of T and C, D1 and D2, in an arrangement where S1 or S2 provides for allocated joint utilization of office space
    a. will not be an act of self-dealing between T and C and D1 and D2 under section 4941 of the Code and, therefore, no excise taxes will be due under section 4941;
    b. will not be an act of self-dealing between T and C and either of S1 and S2 under section 4941 of the Code and, therefore, no excise taxes will be due under section 4941; and
    c. will not be an excess benefit transaction between either of S1 and S2 and D1 and D2 under section 4958 of the Code and, therefore, no excise taxes will be due under section 4958.

11. The participation of T and C, D1 and D2, with S1 and S2, in an arrangement where S1 or S2 provides for allocated joint utilization of common employee services, including secretary, receptionist, accounting staff, administrative assistant, and insurance:
    a. will not constitute an act of self-dealing between T and C, and D1 and D2, under section 4941 of the Code and, therefore, no excise taxes will be due under section 4941;
    b. will not constitute an act of self-dealing between T and C and either of S1 and S2 under section 4941 of the Code and, therefore, no excise taxes will be due under section 4941 and;
    c. will not constitute an excess benefit transaction between either of S1 and S2 and D1 and D2 under section 4958 of the Code and, therefore, no excise taxes will be due under section 4958.

12. The participation of T and C, D1 and D2, in an arrangement where S1 provides for allocated joint utilization of common office equipment and supplies, such as photocopy machine, facsimile machine, refreshments, supplies, computers, and telephone system:
    a. will not constitute an act of self-dealing between T and C and D1 and D2 under section 4941 of the Code and, therefore, no excise taxes will be due under section 4941;
    b. will not constitute an act of self-dealing between T or C and either S1 or S2 under section 4941 of the Code and, therefore, no excise taxes will be due under section 4941; and
    c. will not constitute an excess benefit transaction between either of S1 or S2 and D1 and D2 under section 4958 and, therefore, no excise taxes will be due under section 4958.

Because this ruling letter could help to resolve any questions, please keep it in your permanent records. This ruling letter is directed only to the organization that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Sincerely,

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Michael Seto
Acting Manager, Exempt Organizations
Technical Group 2