



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Number: **200635014**
Release Date: 9/1/2006
Date: June 7, 2006

Contact Person:

Identification number:

Contact Number:

EIN:

UIL No.
507.04-00

Legend:

A =
date B =
date C =
state of D =
date E =
date J =
F =
G =
Date H =
Date I =

Dear :

This is in response to your request for an advance ruling under section 1.507-2(a)(1) of the Income Tax Regulations that A can be expected to satisfy the requirements of section 507(b)(1)(B) of the Internal Revenue Code during the 60 month period beginning on date B.

FACTS

The information submitted indicates that you were incorporated on date C under the laws of the state of D. You have been recognized as exempt from federal income tax under section 501(c)(3) of the Code and determined to be a private foundation as described in section 509(a). Your primary activities consist of supporting charitable projects in your community, including a blood drive, distribution of food to the poor, and services for hospitalized children.

We have received your notification of intent to terminate your private foundation status under section 507(b)(1)(B) of the Code during the 60 month period beginning on date B. You also notified the Manager of the Exempt Organizations Determinations division, in a letter dated date E, that you are terminating your private foundation status under section 507(b)(1)(B).

The information you have submitted indicates that beginning on date B, and for a continuous 60-month period thereafter, you will operate as a non-private foundation as described in sections 509(a)(1) and 170(b)(1)(A)(viii) of the Code. You have developed a fundraising plan

that will include a bi-annual raffle beginning in _____, appeals to your members and members of the affiliated F for greater support beginning this year, and solicitations for broader support from the general public. For example, you plan to raise funds from the public this fall to support a local tax exempt charity, G. You anticipate that contributions from your members and the general public will constitute a substantial part of your income. You have submitted projected financial data indicating that you expect to meet the public support test under sections 509(a)(1) and 170(b)(1)(A)(viii) for the 60-month period.

You have filed a Form 872, *Consent to Extend the Time to Assess Tax*, to extend the period of limitations upon assessment of tax for the period ending on Date H through Date I.

LAW

Section 507(b)(1)(B) of the Code provides, in relevant part, that an organization's status as a private foundation shall be terminated if that organization (1) meets the requirements of section 509(a)(1), 509(a)(2), or 509(a)(3) for a continuous period of 60 calendar months, (2) notifies the Secretary before the commencement of such 60-month period that it is terminating its private foundation status, and (3) establishes at the end of the 60 month period that it has met the requirements of section 509(a)(1), 509(a)(2), or 509(a)(3) continuously during the termination period.

Section 1.507-2(b)(1)(ii) of the regulations states, in relevant part, that an organization can terminate its private foundation status under section 507(b)(1)(B) of the Code if it properly notifies the Internal Revenue Service before the commencement of its 60-month termination period that it is terminating its private foundation status.

Section 1.507-2(e)(1) of the regulations provides that an organization which files the notification required by section 507(b)(1)(B)(ii) that it is commencing a 60-month termination may obtain an advance ruling from the Commissioner that it can be expected to satisfy the requirements of section 507(b)(1)(B)(i) during the 60-month period. Such an advance ruling may be issued if the organization can reasonably be expected to meet the requirements of section 507(b)(1)(B)(i) during the 60-month period.

Section 1.507-2(e)(5) of the regulations provides that a 60-month advance ruling letter shall only be issued if the organization's request for an advance ruling is filed with a consent under section 6501(c)(4) to the effect that the period of limitation upon assessment under section 4940 for any taxable year within the advance ruling period shall not expire prior to one year after the date of the expiration of the time prescribed by law for the assessment of a deficiency for the last taxable year within the 60-month period.

Section 1.507-2(b)(1)(i) of the regulations states, in relevant part, that an organization can terminate its private foundation status under section 507(b)(1)(B) of the Code if it meets the requirements of section 509(a)(2) for a continuous 60-month termination period.

Section 1.507-2(d)(1)(i) of the regulations states, in relevant part, that in order to meet the requirements of section 507(b)(1)(B) of the Code for the 60-month termination period as a section 509(a)(2) organization, an organization must meet the requirements of section 509(a)(2) of the Code for a continuous period of at least 60 calendar months.

Section 1.507-2(e)(2) of the regulations provides that in determining whether an organization will satisfy the requirements of section 507(b)(1)(B)(i) of the Code for the 60 month period, the

basic consideration is whether its organizational structure, proposed programs or activities, intended methods of operation, and projected methods of support are such as to indicate that the organization is likely to satisfy the requirements of section 509(a)(1), (2), or (3) of the Code and section 1.507-2(d) of the regulations during the 60-month period. In making such determination, all facts and circumstances shall be considered.

Section 509(a)(2)(A)-(B) of the Code provides that an exempt organization will be classified as other than a private foundation if it normally receives more than one-third of its support in each taxable year from any combination of (i) gifts, grants, contributions, or membership fees, and (ii) gross receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities, in an activity which is not an unrelated trade or business (not including such receipts from any person or government unit in any taxable year to the extent that such receipts exceed the greater of \$5,000 or one percent (1%) of the organization's support in such taxable year), from persons other than disqualified persons with respect to the organization, from governmental units described in section 170(c)(1), or from organizations described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)) of the Code, and normally receives not more than one-third of its support in each taxable year from the sum of (i) gross investment income, and (ii) the excess of the amount of the unrelated business taxable income over the amount of the unrelated business income tax.

Section 1.507-2(b)(1)(iii) of the regulations states that an organization can terminate its private foundation status under section 507(b)(1)(B) of the Code if, immediately after the expiration of its 60-month termination period, it establishes that it has complied with the requirements of section 509(a)(1), (2), or (3) of the Code during that 60-month period.

Section 1.507-2(b)(4) of the regulations states that in order to comply with the requirements under section 507(b)(1)(B)(iii) of the Code, an organization shall within 90 days after the expiration of the 60-month period file such information with the Internal Revenue Service as is necessary to make a determination as to the organization's status as an organization described under section 509(a)(1), (2), or (3) of the Code and the regulations thereunder.

Section 1.507-2(f)(1) of the regulations states that a private foundation which elects to terminate its private foundation status and to operate as a public charity, and which satisfies the requirements of section 507(b)(1)(B) for termination of its private foundation status by the end of its 60-month termination period, will be treated as a public charity for such period.

Section 1.507-2(f)(2) of the regulations states that any organization which fails to satisfy the requirements of section 507(b)(1)(B) of the Code for termination of its private foundation status by the end of the 60-month termination period shall be treated as a private foundation for the entire 60-month period, for purposes of sections 507-509 and chapter 42 of the Code.

Section 1.6033-2(a)(2)(i) of the regulations requires every private foundation to file a Form 990-PF as its annual information return.

ANALYSIS

Procedure

As required by section 507(b)(1)(B)(ii) of the Code and sections 1.507-2(b)(1)(ii) and 1.507-2(e)(1) of the regulations, you notified the Manager of the Exempt Organizations Determination

division, by letter dated date E, that you were terminating your private foundation status under section 507(b)(1)(B) of the Code.

As required by section 1.507-2(e)(5) of the regulations, you have filed a consent to extend the period of limitation upon assessment of tax for the period ending date H through a date that is 1 year or more after the expiration date for the assessment of a deficiency for the last taxable year within the 60 month period.

Operation as 509(a)(2) Organization During 60-Month Period

Sections 507(b)(1)(B)(i) and 507(b)(1)(B)(iii) of the Code provide that the status of a qualified private foundation shall be terminated if that foundation meets the requirements of section 509(a)(1), 509(a)(2), or 509(a)(3) for a period of 60 calendar months, and establishes at the end of the 60 month period that it has met those requirements continuously during the 60-month period.

You have submitted information indicating that beginning on Date B, and for a continuous 60-month period thereafter, you will operate to support charitable projects in your community, including a blood drive, distribution of food to the poor, and services for hospitalized children. You have developed a fundraising plan that will include a bi-annual raffle beginning in 2008, appeals to your members and members of the affiliated F for greater support beginning this year, and solicitations for broader support from the general public. You anticipate that contributions from your members and the general public will constitute a substantial part of your income. You have submitted projected financial data indicating that you expect to meet the public support test under sections 509(a)(1) and 170(b)(1)(A)(vi) of the Code for the 60-month period. Specifically, during the 60-month period you expect to receive more than one-third of your support from gifts, grants, contributions, and membership fees, as provided in section 509(a)(2)(A) of the Code, and no more than one-third of your support from gross investment income and unrelated business taxable income, as provided in section 509(a)(2)(B) of the Code.

Therefore, you have established that you can reasonably be expected to meet the requirements of sections 509(a)(2) of the Code over that 60-month period beginning on date B.

RULING

Accordingly, based on your proposed activities and support, we conclude that:

A can reasonably be expected to meet the requirements of section 507(b)(1)(B)(i) of the Code as a publicly supported charity under section 509(a)(2) of the Code during an advance ruling period of 60 months beginning on date B.

Sections 1.507-2(b)(1)(iii) and 1.507-2(b)(4) of the regulations state that in order to comply with the requirements under section 507(b)(1)(B)(iii) of the Code, an organization shall within 90 days after the expiration of the 60-month period file such information with the Internal Revenue Service as is necessary to make a determination as to the organization's status as an organization described under section 509(a)(1), (2), or (3) of the Code and the regulations thereunder. Thus, within 90 days (plus any applicable extensions) after the end of your 60 month period, you must establish to the satisfaction of the Internal Revenue Service that you have qualified as an organization which meets the requirements of paragraph (1), (2), or (3) of section 509(a) of the Code for the 60 month period. If you do establish that fact, you will be so classified for all purposes beginning with the first day of the first taxable year of the 60 month

period and, thereafter, so long as you continue to meet the requirements of section 509(a)(1), (2), or (3) of the Code. If, however, you do not ultimately establish that you have met these requirements for the 60 month period, you will be classified as a private foundation as of the first day of the first taxable year of the 60 month period. See sections 1.507-2(f)(1) and 1.507-2(f)(2) of the regulations.

Until your private foundation status is terminated and you are classified as a public charity, you will continue to be required to file Form 990-PF. See section 1.6033-2(a)(2)(i) of the regulations.

This ruling will be made available for public inspection under section 6110 of the Code after certain deletions of identifying information are made. For details, see enclosed Notice 437, *Notice of Intention to Disclose*. A copy of this ruling with deletions that we intend to make available for public inspection is attached to Notice 437. If you disagree with our proposed deletions, you should follow the instructions in Notice 437.

This ruling 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 by others as precedent.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Steven Grodnitzky
Manager
Exempt Organizations,
Technical Group 1

Enclosure: Notice 437