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

Date: NOV 10 1999

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LEGEND:
Museum =
Council =

Dear Taxpayer:

This is in response to the Museum's request of May 5, 1999, for an advance ruling that the Museum, during the sixty month period starting July 1, 1999, can be expected to satisfy the requirements of section 507(b)(1)(B)(i) of the Internal Revenue Code.

The Museum was granted 501(c)(3) exempt status on August 15, 1988. The Museum has stated that during the 60 month termination period, the Museum will be organized and operated as an organization which meets the requirements of sections 509(a)(1) and 170(b)(1)(A)(vi) of the Code.

An analysis of the Museum's past financial information indicates a significant portion of its support was derived from the public. In fact, public support constituted 35.4% of the total support in the aggregate for the last 4 taxable years of the Museum.

The Museum carries on a continuous solicitation of funds from both the public and governmental units. The Museum has increased membership fees over the years. The Museum has staged fund-raisers during the summers of 1997 and 1998 and this will continue on an annual basis. The Museum is continuously submitting grant applications to a number of private foundations. In fact, eight grant applications were filed during the last 12 months. The Museum has derived significant annual-contributions from the Council almost since inception. The Museum has also attracted corporate support in the past and even more is expected in the future, both by way of in-kind contributions and cash. A concerted effort is underway to attract additional corporate support which is expected to achieve a significant increase over prior years.

Section 501(c)(3) of the Internal Revenue Code provides for the exemption from federal income tax of nonprofit organizations "organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes ..." and other exempt purposes outlined in that section.

Section 509(a) of the Code provides that a 501(c)(3) organization is a private foundation unless it is described in section 509(a)(1), (2), (3) or (4) of the Code. Section 509(b) provides that a private foundation will continue as a private foundation unless such status is terminated under section 507.

Section 507 of the Code describes certain voluntary and involuntary methods by which a private foundation will be deemed to be terminated for federal income tax purposes.

Section 507(b)(1)(B) of the Code provides that the status of an organization as a private foundation shall be terminated if such organization: (i) meets the requirements of section 509(a)(1), (2), or (3) for a continuous period of 60 calendar months beginning with the first day of any taxable year, (ii) notifies the Secretary before the commencement of the sixty-month period and, (iii) verifies after the end of the sixty-month period that it satisfied (i).

Section 1.507-2(e)(1) of the Income Tax Regulations provides that an organization which files the notification required by section 507(b)(1)(B)(ii) of the Code that it is commencing such 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

Section 1.507-2(e)(2) of the regulations provides that in determining whether an organization can reasonably be expected to meet 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 (taking into account any revisions made prior to the beginning of the 60-month period), proposed programs or activities, intended method of operation, and projected sources of support are such as to indicate that the organization is likely to satisfy the requirements of section 509(a)(1), (2) or (3) and paragraph (d) of section 1.507-2 during the 60-month period. In making such a determination, all pertinent facts and circumstances shall be considered.

Based on the information the Museum has submitted and as the organization is recognized as exempt under section 501(c)(3) of the Code, under the facts described above we rule as follows:

We have concluded that the Museum can be expected to satisfy the requirements of section 507(b)(1)(B)(i) of the Code. Therefore, during a 60 month termination period, the Museum will be treated as an organization which meets the requirements of sections 509(a)(1) and 170(b)(1)(A)(vi) of the Code. This 60 month period will commence on July 1, 1999 and end on June 30, 2004. However, in order to comply with the requirements of section 507(b)(1)(B)(iii) of the Code, the Museum must file within 90 days after the expiration of the 60 month period such information with the Key District office, as is necessary to make a determination as to the Museum's status under section 509(a)(1) and 170(b)(1)(A)(vi).

If the Museum fails to satisfy the requirements of section 509(a)(1) and 170(b)(1)(A)(vi) of the Code for the continuous 60-month period but does satisfy the requirements of section 509(a)(1) and 170(b)(1)(A)(vi) for any taxable year or years during such 60-month period, the organization shall be treated as a section 509(a)(1) and 170(b)(1)(A)(vi) organization for such taxable year or years and grants or contributions made during such taxable year or years shall be treated as made to an organization described in section 509(a)(1) and 170(b)(1)(A)(vi). In addition, sections 507 through 509 and chapter 42 shall not apply to the Museum for any taxable year within such 60-month period for which it does meet such requirements. For purposes of determining whether the Museum satisfies the requirements of section 509(a)(1) for any taxable year in the 60-month period, it shall be treated as if it were a new organization with its first taxable year beginning on July 1, 1999. Because the Museum is attempting to terminate its private foundation status under section 507(b)(1)(B) by meeting the requirements of section 170(b)(1)(A)(vi), the rules under Sec. 1.170A-9(e) relating to the initial determination of status of a new organization apply.

Donors (including private foundations) may rely on the advance ruling that the Museum is not a private foundation until 90 days after the Museum's advance ruling period ends. If the Museum submits the information that will be requested by the Key District office within the 90 days, donors may continue to rely on the advance ruling until a final determination of the Museum's foundation status is made. However, if notice that the Museum will no longer be treated as the type of organization indicated above is published in the Internal Revenue Bulletin, donors may not rely on the advance ruling after the date of such publication. Also, donors (other than private foundations) may not rely on the classification indicated above if

they were in part responsible for, or were aware of, the act that resulted in the Museum's loss of that classification, or if they acquired knowledge that the Internal Revenue Service had given notice that the Museum would be removed from that classification. Private foundations may rely on the classification as long as the Museum was not directly or indirectly controlled by them or by disqualified persons with respect to them. However, private foundations may not rely on the classification indicated above if they acquired knowledge that the Internal Revenue Service had given notice that the Museum would be removed from that classification.

We are informing the Museum's Key District Director of this ruling. Because this ruling could help resolve future questions about the Museum's federal income tax status, the Museum should keep it in the Museum's permanent records.

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

Sincerely,

(signed) G. V. Sack

Gerald V. Sack
Chief, Exempt Organizations
Technical Branch 4