S/N: 507.00-00

Internal Revenue Service

OP:E:EO:T:4

200016025

Department of the Treasury

Washington, DC 20224

Contact Person:

Telephone Number:

In Reference to:

Date: JAN 19 2000

Legend:

B=
C=
D=
E=

Dear Sir or Madam:

This is in response to your request for rulings dated October 8, 1999, pertaining to the termination of private foundation status and a related request under Chapter 42 of the Internal Revenue Code.

You are recognized as exempt from federal income tax under section 501(c)(3) of the Code and are classified as a private foundation under section 509(a). Your primary purpose is to foster and promote the interest of C educational organizations and other C activities, primarily in the state of D and the surrounding area.

B is exempt under section 501(c)(3) of the Code and has been determined to be a nonprivate foundation with classification under sections 509(a)(1) and 170(b)(1)(A)(vi). One of the purposes of B is to raise and manage endowment funds to sustain its operating and capital requirements and that class of publicly supported organizations for whose benefit B exists, in perpetuity. One class of publicly supported organizations for whose benefit B exists is educational organizations, particularly those serving the disadvantaged population along the D and E border. Because a large percentage of the population which B serves is C, many of the educational organizations which B benefits are also C.

You have instituted a plan of reorganization, in order to establish a closer relationship with B, and have decided to terminate your status as a private foundation and become a section 509(a)(3) supporting organization to B. By establishing this relationship with a larger organization overseen by a large and diverse Board of Directors, you will be able to more

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effectively accomplish your charitable mission, and better carry out the charitable intent of your creator by eliminating the administrative and financial burdens of private foundation status. Specifically, B will be able to provide staff that can effectively administer your grant program which extends across a wide area. Also, by becoming a supporting organization of B, you will insure long-term governance because your Bylaws specify that the Board of Directors of B will elect your members in the event that you at any time cease to have members.

You and B have executed an agreement stating that you will at all times be operated in connection with B. Under the agreement, with regard to B advised endowment funds, B owns all property contained within any such advised fund. Further, B has the responsibility and authority for the investment of the assets of all advised funds. Distributions from the advised funds are determined by B after taking into account all recommendations received by the donor. All other matters concerning advised funds are determined in accordance with the rules, procedures and policies of B.

Simultaneously with the execution of the agreement you and B executed an instrument of transfer in which you created a permanent endowment fund which will be used to benefit C educational organizations in the area. Although you may advise and consult with B concerning the distribution of and the recipients of the fund, B will not be bound by such advice, and will act independently in the furtherance of its exempt status pursuant to the rules, procedures and policies of B.

You represent that you have restated and amended your Articles of Incorporation to expressly limit your purposes to the exclusive support of B. You state that your officers and directors maintain a close and continuous working relationship with B. You state that substantially all of your net income will be paid to B and that it will constitute over 10 percent of B's total support. You further represent that you will give notice to the appropriate District Director of your intentions to terminate your private foundation status and commence the 60 month period under section 1.507 2(b)(3) of the Income Tax Regulations.

Section 507(b)(1)(B) of the Code provides that the status of a private foundation may be terminated without the imposition of tax if the private foundation has not acted (or failed to act) in a manner which gives rise to tax under Chapter 42, and (i) such organization meets the requirements of section 509(a)(1), (2), or (3) for a continuous period of 60 calendar months, (ii) such organization notifies the Secretary before the commencement of

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the 60 month period that it is terminating its private foundation status, and (iii) such organization establishes to the satisfaction of the Secretary immediately after the expiration of such 60 month period that such organization has complied with (i).

Section 1.507-2(b)(1) of the regulations provides that an organization can terminate its private foundation status if the organization (i) meets the requirement of section 509(a)(1), (2), or (3) for a continuous period of 60 calendar months; (ii) properly notifies the district director before the commencement of the 60 month period in accordance with section 1.507-2(b)(3); and (iii)properly establishes immediately after the expiration of the 60 month period that it has complied with the requirements of section 509(a)(1), (2), or (3) in accordance with section 1.507(2)(b)(4).

Section 1.507-2(d)(2) of the regulations provides that in order for an organization to meet the requirements of section 507(b)(1)(B) for the 60 month termination period as an organization described in section 509(a)(3) an organization must satisfy the requirements of that section at the commencement of the 60 month period and continuously thereafter during the period.

Section 509(a)(3) of the Code describes a supporting organization as one which (A) is organized, and at all times thereafter is 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), (B) is operated, supervised, or controlled by or in connection with one or more organizations described in section 509(a)(1) or (2), and (C) is not controlled directly or indirectly by one or more disqualified persons (as defined in section 4946) other foundation managers and other than one or more organizations described in section 509(a)(1) or (2).

Section 4940 of the Code imposes a tax of 2 percent each year on the net investment income of each private foundation. Net investment income is determined by subtracting certain expenses and modifications from the sum of gross investment income and capital gain net income.

A private foundation may terminate its foundation status by operating as a public charity, in which case no termination tax is imposed, if there have been no violations or failures to act giving rise to liability for tax under Chapter 42, and the organization meets the requirements of sections 509(a)(1), (2), or (3) for a continuous period of 60 months, and [illegible]

notice to the Secretary of its intentions to terminate. You represent that you will comply with the notice requirements and that you have amended your Articles of Incorporation and Bylaws to become a supporting organization as provided for in section 509(a)(3) of the Code.

Once the 60 month period commences, you will be treated as a non-private foundation. Therefore, the provisions of section 4940 would not apply.

Accordingly, based on the information furnished, we rule as follows:

1. That you can be expected to satisfy the requirements of section 507(b)(1)(B) of the Code such that on September 30, 2004 (60 months from September 30, 1999), your private foundation status will be terminated and your qualification as a section 509(a)(3) organization will be established.

2. That you will not be subject to the tax on private foundation terminations imposed by section 507(c) of the Code because the termination of your private foundation status will qualify under section 507(b)(1)(B) of the Code.

3. That you will not be subject to the tax on net investment income imposed by section 4940(a) of the Code for the period of time commencing on September 30, 1999 and ending on September 30, 2004 or on such other date on which you establish to the satisfaction of the Service that you have properly terminated your status as a private foundation, because the termination of your private foundation status will qualify under section 507(b)(1)(B) of the Code.

We are informing the Ohio TE/GE office of this action. Please keep a copy of this ruling with your organization's permanent records.

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 as precedent.

Sincerely,

Gerald V. Sack

Gerald V. Sack
Manager, Exempt Organizations
Group 4