



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

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Contact Person:

Identification Number:

Telephone Number:

Employer Identification Number:

Legend:

Trust	=
Corporation	=
State	=
County	=
City	=
Supporting Organization	=

Dear

We have considered your revised request dated August 11, 2009 for a ruling on the federal tax consequences of the transactions described herein, under the provisions of sections 170, 501, 507, 508, 509, and Chapter 42 of the Internal Revenue Code (the "Code")

FACTS

Trust was organized under State law by a Declaration of Trust for the purpose of improving the lives of the people of metropolitan City. The Trust was established nearly a century ago under the Trust name. The Internal Revenue Service recognized the Trust as an organization described in section 501(c)(3) of the Code and classified it as a publically supported organization under section 170(b)(1)(A)(vi). Trust's organizing document states that its purpose is to receive gifts, administer funds and make distributions for charitable purposes for the mental, moral, intellectual and physical improvement, assistance and relief of the inhabitants of the County, State.

Corporation was formed by the Executive Committee of the Trust as a not-for-profit corporation under State law by the Executive Committee of the Trust. The Corporation was funded with assets from the Trust. The Internal Revenue Service recognized Corporation as an organization described in section 501(c)(3) of the Code and classified it as a public charity described in sections 509(a)(1) and 170(b)(1)(A)(vi).

Corporation's original Articles of Incorporation and Bylaws stated that its purpose is to receive money and other property by gift, administer funds, and make distributions for charitable purposes for the benefit of the residents of the City metropolitan area. It has been described to the local community as an affiliate of the Trust since its inception. In recent years, most of the donations have been made to the Corporation, rather than the Trust.

The organizing documents of the Trust and the Corporation state that all gifts, devises and bequests of property are made subject to the terms and conditions of these documents. The Corporation's organizing documents state that the Corporation is subject to the organizing documents of the Trust.

The organizing documents of the Trust and Corporation require that both organizations be subject to a common governing body. Specifically, the members of the Executive Committee of the Trust serve as the Directors of the Corporation, thus giving the Executive Committee of the Trust control over the Corporation.

The organizing documents of the Trust and Corporation state that all gifts, devises and bequests of property are made subject to the terms and conditions of the resolution. The Executive Committee of the Trust and board of directors of the Corporation each have the responsibility to ensure that the application and distribution of funds are made exclusively for one or more of the Trust's charitable purposes.

Further, the organizing documents of the Trust and Corporation each give their boards of directors the power to modify conditions or restrictions concerning the distributions of income and principal for charitable purposes and to remove any trustee that has breached its fiduciary duty or failed to produce a reasonable return of net income.

Trust and Corporation's organizing documents require that each prepare annual financial reports. Trust and Corporation have filed separate Forms 990 each year. Trust continues to be publicly supported because it normally receives at least 10% of its total support from governmental units or contributions made directly or indirectly by the general public. Corporation is publicly supported because it normally receives at least one-third of its support from those sources.

Trust, pursuant to a proposed transaction, plans to operate Corporation as one of its component parts and not as an organization separately recognized as exempt under section 501(c)(3) of the Code for federal tax law purposes.

Although the Corporation would have qualified as a component part of the Trust since the Corporation was created, the Corporation and the Trust have been submitting separate Form 990's and calculating their respective public support tests separately. The Corporation has been advertised to the local community as an affiliate of the Trust and most of the donations in recent years have been made to the Corporation. Trust and Corporation understand that a growing number of community foundations are receiving more donations from the general public, in the corporate form compared to the trust form. Treating the Corporation as a component part of the Trust for the purposes of calculating the public support test will more

accurately reflect the operations of the Trust and Corporation. In addition, both the Trust and Corporation will obtain administrative efficiencies and lower expenses associated with the preparation of Form 990. As a part of its transition to actually operating as a component part of Trust, Corporation has represented that it will file a final Form 990 and will label it as a final return.

RULING REQUESTED

That for purposes of sections 170, 501, 507, 508, 509 and Chapter 42 of the Code, for the fiscal year beginning October 1, 2006 and ending September 30, 2007, and all future fiscal years, the Trust will continue to be treated as a single entity community trust and the Corporation will be treated as a component part of the Trust.

LAW

Section 6033 of the Code describes the general filing requirements for exempt organizations and in particular specifies certain information required by section 501(c)(3) organizations, in section 6033(b).

Section 1.170A-9T(f)(11)(i) of the Income Tax Regulations ("regulations") states that any organization that meets the requirements in section 1.170A-9T(f)(11)(iii) through (vi) will be treated as a single entity, rather than as an aggregation of separate funds. In addition, all funds associated with such organization (whether a trust, not-for-profit corporation, unincorporated association, or a combination thereof), which meet the requirements of section 1.170A-9T(f)(11)(ii), will be treated as component parts of such organization.

Section 1.170A-9T(f)(11)(ii) of the regulations provides that, to be treated as a component part of a community trust referred to in paragraph (f)(11)(i) of this section, a trust or fund: (A) must be created by gift, bequest, legacy, devise, or other transfer to a community trust which is treated as a single entity under section 1.170A-9T(f)(11); and (B) may not be directly or indirectly subjected by the transferor to any material restriction or condition with respect to the transferred assets.

Section 1.170A-9T(f)(11)(iii) of the regulations provides that the organization must be commonly known as a community trust, fund, foundation or other similar name conveying the concept of a capital or endowment fund to support charitable activities in the community or area it serves.

Section 1.170A-9T(f)(11)(iv) of the regulations provides that all funds of the organization must be subject to a common governing instrument or a master trust or agency agreement, which may be embodied in a single document or several documents containing common language. In addition, if a community trust adopts a new governing instrument (or creates a corporation) to put into effect new provisions (applying to future transfers to the community trust), the adoption of such new governing instrument (or creation of a corporation with a governing instrument) which contains common language with the existing governing instrument shall not preclude the community trust from meeting the requirements of this paragraph.

Section 1.170A-9T(f)(11)(v) of the regulations provides: (A) that the organization must have a common governing body or distribution committee, which either directs or monitors the distribution of all the funds exclusively for charitable purposes. In addition, the governing body must have the power in the governing instrument, or other applicable document: (B)(1) to modify any restriction or condition on the distributions of funds for any specified charitable purposes or to specified organizations if in the sole judgment of the governing body, such restriction or condition becomes, in effect, unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community or area served; (B)(2) to replace any participating trustee, custodian, or agent for breach of fiduciary duty under state law; and (B)(3) to replace any participating trustee, custodian, or agent for failure to produce a reasonable return of net income over a reasonable period of time.

Section 1.170A-9T(f)(11)(v)(E) of the regulations provides that the governing body must commit itself to exercise these powers in the best interests of the community trust.

Section 1.170A-9T(f)(11)(v)(F) of the regulations provides that the governing body must commit itself to obtain information and take other appropriate steps with the view to seeing that each participating trustee, custodian or agent, with respect to each restricted trust or fund that is, and with respect to the aggregate of the unrestricted trusts or funds that are, a component part of the community trust, administers such trust or fund in accordance with the terms of its governing instrument and accepted standards of fiduciary conduct to produce a reasonable return of net income, with due regard to safety of principal, in furtherance of the exempt purposes of the community trust.

Section 1.170A-9T(f)(11)(vi) of the regulations provides that the organization must prepare periodic financial reports treating all of the funds held by the community trust, either directly or in component parts, as funds of the organization.

Section 1.170A-9T(f)(12)(i) of the regulations indicates, that those entities which fail to qualify as component parts of a community trust will be treated as a separate entity for purposes of subchapter A of chapter 61 of Subtitle F. . . section 6033 of the Code if the Form 990 filed annually by the community trust included financial information with respect to such fund and treated such fund in the same manner as other component parts. They will be treated as the entity's separate returns and the first such return filed by the community trust will be treated as the notification required of the separate entity for purposes of section 508(a).

ANALYSIS

The regulations list the requirements for a group of funds such as the Trust and Corporation and their affiliates to be treated as a single entity in section 1.170A-9T(f)(11)(iii) through (vi).

Trust has been established under the name Trust for nearly a century. The Trust and Corporation are both named for the community they serve and are commonly known in the community as endowment funds that support charitable activity in that community. Therefore, Trust and Corporation both meet the requirement of Section 1.170A-9T(f)(11)(iii) of the regulations.

The organizing documents of the Trust and the Corporation state that all gifts, devises and bequests of property are made subject to the terms and conditions of these documents. Therefore, all the donor funds will be subject to a common governing instrument or a master trust or agency agreement, which may be embodied in several documents containing common language, within the meaning of section 1.170A-9T(f)(11)(iv) of the regulations. Accordingly, Trust and Corporation both meet this requirement also.

The organizing documents of the Trust and Corporation each state that the Executive Committee of the Trust and Board of Directors of the Corporation, which are required to be the same people, have the responsibility to ensure that the application and distribution of funds are made exclusively for one or more of the Trust's charitable purposes. Thus, they meet the requirement of section 1.170A-9T(f)(11)(v) of the regulations that a common governing body monitor the distribution of all funds for charitable purposes.

The organizing documents of the Trust and Corporation each give their boards of directors the power to modify conditions or restrictions concerning the distributions of income and principal for charitable purposes and to remove any trustee that has breached its fiduciary duty or for failure to produce a reasonable return of net income. Therefore, both Trust and Corporation meet the requirements of section 1.170A-9T(f)(11)(v) of the regulations.

Trust and Corporation's organizing documents require that each organization prepare annual reports. Trust has continuously prepared such reports in which it treated its component funds as funds of Trust. Similarly, Trust expects to report the funds and assets of Corporation as part of a single entity. Therefore, both Trust and Corporation meet this requirement of Section 1.170A-9T(f)(11)(vi) of the regulations.

Although Trust and Corporation will continue to be legally separate entities, because they meet the requirements described in section 1.170A-9T(f)(11)(iii) through (vi) of the regulations, as required by section 1.170A-9T(f)(11)(i), they will be treated as a single entity rather than as an aggregation of separate funds for federal tax law purposes.

Once a single entity is identified, the component part provisions of the regulations determine whether a particular fund or trust may be considered part of the single entity. All funds associated with an organization (whether a trust, non-for-profit corporation, unincorporated association or a combination) that is treated as a single entity, and which meets the requirements of section 1.170A-9T(f)(11)(ii), will be treated as component parts of such organization. Section 1.170A-9T(f)(11)(i) of the regulations.

To be treated as a component part of a community trust, a trust or fund: (A) must be created by gift, bequest, legacy, devise, or other transfer to a community trust which is treated as a single entity under section 1.170A-9T(f)(11); and (B) may not be directly or indirectly subjected by the transferor to any material restriction or condition with respect to the transferred assets. Section 1.170A-9T(f)(11)(ii) of the regulations.

As noted above, Corporation is an organization that pursuant to the above ruling will be treated as a single entity for the purposes of the component part test. Corporation was created by a transfer from Trust and has been operating for almost 25 years. Trust will file Form 990 which will include income and expenses of its component funds including Corporation. For the same initial tax year, Corporation will cease filing Form 990.

In addition, neither Corporation's articles of incorporation or bylaws permit any donor to Corporation to impose any material restriction or condition with respect to the donated assets. Corporation meets the two requirements of section 1.170A-9T(f)(11)(ii) of the regulations, Corporation and all funds associated with corporation will be treated as component parts of Trust.

RULINGS

Based on your facts and representations:

Trust will be treated as a single entity under section 1.170A-9T(f)(11)(i) of the regulations. In addition, Corporation will be treated as a component part of the Trust under section 1.170A-9T(f)(11)(ii). Funds created within the Trust or Corporation, if they otherwise meet the requirements of section 1.170A-9T(f)(11)(i) will be treated as component parts of a single community trust under section 1.170A-9T(f)(11).

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.

This ruling is based on the facts as they were presented and on the understanding that there will be no material changes in these facts. This ruling does not address the applicability of any section of the Code or regulations to the facts submitted other than with respect to the sections described. Because it could help resolve questions concerning your federal income tax status, this ruling should be kept in your permanent records.

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

In accordance with the Power of Attorney currently on file with the Internal Revenue Service, we are sending a copy of this letter to your authorized representative.

Sincerely,

Ronald Shoemaker
Manager, Exempt Organizations
Technical Group 2

Enclosure
Notice 437