

## Internal Revenue Service

Number: **202533005**  
Release Date: 8/15/2025  
Index Number: 170.19-00

Department of the Treasury  
Washington, DC 20224

Third Party Communication: None  
Date of Communication: Not Applicable

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, ID No.

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Refer Reply To:  
CC:EEE:EOET:EO2  
PLR-120064-24

Date:  
May 01, 2025

### LEGEND:

Foundation =

Corporation =

State =

Date 1 =

State Region =

Dear :

This letter responds to your request for rulings that Foundation and Corporation will be treated as a single entity and Corporation will be treated as a component part of Foundation under Treas. Reg. § 1.170A-9(f)(11), as well as related rulings. Foundation represents the facts as follows.

### FACTS

Foundation was established as a trust under State law on Date 1. Since its formation, Foundation has operated as a community foundation in State Region by receiving gifts, administering funds, and making distributions for charitable purposes. Foundation has been recognized as exempt under section 501(c)(3) and is classified as a public charity under section 170(b)(1)(A)(vi).

Foundation states that its trustees have determined that reorganization into a joint corporate and trust structure will allow it to have a more effective governance structure, to attract additional contributions, and to further advance its charitable mission. Foundation plans on forming Corporation, which will be a nonprofit corporation under State law. Corporation will be funded with assets of Foundation. Although some funds will remain with Foundation, Foundation indicates that most contributions going forward will be made to Corporation.

Foundation's current trust instrument provides that it is operated exclusively for public charitable uses and purposes, including all charitable, scientific, literary, and educational uses and purposes, and for the prevention of cruelty to children or animals as the trustees, in their absolute and uncontrolled discretion, determine will assist and promote the common good and welfare of State Region. An amendment to this trust instrument provides that the Foundation may not carry out any activities not permitted to be carried on by an organization exempt under section 501(c)(3) or by an organization, contributions to which are deductible under section 170(c)(2).

Foundation plans on amending and restating its trust instrument to modernize and clarify certain provisions and to adjust Foundation's governance structure to account for the formation of Corporation. Foundation states that Corporation's charitable purposes will be substantively the same as Foundation's. Also, most of the substantive provisions in Corporation's articles of organization ("Articles") will be the same as Foundation's amended and restated trust instrument. Further, Corporation's Articles provide that it is subject to all provisions in the amended and restated trust agreement.

Foundation states that its trustees will become directors of Corporation's board of directors ("Board") and therefore the two entities will have the same governing body. Both Foundation's amended and restated trust instrument and Corporation's Articles provide that Board must direct and monitor the distribution of all funds to ensure that they are used exclusively for charitable purposes under section 170.

Foundation also indicates that Board will approve a resolution committing itself to exercise the powers described in Treas. Reg. sections 1.170A-9(f)(11)(v)(B), 1.170A-9(f)(11)(v)(C), and 1.170A-9(f)(11)(v)(D) in the best interests of the organization, as well as to obtain information to ensure that all funds are administered according to the terms of its governing instrument and accepted standards of fiduciary conduct to produce a reasonable return of net income while safeguarding principal, in furtherance of its exempt purposes.

Further, Foundation's amended and restated trust instrument and Corporation's Articles provide that Board has absolute discretion to modify any restriction or condition on the distribution of funds for any specified charitable purposes or to a specified organization if the restriction or condition conflicts with the charitable needs of State Region. These documents also allow Board to replace any custodian, agent, trustee or director for failure to produce a reasonable return of net income over a reasonable period of time

and replace any custodian, agent, trustee or director for breach of fiduciary duty. Further, these documents also require the Board to prepare periodic financial reports that treat all of the of the funds and other property held as being part of the overall organization. Foundation represents that it has continuously prepared these reports, treating its component funds as funds of Foundation.

Corporation's Articles provide that all gifts, grants, devises, and bequests to Corporation are subject to its Articles and bylaws. Foundation's trust instrument contains similar language. Also, neither Corporation's Articles nor its bylaws permit any donor to Corporation to impose any material restriction on donated assets. In addition, Corporation's Articles provide that it is subject to all provisions contained in Foundation's amended and restated trust agreement.

Based on the documentation submitted and the facts and representations described above, Foundation requested the following rulings.

#### RULINGS REQUESTED

1. Foundation and Corporation will be treated as a "single entity" under Treas. Reg. section 1.170A-9(f)(11)(i).
2. Corporation, and all funds created within Corporation that otherwise meet the requirements of Treas. Reg. section 1.170A-9(f)(11)(i), will be treated as "component parts" of Foundation under Treas. Reg. section 1.170A-9(f)(11)(ii).
3. Corporation will not be required to file a separate Form 990, but may be included as a "component part" of Foundation on Foundation's Form 990 filed under Foundation's EIN.
4. Contributions to Corporation will be fully deductible to donors as charitable contributions under section 170.
5. The amendment and restatement of Foundation's instrument and the formation of Corporation will not adversely affect Foundation's status as an organization exempt under section 501(c)(3) and as a public charity described in section 170(b)(1)(A)(vi).

#### LAW

Section 6033 provides, in general, that every organization exempt from taxation under section 501(a) shall file an annual return. Section 6033(b) generally provides the information to be furnished annually by organizations described in section 501(c)(3).

Treas. Reg. section 1.170A-9(f)(11)(i) provides that, for purposes of sections 170, 501, 507, 508, 509, and Chapter 42, any organization that meets the requirements in section 1.170A-9(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 1.170-9(f)(11)(ii), will be treated as component parts of such organization.

Treas. Reg. section 1.170A-9(f)(11)(ii) 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 Treas. Reg. section 1.170A-9(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.

Treas. Reg. section 1.170A-9(f)(11)(iii) 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.

Treas. Reg. section 1.170A-9(f)(11)(iv) requires that all funds of the organization 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.

Treas. Reg. section 1.170A-9(f)(11)(v)(A) requires that the organization must have a common governing body which directs or, in the case of a fund designated for specified beneficiaries, monitors the distribution of all funds exclusively for charitable purposes.

Treas. Reg. section 1.170A-9(f)(11)(v)(B) requires that the governing body of a community trust have the power to:

- (1) Modify any restriction or condition on the distributions of funds for any specified charitable purpose or to specified organizations if in the sole judgment of the governing body (without the necessity of approval by any participating trustee, custodian or agent) such restriction becomes, in effect, unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community or area served;
- (2) Replace any participating trustee, custodian or agent for breach of fiduciary duty under state law; and
- (3) Replace any participating trustee, custodian or agent for failure to produce a reasonable rate of return.

Treas. Reg. section 1.170A-9(f)(11)(v)(E) provides that the governing body of the community trust must commit itself to exercise certain specified powers in the best interests of the community trust.

Treas. Reg. section 1.170A-9(f)(11)(v)(F) provides that the governing body shall (by resolution or otherwise) 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.

Treas. Reg. section 1.170A-9(f)(11)(vi) requires the organization to prepare periodic financial reports treating all of the funds which are held by the community trust, either directly or in component parts, as funds of the organization.

Treas. Reg. section 1.170A-9(f)(12)(i) provides that in the case of a fund that is ultimately treated as not being a component part of a community trust pursuant to this paragraph (f)(12), if the Forms 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 thereof, such returns filed by the community trust prior to the taxable year in which the Commissioner notifies such fund that it will not be treated as a component part will be treated as a separate return for purposes of subchapter A of Chapter 61 of Subtitle F.

## ANALYSIS

### Requested Ruling 1

Treas. Reg. section 1.170A-9(f)(11)(i) provides that, for purposes of sections 170, 501, 507, 508, 509, and Chapter 42, any organization that meets the requirements in section 1.170A-9(f)(11)(iii) through (vi) will be treated as a single entity, rather than as an aggregation of separate funds.

Foundation plans on forming Corporation, which will have a similar name, reflecting the community they serve in State Region. Therefore, Foundation and Corporation meet the requirement of Treas. Reg. section 1.170A-9(f)(11)(iii).

Foundation's amended and restated trust instrument and Corporation's Articles provide that any gifts, grants, devises, or bequests to Foundation or Corporation are subject to the provisions contained in the amended and restated trust instrument, Articles, and bylaws. In addition, most of the substantive provisions in the Articles are substantially the same as the corresponding provisions in the amended and restated trust instrument. Also, Corporation's Articles provide that it is subject to all provisions contained in Foundation's amended and restated trust agreement. Therefore, Foundation and Corporation meet the requirement of Treas. Reg. section 1.170A-9(f)(11)(iv).

As provided in the amended and restated trust instrument and Articles, a common governing body directs the distribution of funds and monitors them to ensure that they are used exclusively for charitable purposes. Therefore, Foundation and Corporation meet the requirement of Treas. Reg. section 1.170A-9(f)(11)(v)(A).

The amended and restated trust instrument and the Articles give the Board the power to modify any of the restrictions on the distribution of funds, replace any participating trustee, custodian or agent for breach of fiduciary duty under state law, and for failure to produce a reasonable rate of return. In addition, Foundation states that Board will approve a resolution to comply with the requirements of Treas. Reg. sections 1.170A-9(f)(11)(v)(E) and 1.170A-9(f)(11)(v)(F). Therefore, Foundation and Corporation meet the requirement of Treas. Reg. section 1.170A-9(f)(11)(v)(B).

Finally, the amended and restated trust instrument and the Articles require Board to prepare periodic financial reports treating all of the funds held by Foundation and Corporation as being held by a single organization. Foundation represents that it has continuously prepared such reports, treating its component funds as funds of Foundation. Therefore, Foundation and Corporation meet the requirement of Treas. Reg. section 1.170A-9(f)(11)(vi).

Because Foundation and Corporation meet all the requirements in Treas. Reg. section 1.170A-9(f)(11)(i), they will be treated as a single entity rather than as an aggregation of separate funds for purposes of sections 170, 501, 507, 508, 509 and Chapter 42.

### Requested Ruling 2

Treas. Reg. section 1.170A-9(f)(11)(ii) provides that, to be treated as a component part of a community trust referred to in paragraph (f)(11) 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 Treas. Reg. section 1.170A-9(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.

Foundation states that it will make a gift to Corporation upon its creation. Therefore, Corporation will meet the requirement of Treas. Reg. section 1.170A-9(f)(11)(ii)(A). In addition, neither Corporation's Articles or bylaws permit any donor to Corporation to impose any material restriction or condition with respect to donated assets. Therefore, Corporation will meet the requirement of Treas. Reg. section 1.170A-9(f)(11)(ii)(B).

Because Corporation will meet the requirements of Treas. Reg. section 1.170A-9(f)(11)(ii), Corporation, and all funds created within Corporation that otherwise meet the requirements of Treas. Reg. section 1.170A-9(f)(11)(ii), will be treated as component parts of Foundation.

Requested Ruling 3

Section 6033 generally provides that every organization exempt from taxation under section 501(a) shall file an annual return. For purposes of sections 170, 501, 507, 508, 509, and Chapter 42, Ruling No. 1 above holds Foundation and Corporation will be treated as a single entity, and Ruling No. 2 holds Corporation will be treated as a component part of Foundation. Therefore, because Foundation and Corporation are treated as a single entity for purposes of sections 170, 501, 507, 508, 509 and Chapter 42, Foundation and Corporation will file an annual return (Form 990) as a single entity. Corporation will not be required to file a separate Form 990, but will be included as a component part of Foundation on Foundation's Form 990. See, *generally*, Treas. Reg. section 1.170A-9(f)(12)(i) (separate return required when not treated as a component part).

Requested Ruling 4

As explained above, Foundation and Corporation will be treated as a single entity for the purposes of several sections, including section 170. Therefore, contributions to Corporation will be fully deductible to donors as charitable contributions under section 170, provided that they meet the requirements of this section.

Requested Ruling 5

Foundation has already been recognized as exempt under section 501(c)(3) and classified as a public charity under section 170(b)(1)(A)(vi). Foundation represents that its amended and restated trust instrument will be substantially similar to its original one, with only minor changes to modernize and clarify certain provisions as well as to adjust its governance structure to account for formation of Corporation. Also, as noted above, Foundation and Corporation will meet the requirements to be treated as a single entity under Treas. Reg. section 1.170A-9(f)(11)(i). Therefore, the amendment and restatement of Foundation's trust instrument and the formation of Corporation will not adversely affect Foundation's exempt status under section 501(c)(3) and public charity classification under section 170(b)(1)(A)(vi), provided that it continues to meet the requirements of these sections.

**RULINGS**

Based on the facts and representations submitted by Foundation, we have determined:

1. Foundation and Corporation will be treated as a "single entity" under Treas. Reg. Section 1.170A-9(f)(11)(i).
2. Corporation, and all funds created within Corporation that otherwise meet the requirements of Treas. Reg. Section 1.170A-9(f)(11)(i), will be treated as "component parts" of Foundation under Treas. Reg. Section 1.170A-9(f)(11)(ii).

3. Corporation will not be required to file a separate Form 990, but may be included as a “component part” of Foundation on Foundation’s Form 990 filed under Foundation’s EIN.
4. Contributions to Corporation will be fully deductible to donors as charitable contributions under section 170, provided that they meet the requirements of this section.
5. The amendment and restatement of Foundation’s trust instrument and the formation of Corporation will not adversely affect Foundation’s status as an organization exempt under section 501(c)(3) and as a public charity described in section 170(b)(1)(A)(vi), provided that it continues to meet the requirements of these sections.

The rulings contained in this letter are based upon information and representations submitted by or on behalf of Foundation and accompanied by penalty of perjury statements executed by an individual with authority to bind Foundation and upon the understanding that there will be no material changes in the facts. While this office has not verified any of the material submitted in support of the request for these rulings, it is subject to verification on examination. The Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) will revoke or modify a letter ruling and apply the revocation retroactively if there has been a misstatement or omission of controlling facts; the facts at the time of the transaction are materially different from the controlling facts on which the ruling was based; or, in the case of a transaction involving a continuing action or series of actions, the controlling facts change during the course of the transaction. See Rev. Proc. 2025-1, 2025-1 I.R.B. 1, section 11.05.

This letter does not address the applicability of any section of the Code or Regulations to the facts submitted, other than those sections specifically described. Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. IRC section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to Taxpayer’s authorized representatives.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

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.

Sincerely,

Andrew F. Megosh, Jr.  
Senior Tax Law Specialist  
Exempt Organizations Branch 2  
Employee Benefits, Exempt Organizations, and  
Employment Taxes

cc: