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

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SIN - 4947.01-00
No Third Party Contacts
Date:
JUL 27 2000

Contact Person:

ID Number:

Telephone Number:
Fax:

T:EO:RA:T4

Employer Identification Number:

Legend:

A =
M =
P =
X =

Dear Applicant:

This refers to your ruling request under section 4947(a)(1) of the Internal Revenue Code.

The information submitted indicates that X was created under agreement dated February 7. 1986 between A (the "Settlor") and a bank trustee. The Trust Agreement provides that the trust estate was to be held and administered for the sole benefit of the Settlor during her lifetime. After the Settlor's death the trust estate is to be held and administered in perpetuity for the sole benefit of M, a private, four-year, liberal arts college. All income generated by X is to be paid at least annually to M to be used to provide scholarships to students based on need and preferably those who are residents of P.

The Trust Agreement was amended on February 10, 1999. Article XIII was added to the Trust Agreement that prohibited X from conducting or carrying on any activities not permitted by an organization exempt under section 501 (c)(3) of the Code, or contributions to which are deductible under sections 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522. It also prohibited X from engaging in any act that would cause it to be liable for taxes under sections 4941, 4942, 4943, 4944 and 4945.

A died in 1999. The Estate of A timely filed Form 706, United States Estate (and Gene&n-Skipping Transfer) Tax Return. The return showed a charitable deduction under section 2055 of the Code to be held for the benefit of M.

Section 4947(a)(1) of the Code provides that for purposes of part II of subchapter F of chapter I (other than section 508(a), (b), and (c)) end for purposes of this chapter, a trust which is not exempt from taxation under section 501 (a), ail of the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B), and for which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 (or the corresponding provisions of prior law), shall be treated as an organization described in section 501 (c)(3).

Section 53.4947-l (b)(1) of the Foundation and Similar Excise Taxes Regulations provides that a "charitable trust" within the meaning of section 4947(a)(1), is a trust which is not exempt from taxation under section 501 (a), all of the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B), and for which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for the corresponding provisions of prior law).

Section 1.508-3(e)(1) of the regulations provides that a charitable trust described in section 4947(a)(1) (unless also described in a paragraph of 509(a)) is subject to all the provisions of paragraph (a) of this section.

Section 1.508-3(a) of the regulations provides that a private foundation shall not be exempt from taxation under section 501 (a) for a taxable year unless by the end of such taxable year its governing instrument includes provisions the effects of which are:

(1) To require distributions at such times and in such manner as not to subject the foundation to tax under section 4942, and

(2) To prohibit the foundation from engaging in any act of self-dealing (as defined in section 4941 (d)), from retaining any excess business holdings (as defined in section 4943 (c)), from making any investments in such manner as to subject the foundation to tax under section 4944, and from making any taxable expenditure (as defined in section 4945(d)).

After A's death and the settlement of all interests benefiting A, X meets all of the elements of a charitable trust set forth in section 4947(a)(1) and the regulations: X is not exempt from taxation because it has not filed for recognition of exempt status; all of X's unexpired interests are devoted solely to scholarships for M students, an educational purpose described in section 170(c)(2)(B) of the Code; and a deduction has been allowed under section 2055 for the value of its held assets.

Further, the Trust Agreement and amendments comply with the requirements for organizational documents of private foundations contained in section 1.508-3(a) of the regulations. Specifically, the Trust Agreement contains express provisions requiring compliance with sections 4941 (d), 4942, 4943(c), 4944 end 4945.

Based on the foregoing, we rule that X, after a reasonable period of administration, should be classified as a charitable trust under section 4947(a)(1) of the Code and treated as a private foundation under 509(a).

This ruling is baaed on the assumption that there is no material change in the submitted facts. We do not express or imply any opinion as to the federal tax consequences of the transactions under any other provisions of the Code.

This ruling is directed only to the organization that requested it. Section 61 10(k)(3) of the Code provides that it may not be used or cited as precedent.

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Please keep this letter in your permanent records.

Sincerely,

(signed) Robert c Harper, Jr.

Robert C. Harper, Jr.
Manager, Exempt Organizations
Technical Group 3

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