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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Release Date: 8/25/2006
Date: April 10, 2006

No Third Party Contact
UIL: 507.04-00

Contact Person:
Identification Number:
Telephone Number:
Employer Identification Number:

Dear :

This is in response to your ruling request for an advance ruling under section 1.507-2(e)(1) that you can be expected to satisfy the requirements of section 507(b)(1)(B)(i) of the Internal Revenue Code during the 60-month period beginning January 1, 2006

You are exempt from federal income tax as an organization described in section 501(c)(3) of the Code and classified as a private operating foundation under section 4942(j)(3). You have provided notice that you intend to terminate your private foundation status by operating as a public charity described in sections 170(b)(1)(A)(vi) and 509(a) of the Code.

You operate a program for disadvantaged and at-risk youth. The program is a comprehensive five-year teen leadership and volunteerism program. The program consists of a month-long summer camp and year long community involvement from eighth grade through high school graduation.

The goals of your program are to help teens achieve their full potential for the benefit of themselves, their families and their communities. With a five-year progressive structure, the specific program and activities at each age level are unique and build on previous experiences to help the teens grow and succeed.

Teens from disadvantaged circumstances are invited to apply to your program through nominations by local community partners (schools and youth service agencies). Your program is operated in five metropolitan areas and you partner with more than seventy community partners in six metropolitan areas. After teens are selected to the program, they commit to stay in the year-round program for five years and maintain good grades and good behavior.

During your first few years of existence, your focus was on creating a model program and selecting the staff and partners needed for early success. During this phase, you were primarily supported by your related for-profit corporation. Nevertheless, you were able to raise significant public support approximating 10% of your total support. You expect your public support to increase significantly in the near future due to planned public fundraising events that will be

conducted in the five metropolitan areas where you will conduct the programs. You expect the public support to significantly exceed the levels of public support that you received in the past and to continue to meet the one-third public support test of section 170(b)(1)(A)(vi) in the future.

Your long term goal is to endow each of the five local programs combining existing resources with significant public support. Prior to January 1, 2006, you partnered with two organizations to establish significant endowments in two of the communities in which you operate. Most of the support received for these endowments qualifies as public support.

Currently, you are involved in a fundraising campaign in another community where you have formed a local board of prominent business and community leaders. You plan on starting fundraising campaigns in two other communities in the next 6 to 18 months. Based on the success of your fundraising efforts to date, you predict a significant increase in public support for your programs during the 60 month period commencing on January 1, 2006.

You are requesting the following ruling:

As contemplated by section 1.507-2(e) of the Income Tax Regulations, you can be expected to satisfy the requirements of section 507(b)(1)(B)(i) of the Code during the 60 month period beginning January 1, 2006 and upon completion be described in sections 170(b)(1)(A)(vi) and 509(a)(1) of the Code.

Law:

Section 509(a) of the Code provides that the term "private foundation" means a domestic or foreign organization described in section 501(c)(3) other than (1) an organization described in section 170(b)(1)(A)(other than in clauses (vii) and (viii)), and (2) an organization which normally receives more than one-third of its support in each taxable year from any combination of gifts, grants, contributions or membership fees.

Section 170(b)(1)(A)(vi) of the Code describes an organization which normally receives a substantial part of its support (exclusive of income received in the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501(a)) from a governmental unit referred to in subsection (c)(1) or from direct or indirect contributions from the general public.

Section 1.170A-9(e)(1)(ii) of the Income Tax Regulations provides for the definition of a section 170(b)(1)(A)(vi) organization. In general, an organization is publicly supported if it normally receives a substantial part of its support from a governmental unit referred to in section 170(c)(1) or from direct or indirect contributions from the general public.

Section 1.170A-9(e)(2) of the regulations provides that an organization will be treated as a publicly supported organization if the total amount of support which the organization receives from governmental units referred to in section 170(c)(1), from contributions made directly or indirectly from the general public, or from a combination of these sources, equals at least 33 1/3 percent of the total support normally received by the organization.

Section 507(b)(1)(B)(i) of the Code provides that the private foundation status of an organization with respect to which there have not been willful and flagrant acts giving rise to liability for tax under section 42, shall be terminated if :

- (i) The organization meets the requirements of paragraph (1), (2), or (3) of section 509(a) for a continuous period of 60 calendar months beginning with the first day of any taxable year which begins after December 31, 1969.
- (ii) The organization notifies the secretary (in such manner as the Secretary may by regulations prescribe) before the commencement of such 60 month period that it is terminating its private foundation status, and
- (iii) The organization establishes to the satisfaction of the Secretary (in such manner as the Secretary may by regulations prescribed) immediately after the expiration of such 60 month period that such organization has complied with clause (i).

Section 1.507-2(d)(i) of the regulations provides that in order to meet the requirements of section 507(b)(1)(B) for the 60-month termination period as a section 509(a)(1) or (2) organization, an organization must meet the requirements of section 509(a)(1) or (2), as the case may be for a continuous period for at least 60 calendar months. In determining whether an organization seeking status under section 509(a)(1) as an organization described in section 170(b)(1)(A)(iv) or (vi) or section 509(a)(2) "normally" meets the requirements set forth under such sections, support received in taxable years prior to the commencement of the 60 month period shall not be taken into consideration, except as otherwise provided in this section. Therefore, in such cases rules similar to the rules applicable to new organizations would apply.

Section 1.507-2(d)(1)(ii) of the regulations provides that for purposes of section 507(b)(1)(B), an organization will be considered to be a section 509(a)(1) organization described in section 170(b)(1)(A)(vi) of the Code for a continuous period of 60 calendar months only if the organization satisfies the provisions of section 1.170A-9(e) based upon aggregate data for such entire period, rather than for any shorter period set forth in section 1.170A-9(e). Except for the substitution of such 60-month period for the periods described in section 1.170A-9(e), all other provisions of such regulations pertinent to determining an organization's normal sources of support shall remain applicable.

Section 1.507-2(e)(1) of the regulations provides that an organization which is terminating its private foundation status as described in section 507(b)(1)(B)(ii) over a 60 month period 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. Such an advance ruling may be issued if the organization can reasonably be expected to meet the requirements of section 507(b)(1)(B) during the 60-month period. The issuance of the ruling will be discretionary with the Commissioner.

Section 1.507-2(e)(2) of the regulations provides that in determining whether an organization can reasonably be expected (within the meaning of subparagraph (1) of this paragraph) to meet the requirements of section 507(b)(1)(B)(i) 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

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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 this section during the 60-month period. In making such a determination, all pertinent facts and circumstances shall be considered.

Based on the information you submitted about your planned and ongoing fundraising activities, we conclude that you are likely to meet the public support test of section 170(b)(1)(A)(vi) over a 60 month period beginning January 1, 2006, because you received at least 1/3 of your total support from direct or indirect contributions from the general public during that time. Accordingly, we conclude that you can be expected to satisfy the requirements of sections 507(b)(1)(B)(i) of the Code during the 60 month period beginning January 1, 2006.

Pursuant to the provisions of section 1.507-2(e)(4) of the regulations, you cannot rely on this ruling to avoid imposition of tax under section 4940 of the Code. Consequently, if you do not pay the tax imposed by section 4940 of the Code for any taxable year or years during the 60 month period, and it is subsequently determined that such tax is due for such year or years (because you did not in fact complete a successful termination pursuant to section 507(b)(1)(B) and were not treated as an organization described in section 509(a)(1), (2) or (3) for such years), you are liable for interest in accordance with section 6601 if any amount of tax under section 4940 has not been paid on or before the last date prescribed for payment. However, since any failure to pay such tax during the 60-month period (or prior to the revocation of such ruling) is due to reasonable cause, the penalty under section 6651 with respect to the tax imposed by section 4940 shall not apply.

Pursuant to section 1.507-2(e)(3) of the regulations for purposes of sections 170, 545(b)(2), 556(b)(2), 642(c), 4942, 4945, 2055, 2106(a)(2), and 2522, grants or contributions to you, as an organization which has obtained a ruling under section 1.507-2(e)(1) of the regulations, will be treated as made to an organization described in section 509(a)(1), (2), or (3), as the case may be, until notice that such advance ruling is being revoked is made to the public (such as by publication in the Internal Revenue Bulletin). The preceding sentence shall not apply, however, if the grantor or contributor was responsible for, or aware of, the act or failure to act that resulted in the organization's failure to meet the requirements of section 509(a)(1), (2), or (3), or acquired knowledge that the Internal Revenue Service had given notice to such organization that its advance ruling would be revoked.

Even through you are treated as a non-private foundation for some purposes, pursuant to section 6033 and 6056 of the Code you are still required to file an annual return, Form 990-PF, Return of Private Foundation or Section 4947(a)(1) Trust Treated as Private Foundation. Page 1 of Form 990-PF has a block to indicate that you are in the process of terminating your private foundation status. You should attach a copy of this ruling to each 990-PF you file during the 60 month period of your termination. Form 990-PF must be filed by the 15th day of the fifth month after the end of your annual accounting period. A penalty of \$10 per day is charged when a return is filed late, unless there is a reasonable cause for the delay. However, the maximum penalty charged cannot exceed \$5,000 or 5 percent of your gross receipts for such year, which ever is less. This penalty may also be charged if a return is not complete, so please be sure your return is complete before you file it.

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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.

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,

Debra Cowen

Steven B. Grodnitzky
Acting Manager,
Exempt Organizations
Technical Group 1

Enclosure
Notice 437