200009058

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

UIL: 4947.01-00

Contact Person:

Telephone Number:

In Reference to:
OP:E:EO:T:3

Date: DEC 3 1999

Legend:

A=

B=

Dear Sir or Madam:

This is in response to a ruling request dated August 24, 1999, submitted on your behalf by your authorized representative.

A and B, the Donors, have executed a Trust Agreement establishing a trust to distribute trust income and corpus to organizations exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code for the advancement of education, medical and health science. The Trust will receive charitable contributions from the Donors during Donors' lives and from Donors' estates upon the Donors' deaths.

The principal reason for creating the trust is to provide an entity that will receive charitable bequests from the Donors' estates and distribute the Trust's assets according to Donors' intention principally for the furtherance of education, medical and health science.

Article Third, Section A of the Trust Agreement provides in relevant part that the Trust is being established and operated exclusively for charitable, scientific (medical and health science), and educational purposes.

Article Third Section B of the Trust Agreement provides that "on such termination [of the Trust], assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or to the corresponding section of any future tax code, or shall be distributed to the

302

federal government, or to a state or local government, for a public purpose".

Section 4947(a)(1) of the Code provides that, for purposes of part II of subchapter F of chapter 1 (other than sections 508(a), (b), and (c)) and for purposes of this chapter, a trust that 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 (or the corresponding provisions of prior law), shall be treated as an organization described in section 501(c)(3).

Section 53.4947-1(a) of the Foundation and Similar Excise Taxes Regulations generally provides that section 4947 subjects trusts which are not exempt from taxation under section 501(a), all or part of the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B), and which have amounts in trust for which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 to the same requirements and restrictions as are imposed on private foundations. The basic purpose of section 4947 is to prevent these trusts from being used to avoid the requirements and restrictions applicable to private foundations. For purposes of this section, a trust shall be presumed (in the absence of proof to the contrary) to have amounts in trust for which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 if a deduction would have been allowable under one of these sections.

Section 1.508-1(a)(3)(d) of the regulations states that solely for purposes of sections 507, 508(d)(1), 508(d)(2)(A) and 508(d)(3), 508(e), 509 and Chapter 42, a trust described in section 4947(a)(1) does not have to file the notice described in section 508(a). (However, a trust described in section 501(c)(3) which was organized after October 9, 1969, shall be exempt under section 501(a) by reason of being described in section 501(c)(3) only if it files such notice.)

Section 1.508-2(b)(1)(viii) of the regulations states that since a charitable trust described in section 4947(a)(1) is not required to file a notice under section 508(a), sections 508(d)(2)(B) and 1.508-2(b)(1)(i)(b) which disallow deductions for gifts or bequests do not apply to such a trust.

The Trust in this case is not exempt under section 501(c)(3) of the Code. Because the Trust Agreement contains provisions which

clearly indicate that all of the Trust's unexpired interests are devoted to one or more of the purposes described in section 170(c)(2)(B), the Trust will be treated as an organization described in section 501(c)(3) and subject to the same requirements and restrictions as are imposed on private foundations. In addition, gifts or bequests made to the Trust will be allowable as deductions under sections 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2) or 2522. The Trust is presumed (in the absence of proof to the contrary) to have amounts in trust for which a deduction was allowed if a deduction would have been allowable under those sections.

Based on the information submitted and the representations made therein, we rule as follows:

(1) The Trust is a non-exempt charitable trust within the meaning of section 4947(a)(1) of the Code and section 53.4947-1(b) of the regulations because all the unexpired interests of the Trust are devoted to one or more of the purposes described in section 170(c)(2)(B) and a deduction is allowable for contributions made to such Trust under sections 170 and 2055.

(2) Any individual donor contributing to the Trust shall be allowed to deduct, for the taxable year during which the contribution is made to the Trust, their contributions as a charitable contribution to the extent of the maximum permissible limitations of section 170(b)(1)(B) or section 170(b)(1)(D), whichever shall apply, because such trust is a private foundation other than one that is described within the meaning of section 170(b)(1)(E)(ii).

(3) Any taxable estate providing bequests, legacies, devises, or transfers to the Trust shall be allowed to deduct from the value of the gross estate, the amount of such charitable contribution as provided for in section 2055 of the Code.

These rulings are directed only to the organization that requested them. Section 6110(k)(3) of the Code provides that they may not be used or cited by others as precedent.

Because this ruling may help resolve any questions regarding your exempt status, you should keep a copy of this ruling letter in your permanent files.

If you have any questions please call the person whose name and telephone number appear in the heading of this letter.

Sincerely,

Robert C. Harper, Jr.

Robert C. Harper, Jr.
Chief, Exempt Organizations
Technical Branch 3