26 CFR 601.201: Rulings and determination letters
(Also Part I, §§ 170, 509, 1.170A-9, 1.509(a)-7)

Rev. Proc. 2018-32

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SECTION 1. PURPOSE

This revenue procedure modifies and supersedes Rev. Proc. 81-6, 1981-1 C.B. 620; Rev. Proc. 81-7, 1981-1 C.B. 621; Rev. Proc. 89-23, 1989-1 C.B. 844; and Rev. Proc. 2011-33, 2011-25 I.R.B. 887, and combines them into one revenue procedure to provide more easily accessible guidance to grantors and contributors to tax-exempt organizations on deductibility and reliance issues.

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This revenue procedure sets forth the extent to which grantors and contributors may rely on the listing of an organization in Internal Revenue Service (IRS) databases of organizations eligible to receive tax-deductible contributions under § 170, for purposes of determining whether the grants or contributions to such organizations may be deductible under § 170, and for certain other purposes. This revenue procedure also provides safe harbors for determining that a grantor's or contributor's grant or contribution will not cause the grantor or contributor to be considered to be responsible for, or aware of, an act that results in an organization's loss of public charity classification and for determining that a grant or contribution is considered an unusual grant.

Finally, this revenue procedure incorporates the modifications made in the transition from the use of Publication 78 to the use of IRS's database, Tax Exempt Organization Search (Pub. 78 data), reflects the changes to regulations eliminating the advance ruling process and changing the computation period for determining public support for organizations classified under §§ 170(b)(1)(A)(vi) and 509(a)(1) or under § 509(a)(2), and provides non-substantive modifications and changes throughout for clarity and readability purposes.

SECTION 2. BACKGROUND

.01 Charitable Contributions Eligible for Deductions.

Contributions to or for the use of an organization described as eligible for charitable contributions in § 170(c), may be deductible, with certain limitations, by contributors for federal income tax purposes. It is the responsibility of an organization receiving contributions to ensure that its character, purposes, activities, and method of operation

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satisfy the qualification requirements of § 170(c) at the time of the contribution in order for grantors and contributors to have the assurance that their contributions will be deductible when made.

.02 Organizations That Cease to Qualify as Organizations Described in § 170(c).

A determination letter or ruling on tax-exempt status is based solely on the facts, attestations, and representations contained in the administrative record, including the application for exemption (Form 1023 or Form 1023EZ), and any information submitted in support of the application. If there is a material change, inconsistent with exemption, in the character, purposes, or method of operation from those on which the determination letter or ruling was based, or if there was any omission or misstatement of material information, which includes incorrect representations or attestations as to the organization's organizational documents, the organization's exempt purpose, the organization's conduct of prohibited and restricted activities, or the organization's eligibility to file Form 1023-EZ, and the change, omission, or misstatement is such that the organization ceases, as a matter of law, to qualify as an organization described in § 170(c), the determination letter or ruling ceases to be applicable. In such circumstances, except as otherwise provided by the validation provision of § 7428(c) (see section 9 of this revenue procedure), it is only by the exercise of the authority under § 7805(b)(8) that grantors or contributors to the organization may be allowed a deduction for grants or contributions made after the organization ceases to qualify under § 170(c).

.03 Regulatory Provisions for Reliance.

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Under § 1.170A-9(f)(5)(ii) of the regulations, a grantor or contributor may rely on the continued validity of a determination letter or ruling concluding that an entity is described in § 170(b)(1)(A)(vi) until the IRS makes a public announcement of the entity's change in status. However, the grantor or contributor may not rely on a determination letter or ruling if the grantor or contributor was responsible for, or aware of, the act or failure to act that resulted in the loss of classification or knew that the loss was imminent.

Similarly, under § 1.509(a)-7, once an organization has received a determination letter or ruling classifying it as an organization described in § 509(a)(1), (2), or (3), the treatment of contributions and grants, and the status of grantors and contributors to such organization, will not be affected by a subsequent revocation by the IRS of the organization's classification as a public charity until the date on which the IRS publicly announces the change of status, unless the grantor or contributor had prior knowledge of the revocation of the determination letter or ruling or was in part responsible for, or was aware of, the act or failure to act which gave rise to the revocation of the determination letter or ruling classifying the organization as a public charity.

.04 Provision of § 501(p) - Suspension of Tax-exempt Status of Organizations Designated as Terrorist Organizations.

Section 501(p) provides for the suspension of tax-exempt status under § 501(a) of organizations designated as terrorist organizations under federal law (as described in § 501(p)(2)) and for the denial of charitable contribution deductions for contributions made to such organizations during the period of suspension. Suspension of tax-exempt status and non-deductibility of contributions begin on the date of the first publication of a

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designation or identification described in § 501(p)(2) (ordinarily published by the Office of Foreign Assets Control or OFAC). Under § 501(p)(7), the IRS provides public notice of the suspension and non-deductibility of contributions. However, pursuant to § 501(p)(4) and (7), grantors and contributors may not rely on the IRS listing of organizations with regard to tax-exempt status and eligibility for deductible contributions with respect to an organization from the date of the first publication of a terrorist designation of the organization by OFAC or otherwise as provided under § 501(p)(2). Thus, the rules set forth in this revenue procedure regarding grantor and contributor reliance on IRS lists and databases of exempt organizations do not apply in the case of suspensions under § 501(p) from the time that a terrorist designation is made under § 501(p)(2). Also, a designated organization may not challenge the suspension of tax-exempt status or the denial of deductions in an administrative or judicial proceeding (including but not limited to proceedings under § 7428) relating to the federal tax liability of such organization or other person.

.05 Prior Reliance Revenue Procedures.

The IRS has issued several revenue procedures to further describe the extent to which grantors and contributors may rely on the IRS's identification of an organization's tax-exempt and foundation status and to provide safe harbors with regard to the effect of grants and contributions on an organization's foundation status.

(1) Rev. Proc. 81-6

Rev. Proc. 81-6 provides a safe harbor to all grantors and contributors to determine if they were entitled to rely on the classification of an organization as a public charity, and would be deemed not to have knowledge of, be responsible for, or be aware of a

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substantial and material change in an organization's source of support that gave rise to the revocation of a determination letter or ruling classifying the organization as a public charity.

(2) Rev. Proc. 81-7

Rev. Proc. 81-7 provides a safe harbor to grantors and contributors as to the grants and contributions that will be considered unusual grants. Under §§ 1.170A-9(f)(6)(ii) and 1.509(a)-3(c)(3), the receipt of an "unusual grant" will not result in a grantee organization losing its classification as a public charity and becoming a private foundation because an unusual grant is excluded from both the numerator and the denominator of the applicable support fraction for purposes of determining whether the organization is publicly supported under § 170(b)(1)(A)(vi) and § 509(a)(1) or under § 509(a)(2). Thus, a grantor or contributor who makes a grant or contribution that is an "unusual grant" to a publicly supported organization will not be responsible for an act that results in the organization's loss of classification as a publicly supported organization and is entitled to rely on the organization's classification as a publicly supported organization.

(3) Rev. Proc. 89-23

Rev. Proc. 89-23 provides an additional safe harbor to private foundation grantors and contributors for determining if they were entitled to rely on the classification of an organization, and would be deemed not to have knowledge of, or be responsible for, or aware of, a substantial and material change in an organization's source of support that gave rise to the revocation of a determination letter or ruling classifying the organization as a public charity. This additional safe harbor was provided to private foundations

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because in general their reliance on the classification of an organization relates to their liability for excise taxes under §§ 4942 and 4945 if they make grants or contributions to other private foundations, rather than to the deductibility of contributions. More specifically, a private foundation may not be able to count a grant as a qualifying distribution under § 4942(g) if the grant causes the recipient organization to lose its classification as a public charity and become a private foundation. A private foundation may also be subject to an excise tax under § 4945(a) on taxable expenditures if it has not followed the expenditure responsibility requirements of § 4945(d)(4)(B) in regard to a grant that causes the recipient organization to lose its classification as a public charity and become a private foundation.

(4) Rev. Proc. 2011-33.

As an update to earlier revenue procedures, Rev. Proc. 2011-33 sets forth the extent to which grantors and contributors may rely on the listing of an organization in Publication 78, Cumulative List of Organizations Described in § 170(c), for purposes of deducting contributions under § 170 and making grants under §§ 4942, 4945, and 4966.

.06 Reliance Revenue Procedure Combined with Safe Harbor Revenue Procedures into One Revenue Procedure.

In order to simplify compliance for grantors and contributors, this revenue procedure combines the safe harbors of Rev. Procs. 81-6, 81-7, and 89-23 and the reliance revenue procedure of Rev. Proc. 2011-33, and replaces them with one revenue procedure on deductibility and reliance issues for grantors and contributors.

SECTION 3. IRS LISTS AND DATABASES

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To assist the general public, the IRS maintains and updates two different publicly available compilations of information on organizations eligible to receive tax-deductible contributions under § 170. The first compilation lists organizations that are eligible to receive tax-deductible charitable contributions (eligible organization list) and the second compilation is an extract of certain information concerning tax-exempt organizations from the IRS electronic Business Master File (BMF) (the EO BMF Extract).

.01 IRS Searchable Databases.

Historically, the eligible organization list was maintained in IRS Publication 78. In Rev. Proc. 2011-33, the IRS announced that it had discontinued publishing the paper version of Publication 78 and would maintain the eligible organization list solely on an electronic database. The electronic database was then maintained on the IRS website (www.irs.gov) as part of Exempt Organizations Select Check ("Select Check"). Select Check consisted of three searchable databases located on the IRS website that contained information about tax-exempt organizations. The first database contains the eligible organization list. This searchable database is the successor to Publication 78, and is described on the website (as of the date of publication of this revenue procedure) as listing organizations that "are eligible to receive tax-deductible charitable contributions (Pub. 78 data)." (The remainder of this revenue procedure refers to this eligible organization list as "Tax Exempt Organization Search (Pub. 78 data).") The second database (Automatic Revocation of Exemption List or Auto-Revocation List) contains a list of organizations that have had their tax-exempt status revoked under § 6033(j) for failure to file a required annual return or notice for three consecutive years. The third database contains the information reported in notices (Forms 990-N,

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commonly referred to as e-Postcards) filed under § 6033(i) by organizations that are not required to file a Form 990 or Form 990-EZ return under § 6033 due to their size. In May 2018, the IRS changed the name of Select Check to Tax Exempt Organization Search and expanded its capabilities. As part of the change to Tax Exempt Organization Search, the IRS retained the three existing databases and added two additional searchable databases to the search tool. The first new database includes images of Form 990 series annual returns filed by tax-exempt organizations on or after January 1, 2018, to the extent that these annual returns are available to the public pursuant to § 6104. The second new database includes images of favorable determination letters issued by the IRS to organizations to recognize the organization's tax-exempt status. The searchable determination letters include those favorable determination letters issued on or after January 1, 2014. Finally, Tax Exempt Organization Search now allows customers to search interactively across all five databases.

.02 Tax Exempt Organization Search (Pub. 78 Data) - In General.

Generally, Tax Exempt Organization Search (Pub. 78 data) includes organizations that have received a determination letter or ruling stating that contributions to the listed organization (or in the case of a group exemption, to the listed central organization and those subordinate organizations covered by the group exemption letter) may be deductible as provided in § 170. (Note that Tax Exempt Organization Search (Pub. 78 data) does not include separate listings for subordinate organizations covered by a group exemption letter.) The information contained in Tax Exempt Organization Search

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(Pub. 78 data) is taken from the BMF, and is generally updated monthly. Each version of Tax Exempt Organization Search (Pub. 78 data) contains a posting date.

.03 Tax Exempt Organization Search (Pub. 78 Data) - Deductibility Codes.

Through the use of a "deductibility code", Tax Exempt Organization Search (Pub. 78 data) indicates the foundation classification under §509(a) of the listed organization. This classification assists grantors and contributors in determining the appropriate percentage limitations on deductibility of charitable contributions to the organization and also assists private foundations and sponsoring organizations of donor-advised funds making grants to it in determining whether they would be required to exercise expenditure responsibility. Tax Exempt Organization Search (Pub. 78 data) does not indicate specifically whether an organization is described in §509(a)(1) or (2) or a particular subparagraph of §170(b)(1)(A). However, Tax Exempt Organization Search (Pub. 78 data) was modified from the format used in Publication 78 in order to indicate whether an organization is a supporting organization described in §509(a)(3) and whether the organization is a Type III non-functionally integrated supporting organization.

.04 EO BMF Extract.

The EO BMF Extract is available to the public through the Tax Statistics section of the IRS website. The EO BMF Extract contains more information, in a slightly different format, than Tax Exempt Organization Search (Pub. 78 data) and includes information on most tax-exempt organizations, rather than just the tax-exempt organizations eligible to receive tax-deductible contributions under §170 that are included in Tax Exempt Organization Search (Pub. 78 data). Among the data fields provided for organizations

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in the EO BMF Extract are an organization's name and Employer Identification Number (EIN), address, subsection code (the paragraph under § 501(c) under which the organization is recognized as exempt), ruling date, affiliation code (status as an independent, central, or subordinate organization), deductibility code, and foundation code (indicating whether an organization is a private foundation, private operating foundation, or public charity and, if applicable, the appropriate subparagraph of § 170(b)(1)(A)). For determination letters or rulings issued in 2011 and after, the foundation code generally includes an indication whether a § 509(a)(3) supporting organization is a Type I, Type II, or Type III functionally or non-functionally integrated supporting organization. Each version of the EO BMF Extract contains a posting date.

.05 Downloading and Viewing the EO BMF Extract.

The EO BMF Extract and its corresponding instructions are available for download directly from the IRS website (www.irs.gov). Instructions for downloading the EO BMF Extract are also located on the IRS website. Generally, the EO BMF Extract information is extracted and updated on a monthly basis.

.06 Auto-Revocation List.

When an organization's tax-exempt status has been automatically revoked pursuant to § 6033(j) (providing for the automatic revocation of the tax-exempt status of organizations that are required to file annual returns or notices pursuant to § 6033(a)(1) or (i) but fail to do so for 3 consecutive years), the name of such organization is removed from Tax Exempt Organization Search (Pub. 78 data) and added to the Auto-Revocation List in the next revision cycle. The Auto-Revocation List contains the organization's name, EIN, city, state, zip code, country, exemption type, effective date

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of revocation, and the date the organization's name was posted on the Auto-Revocation List. The Auto-Revocation List is generally updated monthly. An organization whose tax-exempt status has been automatically revoked under § 6033(j) that subsequently applies for reinstatement of tax-exempt status in accordance with Rev. Proc. 2014-11, 2014-3 I.R.B. 41, (or any successor revenue procedure) and that is recognized by the IRS as tax-exempt will appear on Tax Exempt Organization Search (Pub. 78 data). However, its name will remain on the Auto-Revocation List because the IRS is statutorily required to maintain and publish a list of organizations whose tax-exempt status has been automatically revoked. An organization whose name appears on the Auto-Revocation List in error, however, will be removed from the list. The Auto-Revocation List also provides a column that lists the reinstatement date for organizations that applied for and received reinstatement of their tax-exempt status after it was automatically revoked pursuant to § 6033(j).

.07 Affirmation Letter.

For the convenience of organizations, grantors, and contributors, the IRS will issue an affirmation letter confirming that an organization is currently recognized as tax-exempt, and, if a § 501(c)(3) organization, its foundation status. See § 6104(a)(1)(A). The IRS will also issue to a tax-exempt organization an affirmation letter to reflect a name or address change of the tax-exempt organization. See section 3.01(2) of Rev. Proc. 2018-5, 2018-1 I.R.B. 235, or the corresponding provision of any successor revenue procedure.

SECTION 4. RELIANCE ON TAX EXEMPT ORGANIZATION SEARCH (PUB. 78 DATA) AND THE EO BMF EXTRACT FOR TAX-EXEMPT STATUS

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.01 General Reliance Rule.

If an organization listed in or covered by Tax Exempt Organization Search (Pub. 78 data) or the EO BMF Extract ceases to qualify as an organization to which contributions are deductible under §170 and the IRS revokes a determination letter or ruling concluding that the organization is one to which contributions are deductible under §170, grantors and contributors to that organization may generally rely on the determination letter or ruling information provided in Tax Exempt Organization Search (Pub. 78 data) or the EO BMF Extract that contributions to the organization are deductible under §170 until the date of a public announcement stating that the organization ceases to qualify as an organization contributions to which are deductible under §170. The public announcement may be made via the Internal Revenue Bulletin, on the portion of the IRS website (at www.irs.gov) that relates to exempt organizations, or by such other means designated to put the public on notice of the change in the organization's status.

.02 General Reliance Rule for Automatic Revocation.

If an organization listed in or covered by Tax Exempt Organization Search (Pub. 78 data) or the EO BMF Extract ceases to qualify as an organization to which contributions are deductible under §170 as a result of loss of tax-exempt status pursuant to §6033(j), grants and contributions made to the organization by persons unaware of the change in the status of the organization generally will be considered deductible in accordance with the rules of §170 if made on or before the date its name is posted on the Auto-Revocation List.

.03 Extended Reliance Under Certain Circumstances.

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Under certain circumstances, such as if a legally enforceable obligation under local law has been made to the organization prior to the date of the public announcement or posting, and the satisfaction of such obligation occurs on or after the date, the period for which a grant or contribution is deductible may be extended upon specific exercise of authority under § 7805(b)(8). See, e.g., Rev. Rul. 78-129, 1978-1 C.B. 67.

.04 Exception to the General Reliance Rule.

The IRS is not precluded from disallowing a deduction for any contribution made after an organization ceases to qualify under § 170(c) and prior to the public announcement or posting of the revocation if the grantor or contributor:

(1) Had knowledge of the revocation of the determination letter or ruling prior to the public announcement or posting;

(2) Was aware that such revocation was imminent; or

(3) Was in part responsible for, or was aware of, the activities or deficiencies on the part of the organization that gave rise to the loss of qualification.

.05 Reliance Rule for Subsequent Listing After Prior Revocation.

Grantors and contributors may rely on the organization's subsequent listing in Tax Exempt Organization Search (Pub. 78 data) or the EO BMF Extract for contributions or grants made after the date of the subsequent listing even if the organization's tax-exempt status was previously revoked if the date the organization is posted in Tax Exempt Organization Search (Pub. 78 data) or the EO BMF Extract is after the date of the public announcement of the revocation of the organization's tax-exempt status.

.06 Reliance Rule for Subsequent Listing After Prior Automatic Revocation.

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Similarly, grantors and contributors may rely on the organization's subsequent listing in Tax Exempt Organization Search (Pub. 78 data) or the EO BMF Extract for grants or contributions made after the date of the subsequent listing even if the organization's tax-exempt status was previously automatically revoked pursuant to § 6033(j) and the organization's name appears on the Auto-revocation List, if the date the organization is posted in Tax Exempt Organization Search (Pub. 78 data) or the EO BMF Extract is after the date of the posting of the organization on the Auto-Revocation List. Grantors and contributors may also rely on a determination letter, ruling, or an affirmation letter for an organization if the effective date of the letter is on or after the date of revocation for the organization listed on the Auto-Revocation List.

SECTION 5. RELIANCE ON TAX EXEMPT ORGANIZATION SEARCH (PUB. 78 DATA) AND THE EO BMF EXTRACT FOR PUBLIC CHARITY STATUS

.01 General Reliance Rule.

If an organization listed in or covered by Tax Exempt Organization Search (Pub. 78 data) or the EO BMF as a public charity ceases to qualify as a public charity and the IRS revokes a determination letter or ruling classifying the organization as a public charity, grantors and contributors to that organization may generally rely on the classification information provided in Tax Exempt Organization Search (Pub. 78 data) or the EO BMF Extract for contribution and grant purposes until the date of a public announcement stating that the organization ceases to qualify as a public charity. Grantors and contributors may also rely on any classification of an organization as a Type I, Type II, or Type III functionally or non-functionally integrated supporting organization in Tax Exempt Organization Search (Pub. 78 data) and the EO BMF

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Extract. Private foundations and sponsoring organizations of donor-advised funds may rely on an organization's public charity status (or supporting organization type), to the extent set forth in Tax Exempt Organization Search (Pub. 78 data) or the EO BMF Extract, for grant making purposes under §§ 4942, 4945, and 4966, until the date of a public announcement stating that the organization ceases to qualify as a public charity.

.02 Exception to General Reliance Rule.

The grantor or contributor is not entitled to rely on the listed public charity classification of an organization in Tax Exempt Organization Search (Pub. 78 data) or the EO BMF Extract or the listed classification of an organization in its determination letter or ruling if the grantor or contributor:

(1) Had knowledge of the revocation of the determination letter or ruling classifying the organization as a public charity prior to the announcement or posting, or

(2) Was in part responsible for, or was aware of, the act or failure to act that gave rise to the revocation of the determination letter or ruling classifying it as a public charity.

SECTION 6. CERTAIN LIMITATIONS ON TAX-EXEMPT AND PUBLIC CHARITY STATUS RELIANCE

.01 Reliance Provisions Apply Only to Certain Names of Organization.

The reliance on tax-exempt and public charity status provided by sections 4 and 5 of this revenue procedure applies only to grants or contributions made to an organization listed in or covered by Tax Exempt Organization Search (Pub. 78 data) or the EO BMF Extract in the organization's official name, its recognized popular name, or a contraction of either of these names that is reasonably identifiable or widely known. The reliance

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on tax-exempt and public charity status provided by sections 4 and 5 of this revenue procedure does not apply to contributions or grants made nominally to an organization listed in or covered by Tax Exempt Organization Search (Pub. 78 data) or the EO BMF Extract but with the understanding or on a condition that they be made available to or for the use of an organization not listed in or covered by Tax Exempt Organization Search (Pub. 78 data) or the EO BMF Extract.

.02 Reliance Provisions Do Not Apply to Organizations Until They Are Listed in or Covered by Tax Exempt Organization Search (Pub. 78 Data) or the EO BMF Extract.

The provisions of sections 4 and 5 of this revenue procedure do not apply to an organization until it is listed in or covered by Tax Exempt Organization Search (Pub. 78 data) or the EO BMF Extract.

.03 Reliance Provisions Do Not Apply to Subordinate Organizations.

The reliance on tax-exempt and public charity status provided by sections 4 and 5 of this revenue procedure does not apply to a subordinate organization covered by a group exemption letter regardless of whether the subordinate organization appears in the EO BMF Extract. For further information concerning reliance on group exemptions, consult the official subordinate listing approved by the listed central organization or contact the central organization directly. See Publication 4573, Group Exemptions.

SECTION 7. SAFE HARBORS FOR GRANTORS AND CONTRIBUTORS WHEN AN ORGANIZATION LOSES ITS PUBLIC CHARITY STATUS

.01 Aggregate Support Safe Harbor.

(1) For purposes of section 5.02 of this revenue procedure, grantors and contributors will not be considered responsible for, or aware of, an act that results in the

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loss of classification due to a change in financial support if the aggregate of grants or contributions received from such grantor or contributor for the taxable year of the recipient organization in which the grant or contribution is received is 25 percent or less of the aggregate support, as defined in section 7.01(2) or section 7.01(3) of this revenue procedure, received by the recipient organization for the four taxable years immediately preceding such taxable year. If a grant or contribution is made during the first four and one-half months of the recipient organization's taxable year, the computation period may consist of the four taxable years immediately preceding such taxable year or the four taxable years immediately preceding the prior taxable year.

(2) For purposes of section 7.01(1) of this revenue procedure, in computing aggregate support for publicly supported organizations described in § 170(b)(1)(A)(vi), the term "support" has the same meaning as for purposes of § 1.170A-9(f)(7), except that it does not include any support provided by the grantor or contributor (or disqualified persons with respect to the grantor or contributor).

(3) For purposes of section 7.01(1) of this revenue procedure, in computing aggregate support for publicly supported organizations described in § 509(a)(2), the term "support" has the same meaning as in § 509(d), except that it does not include any support provided by the grantor or contributor (or disqualified persons with respect to the grantor or contributor).

(4) The safe harbor provided in section 7.01 of this revenue procedure is not available to a grantor or contributor who is in a position of authority (such as a foundation manager within the meaning of § 4946(b)) with respect to the recipient organization (or who otherwise has the ability to exercise control over the recipient

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organization), or to a person who is standing in a relationship described in § 4946(a)(1)(C)-(G) with respect to such person who is in a position of authority or control. Similarly, the exclusion is not available to a person who obtains a position of authority with respect to the recipient organization (or who otherwise gains the ability to exercise control over the recipient organization), as a consequence of the grant or contribution, or to a person who will be standing in a relationship described in § 4946(a)(1)(C)-(G) with respect to such person who is in a position of authority or control.

(5) The safe harbor provision in section 7.01 of this revenue procedure is not applicable if the grantor or contributor has actual knowledge of the loss of classification of public charity status or after the date of a public announcement that the organization ceases to qualify as a public charity.

(6) The following examples illustrate the application of section 7.01 of this revenue procedure:

(a) Example 1: B was determined by the IRS in 2002 to be a § 509(a)(2) public charity and received total support of $340,000 in 2014 through 2017. B is a calendar year taxpayer. X, an individual, is considering making a grant of $30,000 to the organization in June 2018. X contributed $40,000 of the $340,000 of total support B received during the four-year period 2014-2017. Accordingly, B's aggregate support (as defined in section 7.01(3) of this revenue procedure) is $300,000. Because X's grant of $30,000 in 2018 is only 10 percent of B's aggregate support during the four years immediately preceding 2018, X's grant will not cause X to be considered to be

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responsible for an act that results in B's loss of public charity status, even if B is later determined to be a private foundation for its 2018 taxable year.

The computations are as follows:

Support received by B during the four-year computation period (2014-2017)	$340,000
Less: Support provided by X during the four-year computation period (2014-2017)	($40,000)
Aggregate support (as defined in section 7.01(3) of this revenue procedure) received by B during the four-year computation period	$300,000
Support provided by X during the 2018 tax year, divided by aggregate support (as defined in section 7.01(3) of this revenue procedure) received by B during the four-year computation period	$30,000 $300,000 = 10%

(b) Example 2: C was determined by the IRS in 2000 to be a § 509(a)(2) public charity. C is a calendar year taxpayer. Y, an individual, plans to make a $75,000 grant to C in early January 2018. C received total aggregate support in the amount of $320,000 during the four-year period 2013-2016. Y contributed $20,000 of the $320,000 of total support received by C during the four-year period 2013-2016. As of December 31, 2017, C estimated its total support for 2014-2017 to be $340,000. However, because C has not closed its books for 2017, C has not yet finally determined

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its total support for 2014-2017. Y contributed $60,000 to C during the four-year period 2014-2017.

Because Y's grant will be made in the first four and one-half months of C's taxable year, Y may use either the four-year computation period 2014-2017 or the four taxable years preceding the taxable year prior to the year of the grant (2013-2016). If Y elects the four-year computation period 2014-2017 and makes a grant in January 2018, Y would not know the amount of aggregate support (as defined in section 7.01(3) of this revenue procedure) that C received during the four-year period 2014-2017. If C's total support for 2014-2017 did not equal or exceed $360,000, Y's contribution of $75,000 would exceed 25 percent of C's aggregate support during the four-year computation period 2014-2017.

If, however, Y elects to use the four-year period consisting of 2013-2016, because Y's grant of $75,000 in 2018 is 25 percent of C's aggregate support (as defined in section 7.01(3) of this revenue procedure) during the four-year computation period 2013-2016, Y will be deemed not to be responsible for an act that results in C's loss of public charity status, even if C is later determined to be a private foundation for its 2018 taxable year.

If Y uses the 2014-2017 four-year computation period, the computations are as follows (assuming the estimates are the actual support):

Support received as of December 31, 2017, by C during the four-year computation period (2014-2017)	$340,000

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Less: Support provided by Y during the four-year computation period (2014-2017)	($60,000)
Aggregate support (as defined in section 7.01(3) of this revenue procedure) received as of December 31, 2017, by C during the four-year computation period	$280,000
Support provided by Y during the 2018 tax year, divided by aggregate support (as defined in section 7.01(3) of this revenue procedure) received as of December 31, 2017, by C during the four-year computation period. This amount exceeds the safe harbor maximum of 25 percent in section 7.01(1).	$75,000 $280,000 = 26.8 %

If Y uses the 2013-2016 four-year computation period, the computations are as follows:

Support received by C during the four-year computation period (2013-2016)	$320,000
Less: Support provided by Y during the four-year computation period (2013-2016)	($20,000)
Aggregate support (as defined in section 7.01(3) of this revenue procedure) received by C during the four-year computation period	$300,000

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Support provided by Y during the 2018 tax year,	$75,000
divided by aggregate support (as defined in section	$300,000
7.01(3) of this revenue procedure) received by C	
during the four-year computation period	= 25%

.02 Additional Safe Harbor for Private Foundation Grantors and Contributors.

(1) For purposes of section 5.02 of this revenue procedure, private foundation grantors or contributors will not be considered responsible for, or aware of, an act that results in a recipient organization's loss of classification as a public charity due to a change in financial support if the recipient organization has received a determination letter or ruling that it is described in §§ 170(b)(1)(A)(vi) and 509(a)(1) or in § 509(a)(2) and the recipient organization is not controlled directly or indirectly by the private foundation.

(2) For purposes of section 7.02(1) of this revenue procedure, a recipient organization is controlled, directly or indirectly, by a private foundation if the private foundation and disqualified persons with respect to the private foundation, by aggregating their votes or positions of authority, may require the recipient organization to perform any act that significantly affects its operations or may prevent the recipient organization from performing such an act.

(3) The safe harbor in section 7.02 of this revenue procedure is not applicable if the private foundation grantor or contributor has actual knowledge of the loss of classification of public charity status or after the date of a public announcement that the organization ceases to qualify as a public charity.

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.03 Safe Harbor for "Unusual Grants."

(1) For purposes of §§ 1.170A-9(f)(6)(ii) and 1.509(a)-3(c)(3), a grant or contribution with all of the characteristics described in this section 7.03(1) (see § 1.509(a)-3(c)(4)) will be considered an unusual grant.

(a) By reason of its size, the grant or contribution would adversely affect the status of a recipient organization under §§ 170(b)(1)(A)(vi) and 509(a)(1) or under § 509(a)(2), absent its treatment as an "unusual grant" under §§ 1.170A-9(f)(6)(ii) and 1.509(a)-3(c)(3).

(b) The grant or contribution is not made by a person who created the organization or by a person who was a substantial contributor (within the meaning of § 507(d)(2)) to the organization prior to the grant or contribution (or by a person standing in a relationship described in § 4946(a)(1)(C) through (G) to either person).

(c) The grant or contribution is not made by a person who is in a position of authority with respect to the organization (such as a foundation manager within the meaning of § 4946(b)), by a person who otherwise has the ability to exercise control over the recipient organization, or by a person standing in a relationship described in § 4946(a)(1)(C) through (G) to any person who is in a position of authority or control. Similarly, the grant or contribution is not made by a person who, as a consequence of the grant or contribution, becomes a person of authority with respect to the organization, a person who otherwise gains the ability to exercise control over the organization, or a person who will be standing in a relationship described in § 4946(a)(1)(C) through (G) to any person who is in a position of authority or control.

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(d) The grant or contribution is in the form of cash, readily marketable securities, or assets that directly further the exempt purpose of the organization, such as a contribution of a painting to a museum.

(e) The recipient organization has received a final determination letter or ruling classifying it as an organization described in §§ 170(b)(1)(A)(vi) and 509(a)(1) or in § 509(a)(2) and the organization is actively engaged in a program of activities in furtherance of its exempt purpose.

(f) The grantor or contributor has not imposed material restrictions or conditions (within the meaning of § 1.507-2(a)(7)) upon the organization in connection with the grant or contribution.

(g) The terms and amount of the grant or contribution are expressly limited to underwriting no more than one year's operating expenses, if the grant or contribution is intended to underwrite operating expenses, and the grant or contribution is not used to finance capital items.

(2) A grant or contribution would adversely affect the status of an organization under §§ 170(b)(1)(A)(vi) and 509(a)(1) or under § 509(a)(2) for purposes of section 7.03(1) of this revenue procedure only if the organization otherwise meets the support test described in §§ 170(b)(1)(A)(vi) and 509(a)(1) or in § 509(a)(2) in the year being tested without taking into account the grant or contribution. The year being tested is the year for which satisfaction of one of the public support tests is being determined, and for this purpose, that year's public support is calculated based upon the aggregate public support received during the four prior taxable years and the current (or tested) taxable year. A grant or contribution does not satisfy the requirements of the safe harbor in

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section 7.03(1) of this revenue procedure if it is made to an organization that would fail to satisfy the public support test regardless of whether the grant or contribution at issue were made.

(3) A potential recipient organization may request a determination letter under Rev. Proc. 2018-5, and any successor revenue procedure, concerning whether a proposed grant or contribution that does or does not satisfy the requirements of the safe harbor in section 7.03(1) of this revenue procedure will constitute an unusual grant, as provided for in §§ 1.509(a)-3(c)(5) and 1.170A-9(f)(6)(iv).

(4) The following examples illustrate the application of section 7.03 of this revenue procedure.

(a) Example 1: During the years 2013-2017, D, an organization described in § 509(a)(2), received aggregate support of $350,000. Of this amount, $105,000 was received from grants, contributions and receipts from admissions that are described in § 509(a)(2)(A)(i) and (ii). An additional $150,000 was received from grants and contributions from substantial contributors within the meaning of § 507(d)(2) (who are disqualified persons with respect to the recipient organization). The remaining $95,000 was gross investment income as defined in § 509(e).

Included in the contributions from substantial contributors and disqualified persons was a contribution of $50,000 from Z. Z was not the creator of or a substantial contributor to the organization prior to the making of this contribution (or a person standing in a relationship described in § 4946(a)(1)(C) through (G) to any such person.) Z is also not in a position of authority with respect to the organization (or a person standing in a relationship described in § 4946(a)(1)(C) through (G)). In addition, all of

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the other requirements of section 7.03(1) of this revenue procedure were met with respect to Z's contribution. If Z's contribution is excluded from D's support by reason of the fact that it is an unusual grant, D will have received, for the years 2013-2017, $105,000 from sources described in § 509(a)(2)(A)(i) and (ii), $100,000 in grants and contributions from disqualified persons, and $95,000 in gross investment income. Therefore, if Z's contribution is excluded from D's support, D meets the requirements of the § 509(a)(2) support test for the year 2017 because more than one-third of its support is from sources described in § 509(a)(2)(A)(i) and (ii) and no more than one-third of its support is gross investment income. Z's contribution would adversely affect the status of D under section 7.03(2) of this revenue procedure absent its treatment as an "unusual grant" because the organization otherwise meets the support test described in § 509(a)(2) in the year being tested without the benefit of the grant or contribution. The grant or contribution from Z would cause the organization to fail to satisfy the support test described in § 509(a)(2) if it was not treated as an unusual grant.

Because the requirements of section 7.03(1) of this revenue procedure are satisfied, the contribution is excludable as an unusual grant for purposes of §§ 1.170A-9(f)(6)(ii) and 1.509(a)-3(c)(3). Thus, Z's contribution of $50,000 will not be considered an act for which Z is responsible that results in A's loss of classification under § 509(a)(2).

The computations showing the effect of excluding Z's contribution from D's support are as follows:

Aggregate support received by D during the tax years from 2013 through 2017	$350,000

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Less: contribution from Z	($50,000)
Aggregate support of D less contribution from Z	$300,000
Gross investment income received by D as a percentage of aggregate support of D less contribution from Z	$95,000/ $300,000 = 31.67%
Grants, contributions, and receipts from admissions described in § 509(a)(2)(i) and (ii) received by D as a percentage of aggregate support of D less contribution from Z	$105,000/ $300,000 = 35%

(b) Example 2: Assume the same facts as in Example 1, except that for the years 2013-2017, D received $100,000 (instead of $150,000) from grants or contributions from substantial contributors and disqualified persons. In this case, if Z's contribution is excluded as an unusual grant, D will have received $105,000 from sources that are described in § 509(a)(2)(A)(i) and (ii), $50,000 in grants and contributions from disqualified persons, and $95,000 in gross investment income. If Z's contribution is excluded from D's support, D will have received more than one-third of its support from gross investment income and D would not meet the requirements of the § 509(a)(2) support test for the year 2017. Thus, even though all of the requirements of section 7.03(1) of this revenue procedure would otherwise be satisfied with respect to Z's contribution, under section 7.03(2) of this revenue procedure, the contribution does

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not satisfy the requirements of the safe harbor in section 7.03(1) of this revenue procedure and it is not excludable as an unusual grant because D would still not meet the support tests described in §§ 170(b)(1)(A)(vi) and 509(a)(1) or in § 509(a)(2) even if Z's contribution was excluded.

The computations showing the effect of excluding Z's contribution from D's support are as follows:

Aggregate support received by D during the tax years 2013 through 2017	$300,000
Less: contribution from Z	($50,000)
Aggregate support of D less contribution from Z	$250,000
Gross investment income received by D as a percentage of aggregate support of less contribution from Z	$95,000/ $250,000 = 38%

SECTION 8. RELIANCE ON EO BMF EXTRACT INFORMATION FROM OTHER SOURCES

.01 Requirements for Reliance on Information from Third Parties.

A grantor or contributor may rely on information about an organization from the EO BMF Extract that is obtained from a third party, so long as the requirements of this section 8.01 are met:

(1) The third party provides a report to the grantor or contributor that includes:

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(a) The organization's name, EIN, foundation status under § 509(a)(1), (2), or (3) (including supporting organization type, if applicable), and whether contributions to the organization are deductible;

(b) A statement that the information is from the most current update of the EO BMF Extract and the revision date of the EO BMF Extract containing the information; and

(c) The date and time the information was provided to the grantor or contributor; and

(2) The grantor or contributor retains a paper or electronic copy of the report.

SECTION 9. RELATIONSHIP WITH § 7428

.01 Application of § 7428

Section 7428 creates a remedy in the form of access to declaratory judgment procedures, in part, for cases involving a determination by the IRS with respect to the continuing qualification of an organization as one described in § 170(c)(2) or § 501(c)(3), or to the continuing classification of an organization under § 509(a). The remedy is available in these cases if the IRS determines that revocation of tax-exempt status under § 501(c)(3), status under § 170(c)(2), or foundation status under § 509(a) is appropriate, the organization has exhausted its administrative remedies, and the IRS has issued a final adverse determination letter to the organization. Under § 7428(b)(4), no action may be brought under § 7428 with respect to any automatic revocation of status described in § 6033(j)(1).

.02 Certain Contributions Are Valid During § 7428 Proceedings.

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Certain contributions are deemed valid under § 7428(c) during proceedings for declaratory judgment involving the revocation of a determination that the organization is described in § 170(c)(2). Under this provision, the organization continues to be treated as an organization described in § 170(c)(2) with respect to contributions from individuals (up to a maximum of $1,000 in the aggregate during the period during which statutory protection applies, as described in this section 9.02) and from other charitable organizations described in § 170(c)(2) that are exempt from tax under § 501(a) (other than organizations with respect to which there is pending a proceeding to revoke the determination under § 170(c)(2)) (without limit). Statutory protection for such contributions, if declaratory judgment is sought on the revocation, would begin on the date of the public announcement of the revocation or removal of the organization's name from Tax Exempt Organization Search (Pub. 78 data) or the EO BMF Extract, whichever is earlier, and end on the date on which a decision in the Tax Court becomes final or a judgment of the District Court of the United States for the District of Columbia or the U.S. Court of Federal Claims is entered that the organization is not described in § 170(c)(2). This reliance, however, is not extended to any individual who was responsible, in whole or in part, for the activities (or failures to act) on the part of the organization that were the basis for the revocation.

SECTION 10. ERRORS OR OMISSIONS

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Any errors or omissions with respect to a tax-exempt organization in Tax Exempt Organization Search (Pub. 78 data) or the EO BMF Extract should be reported by the tax-exempt organization to the toll-free IRS customer service line at 1-877-829-5500.

SECTION 11. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 81-6, Rev. Proc. 81-7, Rev. Proc. 89-23, and Rev. Proc. 2011-33 are modified and superseded.

SECTION 12. EFFECTIVE DATE

This revenue procedure is effective May 16, 2018.

SECTION 13. DRAFTING INFORMATION

The principal author of this revenue procedure is Melinda Williams of the Office of Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding this revenue procedure, contact Ms. Williams at 202-317-4086 (not toll-free call).

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