Exempt Organizations Technical Guide

TG 3-27: Foundation Classification – State/Municipal Colleges, Governmental Units, and Agricultural Research Organizations – IRC Sections 509(a)(1) and 170(b)(1)(A)(iv), (v), and (ix), and 509(a)(4)

Technical Guide Revision Date: 4/13/2026

Publication 6102 (4-2026) Catalog Number 95768H Department of the Treasury **Internal Revenue Service** www.irs.gov

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I. Overview of Technical Guide

(1) This Technical Guide (TG) discusses miscellaneous public charity foundation classifications. These are rarely encountered during the exemption application and examination processes. Each section of this TG can be viewed independently. The same terms and concepts may be addressed in multiple sections of this TG; however, they are applied separately and distinctly to each particular section of the Internal Revenue Code.

(2) The specific public charity foundation classifications discussed in this TG are the following:

a. Section 509(a)(1):

- Section 170(b)(1)(A)(iv) – Organizations for the Benefit of Certain State and Municipal Colleges and Universities
- Section 170(b)(1)(A)(v) – Governmental Units
- Section 170(b)(1)(A)(ix) – Agricultural Research Organizations

b. Section 509(a)(4) – Organizations Testing for Public Safety

(3) This TG discusses in detail each foundation classification listed above, organized by section.

(4) Each section provides:

a. Relevant technical information,

b. Applicable legal authority, and

c. Pertinent application considerations.

A. Overview of Exempt Status Under Section 501(c)(3)

(1) Section 501(a) of the Internal Revenue Code provides exemption from federal income tax for organizations described thereunder, including Section 501(c)(3).

(2) Section 501(c)(3) of the Internal Revenue Code describes:

> Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political

campaign on behalf of (or in opposition to) any candidate for public office.

B. Overview of Foundation Classifications

(1) Organizations exempt under Section 501(c)(3) are classified as either a private foundation or public charity under Section 509. By statute, an organization is a private foundation within the meaning of Section 509, unless it is described under one of the following foundation classifications:

a. Section 509(a)(1) provides exception from private foundation classification for organizations described in Section 170(b)(1)(A) (except clauses (vii) and (viii)). Those exceptions are the following:

- Section 170(b)(1)(a)(i) – Churches
- Section 170(b)(1)(a)(ii) – Schools
- Section 170(b)(1)(a)(iii) – Hospitals and medical research organizations
- Section 170(b)(1)(a)(iv) – Organizations that benefit a college or university owned or operated by a governmental unit,
- Section 170(b)(1)(a)(v) – Governmental entities
- Section 170(b)(1)(a)(vi) – Publicly supported organizations
- Section 170(b)(1)(a)(ix) – Agricultural research organizations
- Section 170(b)(1)(A)(x) – Federally chartered veterans' organizations.

b. Section 509(a)(2) provides exception from private foundation classification for broadly publicly supported organizations.

c. Section 509(a)(3) provides exception from private foundation classification for supporting organizations.

d. Section 509(a)(4) provides exception from private foundation classification for organizations organized and operated exclusively for testing for public safety.

(2) For a list of all TGs published and in process, see TG 0: Technical Guide Overview.

II. Section 170(b)(1)(A)(iv) Foundation Classification

(1) This section discusses the requirements for a Section 501(c)(3) organization to qualify under Sections 509(a)(1) and 170(b)(1)(A)(iv) as an organization that benefits a college or university owned or operated by a governmental unit.

A. Background / History

(1) Congress recognized that in certain states, local law prevented state universities or colleges from receiving gifts or bequests for particular university purposes.

Such laws required that gifts be placed in the general state treasury from which funds are appropriated by the legislature for state institutions.

Thus, the Internal Revenue Service (IRS) had ruled that contributions to such endowment funds were not gifts to the beneficiary university and therefore did not qualify for the more generous deduction treatment under Section 170(b)(1)(A).

To encourage gift giving for the use of public universities and colleges, the deduction available to donors to universities and colleges was extended to certain funds organized and operated for the benefit of state colleges and universities. See S. Rep. No. 585, 87th Cong., 1st Sess. 4 (1961).

(2) Section 170(b)(1)(A)(iv) was added to the Code in 1962, permitting a university endowment fund to qualify under Section 501(c)(3). See Pub. L. No. 87-858, Sec. 2(a), 76 Stat. 1134.

B. Relevant Terms

(1) **Benefit:** Something of value that is provided to the recipient college in support of its exempt purposes.

(2) **Expenditures:** Disbursements made for any one or more of the normal functions of colleges and universities.

(3) **Land-grant institutions:** Colleges and universities designated to receive benefits of the Acts of July 2, 1862 (7 USC Sections 301-305, 307-308, 12 Stat. 503-504) and August 30, 1890 (7 USC Sections 321-326, 328, 26 Stat. 417-419). Pub. L. 95-113, Section 1404(10). See 7 USC Sections 3101 and 3103.

These acts promoted establishment of institutions of higher learning focused on the agricultural and mechanical arts, without excluding other scientific and classical studies. Land-grant institutions now address many academic fields in addition to those of their foundational colleges of agriculture.

(4) **Political subdivision:** A government entity that has a sovereign power. See Treasury Regulation (Treas. Reg.) 1.103-1(b).

(5) **Sovereign powers:** The authority to tax, police, and enforce eminent domain. See Revenue Ruling (Rev. Rul.) 77-165, 1977-1 C.B. 21.

C. Law / Authority

(1) Section 170(b)(1)(A)(iv): An organization operated for the benefit of a college or university that is owned or operated by a governmental unit.

(2) Treas. Reg. 1.170A-9(c)(2): Organizations for the benefit of certain state and municipal colleges and universities.

D. Public Support Requirements

(1) The public support requirement of Section 170(b)(1)(A)(iv) is similar, but not identical, to that of Section 170(b)(1)(A)(vi).

(2) The regulations under Section 170(b)(1)(A)(iv), enacted in 1962, have always defined substantial public support in less detail than the regulations under Section 170(b)(1)(A)(vi), enacted in 1964.

These regulations have never cross-referenced each other.

(3) Treas. Reg. 1.170A-9(c)(2)(ii), which deals with the substantial public support requirement for Section 170(b)(1)(A)(iv) organizations, provides little elaboration of the Code provisions, except for the following principles:

a. An example of an indirect contribution from the public is the receipt by the organization of its share of the proceeds of an annual collection campaign of a community chest, community fund, or united fund.

b. In determining the amount of support received by such organization with respect to a contribution of property, which is subject to reduction under Section 170(e), the fair market value of the property must be considered.

(4) The regulations also state that support does not include "income received in the exercise or performance by the organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under Section 501(a)." See Treas. Reg. 1.170A-9(c)(2)(ii).

(5) Rev. Rul. 82-132, 1982-2 C.B. 107, provides the following guidance in distinguishing public support for Sections 170(b)(1)(A)(iv) purposes and 170(b)(1)(A)(vi) purposes:

a. The class of government entities referred to in Section 170(b)(1)(A)(iv) includes the United States or any state or political subdivision thereof.

b. Section 170(b)(1)(A)(vi) includes support from any governmental unit referred to in Section 170(c)(1) including:

- A state,
- A possession of the United States,
- Any political subdivision of either of the foregoing,
- The United States,
- The District of Columbia, and/or
- Indian tribal governments.

c. An organization that satisfies the substantial public support requirements of Section 170(b)(1)(A)(vi), by support from the United States or a state or political subdivision thereof or contributions from the general public, is deemed to satisfy the substantial public support requirements of Section 170(b)(1)(A)(iv).

d. However, an organization that fails to meet the substantial public support requirements of Section 170(b)(1)(A)(vi) may still meet the requirements under Section 170(b)(1)(A)(iv) and Treas. Reg. 1.170A-9(c)(2)(ii).

E. Expenditures for the Benefit of a College or University

(1) Under Treas. Reg. 1.170A-9(c)(2)(i), "expenditures to or for the benefit of a college or university" include expenditures made for any one or more of the normal functions of colleges and universities, such as:

a. The acquisition and maintenance of real property comprising part of the campus area,

b. The erection of, or participation in the erection of, college or university buildings,

c. The acquisition and maintenance of equipment and furnishings used for, or in conjunction with, normal functions of colleges and universities, and/or

d. Expenditures for scholarships, libraries and student loans.

F. Benefited College or University Requirements

(1) As described in Treas. Reg. 1.170A-9(c)(2)(iii), the college or university (including a land-grant college or university) to be benefited must be both:

a. A Section 170(b)(1)(A)(ii) organization (treating a school that is an integral part of a state or political subdivision as separately organized for this purpose), and

b. An agency or instrumentality of a state or political subdivision thereof, or owned or operated by a state or political subdivision thereof or by an agency or instrumentality of one or more states or political subdivisions.

G. Application Considerations

(1) An organization is required to apply to the IRS to be considered for exemption under Section 501(c)(3) with foundation classification under Sections 509(a)(1) and 170(b)(1)(A)(iv).

G.1. Forms 1023 and 1023-EZ

(1) Organizations applying for an initial determination of their tax-exempt status under Section 501(c)(3) may request classification under Sections 509(a)(1) and 170(b)(1)(A)(iv) on Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code. Form 1023 must be electronically submitted through www.Pay.gov, according to the instructions, with the correct user fee and all required supplemental documents and information.

Organizations not meeting the requirements for classification under Section 170(b)(1)(A)(iv) might qualify under another foundation classification.

(2) If eligible, organizations can request classification under Section 170(b)(1)(A)(iv) on Form 1023-EZ, Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code. Form 1023-EZ must be electronically submitted through www.Pay.gov, according to the instructions, with the correct user fee and all required supplemental documents and information.

Note: Organizations must complete the Form 1023-EZ Eligibility Worksheet in the Instructions for Form 1023-EZ to determine whether they are eligible to file Form 1023-EZ.

(3) See Revenue Procedure (Rev. Proc.) Rev. Proc. 2026-5, 2026-1 I.R.B. 258 (updated annually).

G.2. Form 8940

(1) Organizations exempt under Section 501(c)(3) may request a change in foundation classification to Section 170(b)(1)(A)(iv) using Form 8940, Request for Miscellaneous Determination. Form 8940 must be electronically submitted through www.Pay.gov, according to the instructions, and including Schedules G and O, all required supplemental information, and the correct user fee.

Instructions for Form 8940 are available on IRS.gov.

(2) See Rev. Proc. Rev. Proc. 2026-5, 2026-1 I.R.B. 258 (updated annually).

III. Section 170(b)(1)(A)(v) Foundation Classification

(1) This section discusses the requirements for a Section 501(c)(3) organization to qualify as a public charity under Sections 509(a)(1) and 170(b)(1)(A)(v) as a governmental unit.

A. Background / History

(1) Section 170(b)(1)(A)(v) was added to the Code in 1964. See Revenue Act of 1964, Pub. L. No. 88-272, Sec. 209(a), 78 Stat. 43.

B. Relevant Terms

(1) **Governmental units:** States, possessions of the United States, or political subdivisions of the foregoing, Indian tribal governments, or the United States, or District of Columbia. See Sections 170(c)(1) and 7871(a)(1)(A).

(2) **Political subdivision:** A government entity that has a sovereign power. See Treas. Reg. 1.103-1(b).

(3) **Sovereign powers:** The authority to tax, police, and enforce eminent domain. See Rev. Rul. 77-165, 1977-1 C.B. 21.

(4) **State:** The definition of a state includes the District of Columbia and any insular area. See Section 7701(a)(10) and 7 USC Section 3103(16).

C. Law / Authority

(1) Section 170(b)(1)(A)(v): A governmental unit referred to in Section 170(c)(1).

(2) Section 170(c)(1) states that a “charitable contribution” means a contribution or gift to or for the use of a state, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

(3) Section 7871(a)(1)(A): Indian tribal government relating to income tax deduction for charitable contributions and gifts.

(4) Section 7871(a)(7)(B): Indian tribal government relating to private foundations.

(5) Treas. Reg. 1.170A-9(e): Governmental unit is described in Section 170(b)(1)(A)(v) if it is referred to in Section 170(c)(1).

D. Governmental Unit Defined

(1) The following governmental units referred to in Section 170(c)(1) are excluded from private foundation status under Sections 509(a)(1) and 170(b)(1)(A)(v):

a. A state,

b. A possession of the United States,

c. A political subdivision of a state or a possession of the United States,

d. The United States,

e. The District of Columbia, and

f. Indian tribal governments.

(2) Indian tribal governments are treated as states for purposes of charitable deductions for income tax, estate tax, and gift tax. See Section 7871(a)(1).

A subdivision of an Indian tribal government shall be treated as a political subdivision of a state if (and only if) the Secretary determines (after consultation with the Secretary of the Interior) that such subdivision has been delegated the right to exercise one or more of the substantial governmental functions of the Indian tribal government.

(3) “Possessions of the United States” are not defined in the regulations under Section 170; however, the following guidance is provided elsewhere:

a. Territories and commonwealths, generally regarded under the Code as U.S. possessions, include American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

See:

- Sections 931-937 (dealing with U.S. possessions),
- Section 7654(b)(2),

- Section 7701(d), and
- Rev. Rul. 2016-16, 2016-25 C.B. 1062.

b. The Interior Department's Office of Insular Affairs deals generally with U.S. territories and insular possessions under Title 48 of the U.S. Code and may be consulted in determining the possessions of the United States.

E. Political Subdivision

(1) Although Section 170 and the regulations thereunder do not define political subdivision, Treas. Reg. 1.103-1(b) provides that the term "political subdivision" denotes any division of any state or local governmental unit which is a municipal corporation, or which has been delegated the right to exercise part of the sovereign power of the unit.

(2) Per Rev. Rul. 77-165, 1977-1 C.B. 21, there are three generally acknowledged sovereign powers:

a. The power to tax,

b. The power of eminent domain, and

c. The police power.

(3) An entity is a "political subdivision" only if it has a substantial sovereign power. It need not have all three sovereign powers delegated to it, but possessing only an insubstantial amount of any or all of the sovereign powers is insufficient. See Rev. Rul. 77-165, 1977-1 C.B. 21.

(4) Special rules apply in determining whether an organization is a political subdivision of an Indian tribal government.

a. A subdivision of an Indian tribal government must be treated as a political subdivision of a state if such subdivision has been delegated the right to exercise one or more of the substantial governmental functions of the Indian tribal government.

b. Essential governmental functions must only include functions which is customarily performed by state and local governments with general taxing powers. See Section 7871(d) and (e).

E.1. General Principles

(1) A political subdivision may include special assessment districts, such as:

a. Road,

b. Water,

c. Sewer,

d. Gas,

e. Light,

f. Reclamation,

g. Drainage,

h. Irrigation,

i. Levee,

j. School,

k. Harbor, and/or

l. Port improvement.

A political subdivision also includes similar districts and divisions of a state or local governmental unit.

See Treas. Reg. 1.103-1(b).

(2) In Texas Learning Technology Group v. Commissioner, 96 T.C. 686 (1991), the court reasoned as follows in holding that a Section 501(c)(3) organization was not a political subdivision under Section 170(c)(1) and, therefore, not a governmental unit under Section 170(b)(1)(A)(v):

a. A state statute's characterization of an organization as a political subdivision is not controlling for federal tax purposes.

b. An organization must possess a sovereign power (traditionally regarded as the power to tax, to condemn property, or to police or regulate) to qualify under Section 170(b)(1)(A)(v).

c. Governmental functions that are exercisable by others without the sovereign's authorization, such as education of youth, do not constitute sovereign powers.

d. Government "agencies" or "instrumentalities" are not synonymous with "political subdivisions," as Section 170(b)(1)(A)(iv) refers to "an agency or instrumentality of one or more states or political subdivisions." "From the use of the disjunctive, it is clear that Congress viewed these terms as being separate. Thus, when Congress enacted Section 170(b)(1)(A)(v) in the Revenue Act of 1964, Section 209(a), Pub. L. 88-272, 78 Stat. 43, and, by reference to Section 170(c)(1), used only the term "political subdivision," it did not intend to include within this provision the broader category of state agencies or instrumentalities.

e. An organization cannot claim Section 170(b)(1)(A)(v) status as an "integral part" of a political subdivision if it claims to be separately organized for purposes of Section 501(c)(3) status.

E.2. Specific Rulings

(1) The following rulings and court cases demonstrate the activities of a political subdivision:

a. Rev. Rul. 58-473, 1958-2 C.B. 100: A sewer and water authority, authorized by town ordinance to construct and operate the town's sewer and water system and authorized to charge the costs of sewer construction against the properties benefited, was determined to constitute a political subdivision under Section 170(c)(1).

b. Rev. Rul. 75-359, 1975-2 C.B. 79: A voluntary association of counties - organized to perform research in the field of local government, train local officials with respect to their public duties, provide information to permit more efficient operation of county government, and represent the counties at the state legislature, whose members consisted of county officials and others, was determined not to be a political subdivision under Section 170(c)(1) since it was not delegated any sovereign powers of its member counties or the state even though it constituted a wholly-owned instrumentality.

c. Rev. Rul. 77-232, 1977-2 C.B. 71: A state Bar, created by statute, that worked with the state Supreme Court in implementing statutory rules on the practice of law in the state and promoted the professional interests of its members was determined not to be a political subdivision under Section 170(c)(1) because it had no meaningful sovereign powers.

d. Rev. Rul. 79-323, 1979-2 C.B. 106: An industrial commission, established by a state legislature to study problems of industrial life and promote economic growth in a particular area consisting of several municipalities and subject to review by the state and member municipalities, was determined to be a Section 170(c)(1) organization although gifts to it were "for the use of" Section 170(c)(1) organizations.

e. In Texas Learning Technology Group v. Commissioner, 96 T.C. 686 (1991), the court held that an unincorporated cooperative organization, which was created by state statute, had members consisting of local public school districts, had a purpose to develop and administer programs to improve student learning in the public schools and was recognized as exempt under Section 501(c)(3), was not a governmental unit under Section 170(b)(1)(A)(v).

F. Other Considerations

(1) Governmental units are publicly supported organizations for purposes such as being permissible beneficiaries of Section 509(a)(3) supporting organizations or

grantees over which private foundations need not exercise expenditure responsibility.

(2) Although a foreign government is not a Section 170(c)(1) governmental unit, support from a foreign government is treated as support from a Section 170(c)(1) governmental unit in determining whether an organization of the same foreign country is a public charity under Sections 509(a)(1) and 170(b)(1)(A)(vi). See Rev. Rul. 75-435, 1975-2 C.B. 215.

For more information, see the “Foreign Organizations” section in TG 3-1: Overview, Applications, Exemption Requirements – IRC Section 501(c)(3).

G. Application Considerations

(1) Although the IRS does not make Section 170(b)(1)(A)(v) foundation classification determinations, agents need to be aware of issues with this status in the following situations:

a. When making a Section 501(c)(3) determination on an organization closely related to a governmental unit, an agent would need to recognize the presence of Section 170(c)(1) attributes that would disqualify an organization from exempt status.

b. When determining foundation classification under Section 170(b)(1)(A)(vi), 509(a)(2), or 509(a)(3) for an organization, support from or support to a Section 170(b)(1)(A)(v) organization may affect its foundation status.

c. When a private foundation grants funds to a Section 170(b)(1)(A)(v) organization, the private foundation does not need to exercise expenditure responsibility.

(2) Many instrumentalities have language in their governing instrument providing that upon dissolution, all remaining assets will be distributed to a state, or any political subdivision thereof, to satisfy Section 115 requirements and the dissolution requirements of Treas. Reg. 1.501(c)(3)-1(b)(4).

G.1. Form 1023 Not Applicable

(1) Organizations applying for an initial determination of their tax-exempt status under Section 501(c)(3) may not request classification under Section 509(a)(1) and 170(b)(1)(A)(v).

(2) Rev. Proc. 2026-5, 2026-1 I.R.B. 258, Section 3, Matters on which EO Determinations Will Issue a Determination Letter, specifically states that EO Determinations will not rule on classification or reclassification matters of Section 170(b)(1)(A)(v).

G.2. Form 8940 Not Applicable for Change in Foundation Classification

(1) Organizations exempt under Section 501(c)(3) may not request a change in foundation classification to Section 170(b)(1)(A)(v) using Form 8940, Request for Miscellaneous Determination.

(2) Rev. Proc. 2026-5, 2026-1 I.R.B. 258, Section 3, Matters on which EO Determinations Will Issue a Determination Letter, specifically states that EO Determinations will not rule on classification or reclassification matters of Section 170(b)(1)(A)(v).

G.3. Letter Ruling Request

(1) If an organization is exempt from federal income tax under Section 501(c)(3) and wishes to request reclassification as a governmental unit, it must obtain a letter ruling by following the procedures specified in Rev. Proc. 2026-1, 2026-1 I.R.B. 1 (updated annually). See also Rev. Proc. 2026-5, 2026-1 I.R.B. 258 (updated annually).

See Appendix A, Schedule of User Fees, in Rev. Proc. 2026-5 (updated annually) for user fee amount associated with obtaining such a letter ruling.

G.4. Form 990-Series Information Return Filing Exception

(1) Rev. Proc. 95-48, 1995-2 C.B. 418, describes two classes of organizations that are not required to file annual information returns on Form 990-series returns. The two classes of organizations that might be excepted from filing are:

a. Governmental units, and

b. Affiliates of governmental units that are exempt under Section 501(a).

(2) Rev. Proc. 95-48 provides detailed criteria to determine whether an organization is a governmental unit or an affiliate of a governmental unit that can be excepted from filing the annual information return (but not from Form 990-T, Exempt Organization Business Income Tax Return).

(3) Organizations that believe they should be excepted from filing Form 990-series information returns because they are a governmental unit or affiliated with a governmental unit can submit Form 8940, Request for Miscellaneous Determination, with its Schedule D. Form 8940 must be electronically submitted through www.Pay.gov, according to the instructions, with the correct user fee and all required supplemental information.

Note: An organization with a Section 509(a)(3) supporting organization may not be excepted from its filing requirement under Rev. Proc. 95-48, 1995-2 C.B. 418).

(4) See Rev. Proc. 2026-5, 2026-1 I.R.B. 258 (updated annually).

H. Gifts to the United States

(1) The following rulings discuss whether certain organizations or groups are construed to be "The United States" for purposes of donating charitable gifts, grants or contributions.

a. Gifts to a research foundation created by executive agreement between the U.S. and a foreign country, equally financed, owned, and governed by the U.S. and the foreign country, and whose assets would be divided equally between the two countries upon dissolution, were determined not to be gifts to "the United States" or other Section 170(c)(1) organizations in Rev. Rul. 76-195, 1976-1 C.B. 61.

b. Gifts to a Presidential Inaugural Committee appointed by the President-Elect to sponsor inaugural festivities were determined not to be gifts to "the United States" for exclusively public purposes in Rev. Rul. 77-283, 1977-2 C.B. 72.

c. Gifts to the federal social security trust fund were determined to be gifts to "the United States" in Rev. Rul. 82-169, 1982-2 C.B. 72.

IV. Section 170(b)(1)(A)(ix) Foundation Classification

(1) This section discusses the requirements for a Section 501(c)(3) organization to qualify under Sections 509(a)(1) and 170(b)(1)(A)(ix) as an agricultural research organization.

A. Background / History

(1) Section 170(b)(1)(A)(ix) was added by the Protecting Americans from Tax Hikes (PATH) Act of 2015, Pub. L. No. 114-113, Title VII, Section 715, Div. Q, Title III, Subtitle C, Section 331(a) (December 18, 2015).

(2) Section 170(b)(1)(A)(ix) became effective December 18, 2015, the date the PATH Act was enacted.

(3) Although there are no Treasury Regulations specific to Section 170(b)(1)(A)(ix) in the Technical Explanation of the Protecting Americans from Tax Hikes Act of 2015, House Amendment #2 to the Senate Amendment to H.R. 2029, p.195-198, JCX-144-15 (December 17, 2015), the Joint Committee on Taxation stated that it is intended that the provision be interpreted in like manner and consistent with the rules applicable to medical research organizations.

(4) Therefore, certain sections of both Treas. Reg. 1.170A-9(d) and Treas. Reg. 1.509(a)-2(b), regarding medical research organizations, may be considered when determining whether an organization meets the requirements of Section 170(b)(1)(A)(ix).

B. Relevant Terms

(1) **Agricultural research:** Research in the food and agricultural sciences. See 7 USC Section 3103(2).

(2) **Agricultural research organization:** An organization exempt under Section 501(c)(3) that is directly engaged in the continuous active conduct of agricultural research (as defined in Section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977) and operated in conjunction with a land-grant college or university or a non-land grant college of agriculture. See Section 170(b)(1)(A)(ix). See also Pub. L. 95-113, Title XIV, Section 1404, Sept. 29, 1977, 91 Stat. 983, which codified definitions regarding agricultural research in 7 USC Section 3103.

(3) **College, University:** An educational institution in any state which:

a. Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;

b. Is legally authorized within such state to provide a program of education beyond secondary education;

c. Provides an educational program for which a bachelor's degree or any other higher degree is awarded;

d. Is a public or other nonprofit institution; and

e. Is accredited by a nationally recognized accrediting agency or association.

See 7 USC Section 3103(4)(A). Further, 7 USC Section 3103(4)(B) states, "The terms 'college' and 'university' include a research foundation maintained by a college or university..."

(4) **Food and agricultural sciences:** Basic, applied, and developmental research, extension, and teaching activities in food and fiber, agricultural, renewable energy and natural resources, forestry, and physical and social sciences, including activities relating to the following:

a. Animal health, production, and well-being;

b. Plant health and production;

c. Animal and plant germ plasm collection and preservation;

d. Aquaculture;

e. Food safety;

f. Soil, water, and related resource conservation and improvement;

g. Forestry, horticulture, and range management;

h. Nutritional sciences and promotion;

i. Farm enhancement including financial management, input efficiency, and profitability;

j. Home economics;

k. Rural human ecology;

l. Youth development and agricultural education including 4-H clubs;

m. Expansion of domestic and international markets for agricultural commodities and products including agricultural trade barrier identification and analysis;

n. Information management and technology transfer related to agriculture;

o. Biotechnology related to agriculture; and/or

p. The processing, distributing, marketing, and utilization of food and agricultural products.

See 7 USC Section 3103(9).

C. Law / Authority

(1) Section 170(b)(1)(A)(ix): An agricultural research organization directly engaged in the continuous active conduct of agricultural research, in conjunction with a land-grant college or university, or a non-land grant college of agriculture.

(2) United States Code, Title 7. Agriculture:

a. 7 USC Section 3101, Purposes of agricultural research, extension, and education

b. 7 USC Section 3102, Additional purposes of agricultural research and extension

c. 7 USC Section 3103, Definitions

d. 7 USC Section 3104, Agriculture research; Declaration of policy; Duties of Secretary of Agriculture; Use of existing facilities

e. 7 USC Section 3105, Agricultural research; Authorization of additional appropriations; Administrative expenses; Availability of special research fund

(3) There is no corresponding Treasury Regulation for Section 170(b)(1)(A)(ix).

D. Land-Grant Colleges and Non-Land Grant Colleges of Agriculture

(1) An organization qualifies as a Section 170(b)(1)(A)(ix) agricultural research organization if it is primarily engaged directly in the continuous active conduct of agricultural research in conjunction with a land-grant college or university or a non-land grant college of agriculture.

(2) The terms "college" and "university" include a research foundation maintained by a college or university.

a. The terms “land-grant colleges and universities” are defined in 7 USC Section 3103(13) to mean those institutions eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503-505, as amended; 7 U.S.C. 301-305, 307 and 308), or the Act of August 30, 1890 (26 Stat. 417-419, as amended; 7 USC Sections 321-326 and 328), including Tuskegee University. See also the USDA Land-Grant University Website Directory.

b. The term “non-land grant college of agriculture” is defined in 7 USC Section 3103(14)(A) to mean a public college or university that offers a baccalaureate or higher degree in the study of agricultural sciences, forestry, or both in specified areas of study. See 7 USC Section 3103(14)(A)(ii) for a list of the specified areas of study.

E. Committed to Spend Contributions

(1) During the calendar year a contribution is made or treated as made, the organization must be committed to spend that contribution for active conduct of agricultural research before January 1 of the fifth calendar year beginning after the date such contribution is made.

F. Lobbying Activities

(1) An agricultural research organization is permitted to use the expenditure test of Section 501(h) for purposes of determining whether a substantial part of its activities consist of carrying on propaganda, or otherwise attempting, to influence legislation, otherwise known as lobbying.

G. Deductibility of Contributions

(1) An individual taxpayer who makes a cash charitable contribution may deduct the contribution up to 50% of their contribution base (generally, adjusted gross income, with modifications) because an agricultural research organization is treated as a public charity per se, regardless of its sources of financial support.

Note: From January 1, 2018, through December 31, 2025, the charitable contribution deduction is increased to up to 60% of the individual taxpayer’s contribution base. See Section 170(b)(1)(G)(i).

H. Application Considerations

(1) An organization is required to apply to the IRS to be considered for exemption under Section 501(c)(3) with foundation classification under Sections 509(a)(1) and 170(b)(1)(A)(ix).

H.1. Form 1023

(1) Organizations applying for an initial determination of their tax-exempt status under Section 501(c)(3) may request classification under Sections 509(a)(1) and 170(b)(1)(A)(ix) on Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code. Form 1023 must be electronically submitted through www.Pay.gov, according to the instructions,

with the correct user fee and all required supplemental documents and information.

Organizations not meeting the requirements for classification under Section 170(b)(1)(A)(ix) might qualify under another foundation classification.

(2) Organizations requesting classification under Section 170(b)(1)(A)(ix) are not eligible to use Form 1023-EZ, Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code.

(3) See Rev. Proc. 2026-5, 2026-1 I.R.B. 258 (updated annually).

H.2. Form 8940

(1) Organizations exempt under Section 501(c)(3) may request a change in foundation classification to Section 170(b)(1)(A)(ix) using Form 8940, Request for Miscellaneous Determination. Form 8940 must be electronically submitted through www.Pay.gov, according to the instructions, and including Schedules G and P, all required supplemental information, and the correct user fee.

Instructions for Form 8940 are available on IRS.gov.

(2) See Rev. Proc. 2026-5, 2026-1 I.R.B. 258 (updated annually).

I. Additional Information

(1) Research organizations and land-grant colleges are also discussed in other technical guides, such as TG 3-4: Exempt Purposes – Scientific – IRC Section 501(c)(3).

(2) Congressional research service reports (CRS) are research projects conducted under Congressional oversite and directed by members of Congress on specific issues. The CRS reports are included as additional research material. The reports are made public, and available on https://crsreports.congress.gov.

The following reports may be helpful:

a. CRS, US Land-Grant University System, R45897, and

b. CRS, Agency-Related Nonprofit Research Foundations and Corporations, R46109.

V. Section 509(a)(4) Foundation Classification

(1) This section discusses the requirements for a Section 501(c)(3) organization to qualify under Section 509(a)(4) as an organization testing for public safety.

A. Background

(1) Testing for public safety became a qualifying Section 501(c)(3) purpose with the reorganization and recodification of the Code of 1954. See Pub. L. No. 591, Sec. 501, 68A Stat. 443. See H.R. Rep. No. 83-2543 (1954).

(2) The Tax Reform Act of 1969 (Pub. L. 91-172, Title I, Section 101(a), Dec. 30, 1969, 83 Stat. 496) created Section 509 and introduced private foundation classification into the Code.

a. The Tax Reform Act added restrictions, requirements, taxes, and penalties affecting organizations classified as private foundations under Section 509.

b. Organizations testing for public safety were excepted from private foundation classification under Section 509(a)(4).

c. While they are exempt under Section 501(c)(3), contributions to Section 509(a)(4) organizations are not deductible as charitable contributions under any provision of the Code.

B. Relevant Terms

(1) **Consumer products:** Products that are bought by individuals or households for personal use. See Treas. Reg. 1.501(c)(3)-1(d)(4).

(2) **Testing for public safety:** The testing of consumer products, such as electrical products, to determine whether they are safe for use by the general public. See Treas. Reg. 1.501(c)(3)-1(d)(4).

(3) **Trade or business:** Any activity carried on for the production of income through the sale of goods or performance of services. See Treas. Reg. 1.501(c)(3)-1(e)(1).

C. Law / Authority

(1) Section 509(a)(4): An organization that is organized and operated exclusively for testing for public safety.

(2) Treas. Reg. 1.501(c)(3)-1: Organizations organized and operated for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals.

(3) Treas. Reg. 1.509(a)-1: Definition of private foundation, which provides that organizations which test for public safety are excluded.

D. Characteristics

(1) Testing for public safety is an exempt purpose expressly described in Section 501(c)(3).

(2) Section 509(a)(4) excludes from private foundation status Section 501(c)(3) organizations organized and operated for the purpose of testing products for public safety.

(3) Classification under Section 509(a)(4) is a less favorable classification than under Section 509(a)(1), (2), or (3) in several respects (and in some respects is

even less favorable than private foundation classification), as described below in this TG.

E. History

(1) Testing for public safety became a qualifying Section 501(c)(3) purpose in 1954.

(2) The legislative history supports the view that Congress intended the testing for public safety purpose to extend only to consumer products. See Senate Report No. 1622, 83rd Cong., 2nd Sess., 310 (1954).

(3) Treas. Reg. 1.501(c)(3)-1(d)(4), Testing For Public Safety Defined, states the term “testing for public safety,” as used in Section 501(c)(3), includes the testing of consumer products, such as electrical products, to determine whether they are safe for use by the general public.

(4) The category of testing for public safety was added in response to the decision in Underwriters’ Laboratories v. Commissioner, 135 F.2d 371 (7th Cir. 1943), where the court held that tests, experiments, and investigations to determine the safety of consumer products did not constitute a scientific purpose. The court held, “The business in which the petitioner was engaged was a commercial testing laboratory, and of a kind usually conducted for profit, and is not exempt.”

(5) In Rev. Rul. 65-61, 1965-1 C.B. 234, the Service concluded that an organization that was organized primarily to test for public safety, and to establish safety standards for products used aboard pleasure boats, qualified for exemption under Section 501(c)(3) because it furthered a testing for public safety purpose.

The organization’s purpose was to demonstrate a product’s safety and soundness.

The organization, after conducting appropriate testing, certified the product. The products were identified, by a label, as meeting the minimum safety requirements.

The Service noted that the testing organization tested consumer products for public safety.

(6) In Rev. Rul. 68-373, 1968-2 C.B. 206, an organization engaged in testing drugs for pharmaceutical companies failed to qualify for exemption under Section 501(c)(3).

The Food and Drug Administration (FDA) already required the tests as a precondition of approval to market a drug.

The testing was incidental to the pharmaceutical company’s commercial operations.

The testing primarily served the private interest of the drug manufacturers rather than the interest of the public.

(7) In Rev. Rul. 78-426, 1978-2 C.B. 175, however, an organization whose activities include the inspection, testing, and safety certification of cargo shipping containers and research, development, and reporting of information in the field of containerization was determined not to qualify for exemption under Section 501(c)(3).

The testing and certification served the private interests of container and other manufacturers and shippers by facilitating their operations in international commerce, and only incidentally served the public interest.

Additionally, the safety and efficiency of shipping containers is closely allied to successful commercial operations because manufacturers and shippers must protect themselves against losses due to spoilage, leakage, delays in transit, and employee injuries.

This revenue ruling distinguished Rev. Rul. 65-61 because, here, the organization is not organized and operated for the purpose of testing for public safety, as the products tested are containers used by shippers in their business activities and not consumer products utilized by the general public.

F. Non-Deductibility of Contributions

(1) Organizations organized and operated for testing for public safety are not eligible to receive tax-deductible charitable contributions under the following provisions of the Code:

a. Section 170(c)(2)(B), Income tax,

b. Section 2055(a)(2), Estate tax,

c. Section 2106(a)(2)(A)(ii), Estate tax, or

d. Section 2522(a)(2), Gift tax.

G. Private Foundation Non-Qualifying Distributions

(1) Because testing for public safety is not a purpose described in Section 170(c)(2)(B), a private foundation's distribution to a Section 509(a)(4) organization for such purpose is not a qualifying distribution but is a taxable expenditure.

See Sections 4942(g) and 4945(d)(5). See also Treas. Reg. 53.4945-6(c).

(2) A private foundation must exercise expenditure responsibility over a grant to an organization testing for public safety regardless of the purpose of the grant. Section 4945(h) states a private foundation is responsible to exert all reasonable efforts and to establish adequate procedures:

a. To see that the grant is spent solely for the purpose for which it is made,

b. To obtain full and complete reports from the grantee on how the funds are spent, and

c. To make full and detailed reports with respect to such expenditures to the Secretary.

(3) A private foundation cannot terminate its private foundation status by transferring its assets to or operating as a Section 509(a)(4) organization. See Section 507(b)(1).

(4) A 509(a)(4) organization is not excluded from the definition of "substantial contributor" under Section 507(d)(2) or "disqualified person" under Section 4946 in certain situations where other public charities and private foundations are excluded. See Treas. Regs. 1.507-6(a)(2) and 53.4946-1(a)(7) and (8).

H. Application Considerations

(1) An organization is required to apply to the IRS to be considered for exemption under Section 501(c)(3) with foundation classification under Section 509(a)(4).

H.1. Form 1023

(1) Organizations applying for an initial determination of their tax-exempt status under Section 501(c)(3) may request classification under Section 509(a)(4) on Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code. Form 1023 must be electronically submitted through www.Pay.gov, according to the instructions, with the correct user fee and all required supplemental documents and information.

Organizations not meeting the requirements for classification under Section 509(a)(4) might qualify under another foundation classification.

(2) Organizations requesting classification under Section 509(a)(4) are not eligible to use Form 1023-EZ, Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code.

(3) See Rev. Proc. 2026-5, 2026-1 I.R.B. 258 (updated annually).

(4) Agents must modify Determination Letter 947, 501(c)(3) Exemption With Definitive Ruling of Public Charity Status, to reflect the lack of contribution deductibility. Suggested language includes, "Donors cannot deduct contributions they make to you under IRC Section 170. You're not qualified to receive tax deductible bequests, devises, transfers or gifts under Sections 2055, 2106, or 2522."

H.2. Form 8940

(1) Organizations exempt under Section 501(c)(3) may request a change in foundation classification to Section 509(a)(4) using Form 8940, Request for Miscellaneous Determination. Form 8940 must be electronically submitted through www.Pay.gov, according to the instructions, and including Schedule G, all required supplemental information, and the correct user fee.

Instructions for Form 8940 are available on IRS.gov.

(2) See Rev. Proc. 2026-5, 2026-1 I.R.B. 258 (updated annually).