

Understanding Public Charity Classifications

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Agenda

- Public Charity Classification in General
- Classification of Higher Ed Entities



Public Charity Classification in General

- In typical IRC fashion, the default status for a 501(c)(3) organization is that of Private Foundation unless organization shows it qualifies for one of 11 categories on Form 990 schedule A
- Certain organizations must complete a public support schedule annually
- Support schedule is a 5 year running calculation and applicable organizations must have a certain level of public support to avoid becoming a private foundation

Classification of Higher Ed Entities

- Colleges and Universities do not have to complete a public support test, so not an issue for the school itself
- Related charitable entities (endowment funds, foundations, etc.) do not get a pass and either must pass the annual test or be a Section 509 (a)(3) supporting organization
- Most higher ed related organizations that are not supporting organizations must qualify under the Sec. 170(b)(1)(a)/ Sec. 509 (a)(1) support test

The 509(a)(1) Support Test *Form 990, Schedule A, Part II*

- 5 year running calculation done annually to show public support
- General rule: must show minimum of 33 and 1/3 % public support or automatically become private foundation after failing 2 years in a row
- New organizations are allowed 5 years before having to report the percentage
- Special Rule: organizations with public support between 10% and 33.33% can qualify under “facts and circumstances” by checking box and listing facts and circumstances supporting that they are in fact publicly supported

The 509(a)(1) Support Calculation

- Divide Public Support over 5 year period by total support over that same 5 years
- Numerator is reduced by amount from large contributors in excess of 2% of organization's 5 year total support over the five year period
- Government grants and contributions/ grants from publicly supported charities are not reduced (but private foundation grants are reduced)
- “Unusual” grants can be removed from both numerator and denominator (e.g., bequests from estates)
- Very important to keep running schedule of large contributors

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