



IRS REGULATIONS REGARDING GRANTS TO “SUPPORTING ORGANIZATIONS”

Congress passed new legislation recently that changes the rules around donor advised fund grants to a type of public charity called a "supporting organization." Supporting organizations qualify as 501(c)(3) public charities because they have a close relationship with, or "support," another public charity.

Typically, a supporting organization carries out one or more functions of its supported public charity, like an alumni association that fundraises for a university, or a parent-teacher association that performs certain functions at a school.

The IRS breaks supporting organizations into four sub-types: Type I, Type II, functionally integrated Type III, and non-functionally integrated Type III.

No Grants to Non-Functionally Integrated Type III Supporting Organizations

The new legislation requires The Orchard Foundation and other charities with donor advised fund programs to perform "expenditure responsibility" on grants to the fourth type, non-functionally integrated Type III supporting organizations – but not the other types. Expenditure responsibility is often a multi-step, multi-year follow-up with the grant recipient charity to determine that the grant was used for proper charitable purposes.

Because The Orchard Foundation does not generally perform expenditure responsibility on grants, it will **not make grants** to non-functionally integrated Type III supporting organizations.

No Grants When Donor or advisors and Related Persons Control the Charity

Similarly, the new legislation requires The Orchard Foundation and charities like it to perform expenditure responsibility every time it makes a grant to a supporting organization where the recommending donor, advisor or related persons control the charity that the grant recipient supports.

Again, since The Orchard Foundation does not generally perform expenditure responsibility on grants, it will **decline to make a grant** to a supporting organization when the recommending donor, advisor or related persons control the recommended grant recipient's supported public charity.

More Research May Mean Longer Processing Time

We anticipate that most grant recommendations to supporting organizations will still be approved. However, The Orchard Foundation will need to do research to determine the supporting organization's "type" before making a grant, which could take time.

Donors may experience longer processing time than usual for grants that are recommended to supporting organizations.

Donors will also have to certify to The Orchard Foundation that neither they nor other donors or advisors on their Donor Advised Fund, nor persons related to them and other donors or advisors on their Donor Advised Fund, controls any supported organization of the recommended grant recipient supporting organization.