DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

200225042

Date: March 25, 2002

Contact Person:

Identification Number:

Telephone Number:

T:EO:B2

U.I.L. Nos.

501.03-00
501.03-02
4941.00-00
4941.04-00

Employer Identification Number:

LEGEND:

A =
B =
C =
D =
N =
S =
T =
U =
W =
X =
Y =

Dear Sir or Madam:

This is in response to X's request dated October 16, 2001, for rulings under section 4941 of the Internal Revenue Code, submitted by X's legal representative.

X has been recognized as exempt under section 501(c)(3) of the Code and classified as a private foundation described in section 509(a) of the Code. X states that in furtherance of its charitable and educational purposes, it makes charitable grants to donee organizations that are classified under section 501(c)(3). The charitable grants are made principally to donee organizations that are classified as public charities under section 509(a)(1), (2) or (3).

Real property N is owned by trust Y. X presently owns a contingent future interest in Y. If Y still owns N upon the later of the death of C and D, then X will acquire ownership of N and certain personal property therein. If X acquires N, X proposes to use it to directly engage in additional charitable and educational activities within the meaning of sections 501(3) and 170(c)(2)(B).

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Among the charitable and educational activities that X anticipates N to be used for, some will involve the participation of Government officials.

1. N will be utilized to sponsor and conduct nonpartisan conferences for government officials who hold the offices of A, S, W, and the leadership of T and U, regardless of the political party or other affiliation of such government officials. The participants will discuss ways of improving the functioning of the executive, legislative and judicial branches of government or other important issues facing them. Their focus will be on how to better serve the public and the public good. The conferences will be carried out and coordinated by the trustees of X, who will be assisted by staff employees at N. The trustees will receive advice and assistance in formulating and carrying out the conferences from an advisory board consisting of prominent and nationally recognized educators, academicians, scholars, curators, and professors. X represents that the conferences will not be a forum for partisan political activity or a forum to debate specific legislative issues, and that none of the conferences will involve, directly or indirectly, activities consisting of carrying on propaganda, attempting to influence legislation, or participating in any political campaign on behalf of any candidate for public office.
2. X will sponsor a program whereby N would be made available to government officials who hold the offices of A and B for conferences with world leaders. These conferences are to be held solely for the limited purpose of bringing together A or B with world leaders for the promotion of world peace and the reconciliation and facilitation of international agreement.

X represents that the government officials who attend the conferences will be provided with meals and lodging in facilities located on N's premises. X also represents that for instances where government officials in attendance may have to be lodged at locations other than N (e.g., because of insufficient space), depending upon the particular conference, X may provide lodging, food and reimbursement for reasonable expenses to these participants. This amount is not to exceed 125 percent of the maximum amount payable under section 5702(a) of Title F of the United States Code as set forth for like employees or any lesser amount as may be determined under section 4941. If X pays for or reimburses a government official for transportation costs, the payment or reimbursement will not exceed the actual cost of transportation. All payments or reimbursement of transportation costs or lodging and meals made by X will only be for points within the United States.

X has requested the following rulings:

1. The attendance or participation of A and B at conferences held at N for the purpose of bringing together world leaders in order to promote world peace and reconciliation and to facilitate international agreement will not result in an act of self-dealing under Section 4941(d)(1).
2. The attendance or participation of A, S, T, U and W at nonpartisan conferences held at N in order to focus on ways to improve the functioning of the executive, legislative and judicial branches of the Federal government or other important issues facing these governmental bodies will not result in an act of self-dealing under Section 4941(d)(1).

Section 170(c)(2)(B) of the Code provides that the term "charitable contribution" includes a contribution to an organization that is organized and operated exclusively for educational purposes.

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated for religious, charitable, or educational purposes.

Section 4941 of the Code provides for the imposition of tax on each act of self-dealing between a disqualified person and a private foundation.

Section 4941(d)(1) describes "self dealing" as any direct or indirect—

(A) sale or exchange, or leasing, of property between a private foundation and a disqualified person;
(B) lending of money or other extension of credit between a private foundation and a disqualified person;
(C) furnishing of goods, services, or facilities between a private foundation to a disqualified person;
(D) payment of compensation (or payment or reimbursement of expenses) by a private foundation to a disqualified person;
(E) transfer to, or use by or for the benefit of, a disqualified person of the income or assets of a private foundation; and,
(F) agreement by a private foundation to make any payment of money or other property to a government official (as defined in section 4946(c), other than an agreement to employ such individual for any period after the termination of his government service if such individual is terminating his government service within a 90-day period.

Section 4941(d)(2)(G)(v) of the Code provides that in the case of a government official, described in section 4946(c), paragraph I, the term self-dealing shall not apply to any contribution or gift (other than a contribution or gift of money) to, or services or facilities made available, to any such individual, if the aggregate value of such contributions, gifts, services, and facilities to, such individuals during such calendar year does not exceed $25.

Section 4941(d)(2)(G)(vii) provides that in the case of a government official (as defined in section 4946(c), paragraph I, the term self-dealing shall not apply to any payment or reimbursement of traveling expenses for expenses for travel solely from one point in the United States to another point in the United States, but only if such payment or reimbursement does not exceed the actual cost of the transportation involved plus an amount for all other traveling expenses not in excess of 125 percent of the maximum amount payable under section 5702 of title 5, United States Code, for like travel by employees of the United States.

Section 4946(a)(1)(I) provides that the term "disqualified person" means, only for purposes of Section 4941, a government official as defined in subsection (c) of section 4946.

Section 4946(c) provides that for purposes of 4946(a)(1)(I) and section 4941, the term "government official" means, with respect to an act of self-dealing described in section 4941, an

individual who, at the time of such act, holds any of the following offices or positions (other than as a "special Government employee", as defined in section 202(a) of title 18, United States Code):

(1) an elective public office in the executive or legislative branch of the Government of the United States,

(2) an office in the executive or judicial branch of the Government of the United States, appointment to which was made by the President,

(3) a position in the executive, legislative, or judicial branch of the Government of the United States--

(A) which is listed in schedule C of rule VI of the Civil Service Rules, or

(B) the compensation for which is equal to or greater than the lowest rate of basic pay for the Senior Executive Service under section 5382 of title 5, United States Code,

(4) a position under the House of Representatives or the Senate of the United States held by an individual receiving gross compensation at an annual rate of $ 15,000 or more,

(5) an elective or appointive public office in the executive, legislative, or judicial branch of the government of a State, possession of the United States, or political subdivision or other area of any of the foregoing, or of the District of Columbia, held by an individual receiving gross compensation at an annual rate of $ 20,000 or more,

(6) a position as personal or executive assistant or secretary to any of the foregoing, or

(7) a member of the Internal Revenue Service Oversight Board.

Section 1.501(c)(3)-1(d)(2) provides that charitable, as used in section 501(c)(3), is to be interpreted in its generally accepted legal sense and is, therefore, not to be construed as limited by the separate enumeration in section 501(c)(3) of other tax-exempt purposes which may fall within the broad outlines of charity as developed by judicial decisions. Among those activities considered to be charitable are ones related to the lessening of the burdens of Government and the promotion of social welfare.

Section 1.501(c)(3)-1(d)(3) of the Income Tax Regulations provides that the term "educational", as used in section 501(c)(3), relates to --

(a) The instruction or training of the individual for the purpose of improving or developing his capabilities; or

(b) The instruction of the public on subjects useful to the individual and beneficial to the community.

Section 53.4941(d)-3(e)(7) of the Foundation and Similar Excise Taxes Regulations provides that under section 4941(d)(2)(G), in the case of a government official, section 4941(d)(1) shall not apply to—

any payment or reimbursement of traveling expenses (including amounts expended for meals and lodging, regardless of whether the government official is away from home within the meaning of section 162(a)(2), and including reasonable advances for such expenses anticipated in the immediate future) for travel solely from one point in the United States to another in connection with one or more purposes described in section 170(C)(1) or 2(B), but only if such payment or reimbursement does not exceed the actual cost of the transportation involved plus an amount for all other traveling expenses not in excess of 125 percent of the maximum amount

payable under 5 U.S.C. 5702(a) for like travel by employees of the United States.

Section 53.4941(d)-3 (e)(9) of the Foundation and Similar Excise Taxes Regulations provides that under section 4941(d)(2)(G), in the case of a government official, section 4941(d)(1) shall not apply --

if a government official attends or participates in a conference sponsored by a private foundation, the allocable portion of the cost of such conference and other nonmonetary benefits (for example, benefits of a professional, intellectual, or psychological nature, or benefits resulting from the publication or the distribution to participants of a record of the conference), as well as the payment or reimbursement of expenses (including reasonable advances for expenses anticipated in connection with such a conference in the near future), received by such government official as a result of such attendance or participation shall not be subject to section 4941(d)(1), so long as the conference is in furtherance of the exempt purposes of the foundation.

Rev. Rul. 77-251, 1977-2 C.B. 389, provides that a per diem allowance for travel inside the U.S. paid to a government official by a private foundation in connection with its educational and charitable purposes is excepted from the tax on self-dealing under IRC 4941(d)(2)(G)(vii) only if the allowance does not exceed 125 percent of the maximum authorized rate provided by section 5702(a) of title 5, U.S.C., notwithstanding the provision in section 5702(c) allowing higher rates in designated geographical areas.

Organizations that engage in efforts to promote international peace promote charitable and educational purposes within the meaning of section 501(c)(3) of the Code. See, e.g., Rev. Rul. 67-342, 1967-2 C.B. 190.

X proposes using N to hold conferences that would allow government officials who hold the offices of A and S, T, U and W to meet outside the normal political setting on a nonpartisan basis to determine how to more effectively serve in their official capacities. An advisory board of prominent educators, academicians, scholars, curators, and professors would provide advice and assistance in conducting the conferences. The conferences would not serve as forums for debates on specific legislative issues. Therefore, the activities would further X's educational purposes within the meaning of sections 501(c)(3) and 170(c)(2)(B) of the Code and section 1.501(c)(3)-1(d)(3)(a) of the Income Tax Regulations.

X would make N's facilities available to government officials who hold the offices of A and B for meetings with foreign officials in order to promote world peace and international accord. Conferences would be held at N where government officials who hold the offices of A and S, T, U, and W would focus on how to better serve the public and the public good.

By providing the facilities and the means to carry out the activities at N, X's exempt purposes are promoted by promoting education, social welfare, and lessening the burdens of the government.

Since X represents that it will provide A, B, S, T, U and W meals, lodging, and reasonable

travel reimbursements in conjunction with attendance at N within the parameters of section 53.4941(d)-3(e)(7) and (9) of the regulations, there will be no acts of self-dealing.

Accordingly, based upon the information furnished, we rule as follows:

1. The attendance or participation of A and B at conferences held at N for the purpose of bringing together world leaders in order to promote world peace and reconciliation and to facilitate international agreement will not result in an act of self-dealing under section 4941(d)(1).
2. The attendance or participation of A, S, T, U and W at nonpartisan conferences held at N in order to focus on ways to improve the functioning of the three branches of government or other important issues facing these governmental bodies will not result in an act of self-dealing under section 4941(d)(1).

This ruling applies the applicability of section 4941 to the facts represented above. We express no opinion as to the tax consequences of the transaction under any other provisions of the Code.

This ruling is directed only to X. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Because this letter could help resolve any future questions about tax consequences of your activities, you should keep a copy of this ruling in your permanent records.

If you have any questions about this ruling, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Terrell M. Berkovsky
Manager, Exempt Organizations
Technical Group 2

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