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relationship, and those with whom he has a continuing business or professional relationship compose more than 25 percent of the group which manages the foundation. The approach employed by this definition has a number of advantages over others which have been considered. Yet, as the discussion in section F recognizes, it leaves open significant avenues for the exertion of donor influence. By appointing friends, neighbors, business acquaintances, or other persons beyond the enumerated categories to the foundation's board, a donor may be able to elude the impact of the rule even while he maintains real and effective influence upon foundation decisions. The availability of these techniques for avoidance does not constitute a substantial defect in a rule whose aim, like that of the Part II-F proposal, is to broaden the base of participation in the affairs of the foundation, bring fresh views to its councils, and, over time, remove it from the wing of the donor and his family. Even where the newly appointed board members are the donor's friends and neighbors, some of these objectives are likely to be attained immediately. With the passage of time, others will follow: neighbors and friends do not remain subject to the will of one's family permanently. Equally important, a donor who has been permitted to shape the nature of a foundation by specifying the terms of its organizational instruments and supervising its activities for 25 years will ordinarily have little motivation to circumvent the rule: with the advance of age and the imprint of his personality firmly fixed upon the foundation, he will be quite likely to follow the easier course of taking the law at its word and passing the management of the foundation to independent parties.

The considerations which make this definition adequate for the purposes of the Part II-F recommendation, however, possess diminished vitality when one turns to the family corporation situation. Here the tax benefits to be derived from avoidance of the deduction-deferral rule are considerable; and the motivation for avoidance is correspondingly great. To sustain this rule against manipulation, therefore, a definition of "substantial donor influence" would have to be capable of bearing greater stress than the time limitation provision could be expected to generate. Because of its inapplicability to the less easily identified areas of donor influence, the definition of part II-F might prove only partially sufficient to withstand the pressures created by inventive planners. Further, as the preceding discussion has suggested, the conflict-of-interest abuses in the family corporation area have been acute and aggravated; and a measure which requires an indeterminate period of time to reach complete effectiveness might permit some of those abuses to continue in the interim. Upon both of these grounds, the adequacy of the Part II-F definition to the needs of the remedy under this section appears subject to some question.

A second problem confronts the restriction of the controlled property rule to situations in which the recipient foundation is under donor influence. While conflict of interest is one of the arguments in favor of the controlled property rule, it is not the only one. Of equal force is the argument that retention of donor control over the corporation whose stock has been contributed makes the real value of what has passed to the foundation too subject to the continuing volition of the donor, too far within his future discretion, too completely within his persisting power, to justify the grant of an immediate tax benefit.