

the goods (usually a car or other large piece of property) in exchange for a certain price. The bill of sale acknowledges that that price has been paid and that the holder of the bill of sale is a proper titleholder.

In more complex sales of personal property there may be a time sale basis for the transaction; that is, a conditional sale contract or installment credit contract might be executed which would force the buyer to make payments on a periodic basis and not assume title to the property until those payments were completed. There are several other variations of this type of contract which we will not discuss.

Offers and Sales by Trusts

A trust will own personal property, such as stocks, bonds, and other similar items just as an individual will own them. The trust personal property will be kept in trust-owned storage space or leased space. The trust will keep records on the values and descriptions of the personal property it owns. The trust may offer such property for sale in all the conventional ways. For example, classified advertisements, notices of sales, and oral announcements to the trustees. These offers are just as valid by a trust as by an individual.

Sales by Trusts

The trust will sell property and should execute a bill of sale in all cases where the property sold or purchased was of substantial value. The board of trustees of each trust may establish what is substantial value or not, but for a beginning guideline we would suggest \$100 as a valuation limit. In other words, sale of property under \$100 would probably not require a bill of sale, but any valuations in excess of \$100 would require a bill of sale.

Recording of Sales or Personal Property

With the exception of securities, cash sales do not have to be recorded to make them valid. If a bill of sale is given, this is sufficient, but in terms of personal property the old saying that "possession is nine-tenths of the law" is true.

Securities, because of their unusual nature, usually have to be recorded with the transfer agent of the corporation in question whenever they are sold. This should be accomplished by the buyer regardless of his identity. Stockbrokers will often accomplish this paper work at small or nominal charges upon notification by the purchaser.

Time sales are a different story. In most states governed by the Uniform Commercial Code, time sales of certain property should

be recorded at a local state recording office (usually the County Recorder of Deeds) in order to protect the lien title of the seller until the contract is satisfied. This is often the law where automobiles are involved or large electrical utilities. Usually the seller has the burden of recording such instruments. In some states time recording is only required where the seller is a regular dealer, since most trusts are not dealers that would not be governed by such laws.

It is recommended in the case of time sales of large valuations that you consult with an attorney in order to comply with all recording laws to make the sale valid.

Use of Personal Property

Since all personal property owned by a trust is owned by a legal entity and not any individual, in order for an individual to properly use the personal property owned by the trust for his personal benefit, a lease should be executed or express permission be granted by the trustees through a trust minute for the use of such property by an individual. Either way is acceptable under the law, but some legal evidence of approval must be given.

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Initial Management Procedures of a Trust

In starting any organization certain steps must always be accomplished before actual operations can efficiently begin. Some person has to be given authority to accomplish business. Accounts have to be opened with creditors, depositaries and other related business organizations. Forms have to be prepared; letterheads have to be ordered; and an accounting system must be started. Although trusts, once they are initially begun, operate under normal business practices associated with individuals, because they are fictional organizations (that is, not natural persons) they must use special procedures to accomplish these initial steps.

Bank Accounts - Trusts may open checking accounts or savings accounts in banks usually without too many problems. However, banks are generally over-cautious in allowing trusts to open bank accounts. Bank officers and employees have been indoctrinated with procedures that were developed during the Seventeenth Century and have not varied much since. They usually desire a copy of the trust instrument which created the trust before they will authorize a new checking account for a trust. They usually attempt to photostat

14-11

or otherwise copy the trust agreement for their own records and research. This is due to the fact that banks sell trusts and they wish to be aware of any new developments in the field. Since the trust agreement explicitly relates to property in which you have an interest, you may not desire your trust agreement to be on public record. Generally, most bank employees use little, if any, discretion in discussing the affairs of an account. It is the rare bank staff that has been properly trained to respect the privacy and intimate dealings of its customers, large and small. Due to these common practices, we recommend that if you can resist publishing your affairs in a bank's records, that you avoid it with all possible strength. Banks do not need your trust agreement nor a copy of your trust agreement to open a trust account. They do need clear authorization to open an account in a fictional name, but this can be provided by a notarized statement through the trustees of the trust or through reference to a public recordation of the trust, if this has already been accomplished. As a last resort, you would offer your trust agreement to open the account. However, we would caution you that there

14-12

is usually more than one bank in your geographic area and that you might make this fact quite clear to the officers of the bank of your choice.

Do not hesitate to shop around for the best possible terms in which to open a trust account. If your trust is efficiently operated and successful, there is a high probability that great sums of money will be transferred through your trust checking and savings accounts. These sums would bring in a substantial return to the bank involved. Remember, banks do not pay any interest on funds in checking accounts, but nevertheless earn substantial income on funds deposited in checking accounts.

Always remember that you are a potential customer and they are a potential servant. Don't be buffaloeed by marble halls or obnoxious bank employees. In no case, need you show any bank officer trust minutes, trust account records, or trust employment contracts. Beneficial interest certificates and property deeds also have no bearing on any bank operation. Your bank need not know your trust's insurance company, agent or securities broker unless you desire to tell him. The only information your trust's bank needs is the authorization to open the account in the proper name and the

14-13

required funds to meet all withdrawals. Eventually, if not immediately, your trust might establish a substantial line of credit with various banks which it would use to finance major transactions.

Trust Manager - Every organization that does business with unrelated parties requires an agent or someone that will assume the responsibility of conducting the negotiations, signing the contracts, and dealing with all other persons. He is sometimes called the president, executive director, or administrator, or in the case of a trust, might be called the first trustee, or trust manager, or any other name indicating his position. The board of trustees of any trust has the power to designate any person to be trust manager. That person may either be a trustee or may be hired as an employee. Compensation should be paid for services rendered where such services are extensive. If the trust manager is a trustee, that person may decide to waive any compensation, or he may be paid as if he were an independent employee.

The trust manager would have all authority necessary to conduct trust business. He would be the person who would examine properties, sign most of the checks, and

report to the trustees on the proper operations and transactions which involve the trust. The trust manager would, in coordination with the rest of the trustees and any other subordinate employees, coordinate all the records, maintain the accounting system, and use his best efforts to insure the efficient and economical operation of the trust.

The trust manager is elected through a minute of the board of trustees. Such a minute may be either specific or general in nature.

Trust Office Space - The trust may pay a trustee for the use of space to keep the trust records and from which to conduct trust business. ABC firmly believes that one should pay for services rendered. If the trust uses space owned by another organization or individual, it should seriously consider paying some form of rent or compensation. If the owner of that space or utility being used decides to donate the space for the use of the trust or waive the rent for a period of time, the trust should note this in a minute and gracefully accept the donation. It must be emphasized, however, that there is nothing wrong legally or morally for the trust paying for space it occupies or uses.

This would also include reimbursement or paying for utilities or other equipment.

Buying and Selling Property and Leasehold Interests-

The trust is able to buy and sell and lease property in the same way that an individual does. The trustees or delegated officer (like the trust agent or manager) will sign all the contracts and will bind the trust in purchasing and sales contracts and in any lease contracts that might be executed, whether the trust is a landlord or tenant. The trust name, such as the Main Street Trust or Anderson Family Estate (a Trust) will be used as the primary contracting party. In other words, where you would use your own name when you sign a lease, the trustees would sign in their own names for the trust names when they sign a lease for a trust. Again, we are simply applying a principle that a trust is a different person than you as an individual. The trust will sign contracts in its own name just as you would sign contracts in your own name. Trusts may buy and sell and lease property in all legal ways.

Trusts are not exempt from personal property or real estate taxes and where state or local law require tax

payments, there is usually no exception made to property owned by a trust. The trust not being a tax-exempt institution would, of course, pay all transfer taxes or recording fees, where necessary, upon the purchase of any property. If the trust leases property it is recommended that renters' insurance be obtained to protect the trust's interest in the leased property.

These statements concerning trust procedures may seem simpleminded and because they are quite easy to state we cannot devote a great amount of time nor do we wish to devote a great amount of material to these statements. We do, however, wish to emphasize their importance. The trust is not tax-exempt nor is the trust involved in any procedures that are significantly different from those that an individual would use in good business practice. If this basic rule of thumb is remembered or applied in all business transactions the trust will not violate any laws.

Two other things must be emphasized. First, your trust is different and independent of the trust foundation (the family foundation). Whenever the word "foundation" is used we are discussing a 501(c)(3) tax-exempt organization. The management procedures

14-17

for this type of organization were discussed in the initial sections of this seminar. Those procedures apply to any organization that is tax-exempt under Section 501(c)(3) of the Internal Revenue Code, regardless of how the organization was created.

Second, trust-owned property or trust-leased property is not owned or leased by any individual. Even if you are a trustee of a trust owning or leasing substantial amounts of real estate or other property, you cannot treat this property as your own. It must be respected as the property of another separate organization. You, as a trustee or trust manager, may have access to this property or use of the property under advantageous circumstances. Nevertheless, it is not yours and should never be claimed to be yours. If a person does claim trust property to be their own, this claim might be used to throw the property into probate upon that person's death. The disadvantages of probate have already been discussed.

Taxes - As stated earlier, the trust is not tax-exempt and must pay all normal income taxes, excise taxes, personal property taxes, real estate taxes, etc., as levied under federal and state law. Trusts under the

14-18

federal income tax law, however, enjoy the few procedural benefits that individuals do not. Trusts, for example, are not required to pay income tax on income received and disbursed to beneficiaries within the same fiscal year. That is, any income earned by the trust, if distributed within that same fiscal year, is not taxable on that year's return. If the trust retains income, however, (over \$100 in any particular year) it must pay income taxes at individual rates. Since the trust is liable for income taxes, it may also take advantage of the standard business deductions and other exemptions allowed by the Internal Revenue Code. Any taxes paid are deductible from gross income. Charitable contributions are deductible. Interest on loans is deductible. However, mortgage payments or capital improvements on trust-owned real estate are not deductible. One suggested method of avoiding capital improvements would be to classify one trust checking account as a repairs account to accomplish the repairs and maintenance of real estate. If the activities connected with maintaining or repairing trust real estate are not obvious capital improvements, then the repairs and maintenance costs are also deductible.

14-19

ABC does not and cannot teach its members tax law or tax filing principles, and therefore we must recommend you to your tax lawyer or accountant for more detailed and specific advice on the actual conditions and status of your trust properties and business activities.

States do not usually levy any special taxes against trusts, but trusts are liable for real estate and personal property taxes in most locales. Reference should be made to state law in each situation to determine the actual liabilities for these taxes.

Few states require annual reports and those states that do, only apply this law to certain kinds of trusts. Normally, ABC does not recommend trusts in these particular categories and would, therefore, advise you that your trust would usually not file any annual returns or reports with your state. The Internal Revenue Code, however, requires that trusts file an income tax report if they earn \$100 or more in any fiscal year. This would be filed on Form 1041. Many attorneys recommend that every organization or person file a return every year, regardless of the amount of income that is earned by that person or organization; that is, even if your trust were to earn less than \$100 in any year, it is

14-20

recommended that your trust file a return showing a large number of zeros. When a return is filed, the Treasury must act on that return within three years or forfeit all right to do so except in cases of fraud. Consequently, the filing of an annual return, regardless of the amount of income, is advisable.

Use of Trust Property - Valuable personal property is often transferred into trusts. Usually, clothing or costume jewelry or utilitarian small appliances are not transferred into trusts, but mink stoles, engagement rings, or highly valuable jewelry are usually protected from probate and liquidation by trust procedures. Quite often, jewelry that is purchased amounts to investment, where gem values appreciate.

Any person may use the furs or jewelry placed in trust upon the express permission of the trustees. This permission is usually evidenced by a lease agreement, a note of permission, a minute of the board of trustees, or combinations of these procedures. The trustees may lease properties owned by the trust for any values considered reasonable by the trustees. Again, this only applies the principle that the trustees control all trust activities, and that nothing may be properly done

without their permission. It is recommended that the lease procedure be used, coupled with an authorizing minute in the records of the board of trustees in all cases where an individual desires to use trust property. The identity of the individual is immaterial.

If the trust property is leased to a business, normal credit lines and credit procedures should be observed; that is, if the trust is leasing to a business that is just starting, it would obtain co-signatures from the individual officers or directors of that business as well as executing the lease in the name of that business. This is the same procedure that is used by a bank or other large management companies and should be used even though the officers and directors of the tenant business are closely related or identical to the trustees of the trust. Here we are only applying common business practice to further evidence that the trust is a separate and independent person from the corporate business that might be renting the property or the individual who comprises the trustees or officers and directors of the corporation.

If any questions arise, it is strongly urged that you consult with a knowledgeable attorney.

14-22

The Use of Attorneys and Accountants - Modern

legislations have created an extremely complex legal system in every state in this country and in the Federal Government system which controls every individual in this country. It has been estimated by the Yale Law School that well over one million laws affect every single individual in the country from the time of their birth until the time of their death. These laws emanate from not only the U. S. Congress and the hundreds of agencies that are formed and administered by the President of the United States, but also those created and governed by state legislators and governors; by county commissioners and county management boards; by city councils, local real estate tax commissions; consolidated district boards (most commonly found in rural school systems); zoning boards; and the hundreds and thousands of other small government-like agencies that derive their power from various laws and regulations. It has been estimated that a citizen living in a suburb of Chicago, Illinois may be subject to the laws and regulations of over 117 lawmaking bodies, such as, elementary school districts, high school districts, junior college school districts, city water commissions, county water commissions, county sewage

14-23

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commissions, county industrial waste commissions, city air pollution commissions, city council, zoning boards, city police systems, county sheriff's office, state police organization, and the Illinois Crime Commission. It is obvious that from even this partial list of "governments" that have some control over a portion of your life that many of them overlap in their jurisdiction and fields of interest. This does not necessarily mean that they are consistent in their determination of what the law should be. In fact, it is quite the contrary. Often you will find conflicting regulations and laws which govern the very same action or activity in which you wish to engage. These conditions seem to imply that you would require an attorney to advise you before you ever stepped out of your bed in the morning or took a deep breath of what might be polluted air.

Obviously, this is not true. Most people, even those involved in substantial business and financial transactions do not need nor request an attorney's advice for everything they accomplish. Once an attorney has advised you on establishing a proper system of action or procedures which will guide you, it is generally not necessary to call him up every time you want to do something. You do,

14-24

however, call an attorney when an emergency arises or when you contemplate a complex or specific transaction. The same will be true of the trust. You will call an attorney to help establish the procedures at the creation of the foundation, but once these are established and you are able to meet the day-to-day demands of operation, you will normally not require expert advice. However, if an emergency should arise or an unusual transaction should develop you would call an attorney. The same is true of the trust. Once procedures have been established, you do not need to call an attorney every other day for advice.

It is important, however, that the proper procedures be established quite early in the operation of the trust or foundation and that those administering these procedures understand the reasoning and alternatives that form the inherent elements of the procedures. In other words, if you know what you are doing, in terms of basic methods, you should not have to call for help very often.

You may wish, however, to retain an attorney or other management counsel to keep up the paper work of your trust or foundation or other business entities. Quite often people are unwilling to take the time to write out the paper work, minutes or contracts or leases, or are simply

14-25

unsure of themselves in attempting to draft such language. For annual retainers, most attorneys are quite willing to maintain such records for their clients. The choice of a knowledgeable counselor is the most important criteria to be considered if this method suits your intentions.

The Internal Revenue Code has been criticized as the most complex and ambiguous legal system ever devised by an American citizen. The blame clearly rests on the shoulders of thousands of individuals who have written and interpreted the code. It can be said without fear of contradiction that no one person in the entire United States understands the entire Internal Revenue Code in any depth. There are experts on various sections of the code and there are clear interpretations of a few provisions, but generally, even the experts fail to agree on any single interpretation and contradictory case decisions can be found on practically any point of the code. Consequently, to suggest that a layman, or even an expert tax lawyer or accountant, would be able to give ironclad advice on the Internal Revenue Code would be presumptuous, if not mythical.

It is clear, however, that the code does require certain things. First, it requires that logical records

14-26

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be maintained of some sort. Second, it requires annual reports on financial transactions of almost all kinds that occur during any particular fiscal year. Third, it requires tax payments based upon ambiguous formulas from those who are expressly liable for payment of these taxes at the end of each fiscal year. These requirements have created the industry of accounting in the sophistication it enjoys today. Prior to extensive taxation, bookkeepers and accountants were maintained primarily to supply information relating to the economic conditions of a business at any particular time; that is, they would be able to relate all the figures and transactions involved in a business situation and report on the profit or loss of a company's entire operations or the profit or loss of any individual operation. As the tax system became more complex, the accountant's job became equally complex. Today an accountant must not only be able to compute the profit or loss of a company's operations, but also to classify or characterize each of these operations into a definition that would provide maximum tax advantages under the Internal Revenue Code. Because the trust is a taxpaying entity, accounting procedures that have been developed to save taxes or to clarify tax situations are valuable, and

14-27

in addition, even though the foundation is tax-exempt from most federal income taxes, it should still maintain accounting records that would take maximum advantage of the Internal Revenue Code's procedures in the event of loss of tax-exempt status.

ABC thus advises and recommends that an accountant or bookkeeper of some skill be maintained for any trust or foundation that has substantial assets and a large number of transactions. If your foundation or trust maintains a simple bookkeeping system and does not involve itself in any operations of more than four figures, then an accountant's skills would not seem to be as required as in more substantial economic conditions. Trusts would file Form 1041 to the Internal Revenue Service. Foundations would file Form 990-A and possibly 990-T, as conditions require. These forms vary significantly and contain great quantities of technical terms which persons not acquainted with modern accounting procedures would probably be unable to decipher. Even though your trust or foundation may not retain an accountant on a weekly or monthly basis, it is advisable that a trusted accountant be maintained or retained to review the organization's economic condition annually.

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14-28

SECTION 15PRIVACYDetails on the Privacy Aspects of the Trust

We have stated that privacy in relation to your financial transactions and property holdings is possible through the use of the trust. The methods employed are not original to this era, nor are they magical in any way. The legal relationship between the creator and beneficiaries of the trust and the trustees form the basis and strength of the benefits of privacy.

To enable the laymen to understand exactly why privacy and secrecy are possible, a brief review of the law of contracts must be made. When two parties enter into an agreement there is an exchange of promises and benefits accruing to each. In addition, limitations and proscriptions against certain activities also govern the relationships of the contracting parties. Because every agreement is personal to the parties and because the enforcement of these agreements is vital to the efficient operation of any economic system, it has been the tradition for the law to recognize, enforce and strictly construe all provisions of contractual agreements that are not against public policy. Literally, thousands of such agreements are made orally

15-1

and in writing every minute of every day in the year in the United States. For example, if you agree to sell your house to another person you will first enter into negotiations with that other person either directly or through a broker. Upon the completion of the negotiations, the deed to your house will usually be placed in escrow with a corporate escrow trustee, such as a bank. By a contractual agreement with that corporate trust, your deed will not be transferred to the buyer of your house until full payment has been made to that escrow trustee. In the same way, the buyer of your house will transfer his funds to that escrow trust in an agreement with that trust, that the funds are not to be paid to you until the deed has been properly executed and transferred. This escrow type of trust is, as you can see, nothing more than a contractual agreement between the beneficiaries (you and the buyer) and the corporate trust. Limitations are placed on activities; that is, you would not allow your deed to be transferred until the funds are presented and no court will force or can force a contrary act by the trustee.

Contracts at law are so revered that there is an evidenciary rule which bars any evidence of an oral nature from being admitted to trial in cases where a

15-2

written contract clearly sets out all duties, rights and limitations between parties. This rule of law has very few exceptions and is universally invoked in the United States.

In light of this discussion we can now examine the trust as a contract between the creator, the trustees and the beneficiaries or holders of beneficial certificates. The creator executes an agreement which may, among other things, place the duty of protection of the trust properties on the trustee. In other words, the trustees agree to protect the properties of the trust to the limitations of their abilities. The creator may state expressly that the beneficiaries may not be disclosed and that the trust shall remain inviolate against unauthorized and undesirable outside investigation. The creator may even go so far as to not require an accounting of any of the funds to anyone by the trustee. If the trustees agree to this by signing a trust agreement, then this forms a binding written contract which is subject to all of the rules of contract law that were outlined above.

As you can see, the trustees would have to breach the contract in order to disclose any information about the trust or beneficiaries to parties outside of the trust

15-3

agreement. There are, however, limitations on the trustees' ability to completely isolate the trust; for example, federal law demands that most trusts file income tax returns concerning major classifications of trusts' financial activities. No agreement under the law can prevent this type of disclosure. In a similar way, if the trust injures a third party or commits a fraud against a third party, then the protection of the trust agreement ceases insofar as that transaction is concerned. In other words, if an outside party has a bona fide serious complaint against a trust concerning transactions or property holding by the trust, the courts will force disclosure of information related solely to that transaction or property.

Emphasis must be placed on two elements of this type of disclosure. First, properties unrelated to the questionable transaction or property will not be forced into the open. Second, the courts throughout the long history of Anglo-American law have consistently demanded that complaints against trusts be supported with substantial evidence and charges of a serious nature, before they would even consider forcing the trustees to violate the trust agreement. Of all the contracts that are recognized under the law, the trust is most respected and most

consistently upheld.

Through the exercise of proper discretion by the trustees and the managing officers of the trust, few transactions or property holdings would ever be filed or disclosed in any way that would be open to public investigation. For example, the trust could enter into an agreement with the bank where the trust accounts are deposited to require the bank to refer all inquiries concerning trust properties and transactions to the trustees. The bank could also be prohibited by agreement from disclosing any information to unauthorized persons concerning the trust accounts. The same types of agreements can be entered into with securities brokers, insurance agents and companies, real estate brokers, suppliers and any and all persons with whom the trust might ordinarily deal. Attorneys are by the law, prohibited from disclosing information concerning clients, but the trust may emphasize this law by entering into an express agreement with attorneys.

DISTRIBUTE EXHIBIT #54

15-5

EXHIBIT 34

NEGOTIATION OF PRIVACY

- I. Privacy today is possible only in relative terms. Due to the lack of respect of many people for private property and individual privacy it is all but impossible to assure complete privacy of anyone's affairs. Countless credit checks and other investigations are accomplished without the permission or knowledge of people being investigated. In addition, the development of electronic eavesdropping equipment and other devices have made all of us wary of saying things in insecure places. Industrial espionage is as prevalent as government "big brother" harassment and spying.

Investigations of other people's business is being accomplished by both private and government sources each day without respect for property rights, privacy, or any other courtesies of traditional human behavior. It is all but impossible to stop this sort of activity. What you can do is make it difficult for these people to pursue this activity. Given enough money and enough time I am certain that anybody can find out all there is to know about somebody else, even Howard Hughes.

Privacy is attained, however, when the cost of such an investigation in time and in money is so high as to make it unprofitable. It would probably take many hundreds of thousands of dollars, and years, to find out all there is to know about Howard Hughes, and by the time you found out, most of the information would be inaccurate. Consequently, it is unprofitable to investigate Mr. Hughes' affairs. He has, therefore, attained relative privacy, even though he is world famous and has a reputation for notorious and flamboyant acts.

Even though your reputation and estate may not reach the proportion of worldwide significance as Mr. Hughes, Mr. Rockefeller, and others of that type, you are still entitled to privacy and may still attain privacy by using techniques developed by Mr. Hughes and others.

- II. Simple procedures have been developed to help you attain privacy. Certainly, other people will know of your affairs. You are probably not completely self-supporting or self-sufficient. In other words, you will depend on others for certain services. When this occurs they will know about part of your affairs. It is your job, if you wish to protect your privacy, to clearly negotiate for their discretion.

This will be attained in one or more ways, depending upon your personal and individual relationship with these men. If you are on good terms with a banker, stockbroker, insurance man or other person with whom you deal financially, you may often reach an oral negotiation of privacy which, when approached in good faith, will protect you as well as any other agreement.

For example, if you suggest to your insurance man that your affairs are to be kept private and that you want his assurance that they will be kept private and not be used as examples in articles, speeches, sales talks, or any other publication, either within the industry or of a general nature, and that you will be more than happy to change your insurance if he does not agree, then this might put him on his guard.

When you discuss privacy with such men it is recommended that you first get their opinion toward privacy. If they do not respect it as a personal attitude, then a promise from their lips that they would respect it would probably be worthless.

Stockbrokers and insurance men have a general reputation for discretion and can usually be trusted without further agreements. Banks, on the other hand, have a widespread reputation for discussing clients' affairs as general knowledge. They have developed this reputation through their inability to employ and maintain well-trained and well-educated employees. Turnover of bank employees is often high and where this occurs, respect for privacy is low. It is recommended that in these cases written instruments of privacy might be employed.

III. One type of provision or contract that could be obtained from a bank would be a so-called resolution of confidence. Just as your corporate foundation passed a resolution to open a bank account at a particular bank you may ask the bank's board of directors to pass a resolution and give you a copy. Such resolutions are binding contracts. The resolution might be stated as follows:

1. RESOLVED that the First National Bank respect the privacy of the Light Bulb Trust and agree not to disclose any information to others without the express permission of the trustees of the Light Bulb Trust.
2. BE IT FURTHER RESOLVED that any inquirers of information about the Light Bulb Trust account or accounts will be referred directly to the First Trustee of the Light Bulb Trust.

3. BE IT FURTHER RESOLVED that notice of all inquirers of information pertaining to the Light Bulb Trust accounts will be given to the trustees of the Light Bulb Trust so that they may know who is asking questions.
4. BE IT FURTHER RESOLVED that in the event of the breach of these resolutions that the bank shall agree to have breached their fiduciary responsibility and agree to be subject to all damages therefrom.

The last provision in the above resolution of confidence is called a damage provision. There are several variations of this provision which would include everything from an agreed liquidated damage provision which would provide for cash settlement for such breaches to the above resultant damage clause which would merely force the bank to pay for damages which resulted from their improper acts.

Many other kinds of written instruments can be provided for the protection in written form of the privacy of your affairs, either through the corporate foundation or through your trust.

- IV. Some people believe that expressly asking for privacy makes the listener suspicious of your affairs and would cause him to discuss your affairs with others where he might otherwise not do so. This has happened on occasion and will probably happen in the future. For this reason, it is important to obtain the attitudes of the listener toward privacy before you discuss your affairs. If a person thinks that everyone should disclose his affairs if he isn't doing anything wrong, you should not deal with this person, if you want your privacy respected.

Just because you are doing nothing illegal, improper or immoral doesn't mean that your affairs should be published in the daily newspaper or discussed as back fence gossip by everyone in town. You are entitled to your privacy even though you are accomplishing nothing illegal. In fact, it would seem to go the other way. The only time that someone else should know what you are doing is when you are doing something illegal. If you are doing something proper and within the law, it is nobody's business but your own.

If the persons you deal with share your attitudes toward privacy, then you should have no problems with your affairs.

- V. Discussion of your affairs by others is often caused by statements made by your children or relatives. When your children are old enough to understand, a discussion of privacy might be attempted. If they are to understand that your family's affairs are only your family's business and no one else's, then they won't discuss "the old man's salary" or "what we just purchased last week" or "how Dad avoids taxes." In the same way, some of your relatives might have over-active mouths. If they do, we recommend that you not tell them what you are doing. You aren't going to start or stop them talking regardless of what you do, so

there should be no exchange of information so that what they talk about is definitely not based on fact. Rumors and gossip may fly around regardless of your attempts, but if no one really knows what you are doing it doesn't make much difference. There are as many rumors and myths circulating about the Fords and Rockefellers as any family in the United States. The Fords and Rockefellers are unable to take any steps to stop these, but very few of these stories are true. There are an equal number of stories circulating about Howard Hughes, and yet Mr. Hughes doesn't stop them, doesn't make any shouts, but doesn't verify them in any way.

If you train your children not to answer the questions of any strangers about your family's affairs or to volunteer any information under any circumstances, whether in class or out, and if you discuss your attitude toward privacy with your relatives or refrain from giving your particularly noisy relatives any information, then your privacy will be protected even though others may talk about you.

- VI. Government investigators have limited rights and you should not be buffaloed by their officiousness, gruff attitude or discourtesy. Keep in mind that you are entitled to an attorney at all times even in civil discussions; that is, if an agent from the Internal Revenue Service should appear at your home to discuss a civil liability, you, nevertheless, have the right to call your attorney and withhold discussion until he gets there. The difference between civil and criminal is not important if you want an attorney. It is every person's right to be counseled by anyone who is in the proper position to counsel and no one can stop you in this country - yet.

Your attitude toward government investigations, however, should be courteous, not necessarily totally cooperative or willingly cooperative, but courteous. There is no reason to personally antagonize any government agent, but neither should you give up any individual rights that you have as a citizen. The government does, under certain circumstances, have the right to review your economic condition and some of your affairs, but not all of them, and they must bring specific charges or discuss specific areas of investigation. They just can't come in on a "fishing expedition" to see what might be wrong or right about your affairs. Remember that until proven guilty you are assumed innocent and, if necessary, express this attitude in no uncertain terms. This is not to say that you are doing anything wrong, but just to guard you against the attitudes of many officious government agents.

VII. Finally, if there is one source of information that is hard to control, it is your own mouth. People have a tendency to discuss new "toys" or new things they are involved in too freely for the sake of their own privacy. If you are interested in privacy, then wear a tight-lipped smile and go about your affairs in your own way. If you are not interested in privacy then do not first discuss things with others and then complain about your lack of privacy or unauthorized investigations. I am certain that you know many people who discuss their personal affairs as if they were the Suez crisis or similar points of international discussion. These people are often the same ones who yell loudest about a credit check when, in fact, all the investigator had to do was call the man on the telephone to get all the information he needed. In other words, if you are sincerely concerned about privacy, the first step in attaining privacy is controlling your own attitudes toward disclosure. If you don't disclose any information about your affairs it becomes extremely difficult for others to find out about your affairs.

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Of course, real estate deals must be recorded with local officials, if encumbered; securities must be recorded with the respective corporations and insurance companies are often required by law to register their insured accounts with a state agency. Since this information is usually not filed with a central agency it becomes almost impossible to conduct an investigation of trust properties and transactions in a reasonable time.

Your trust's agreements of privacy with all of the people with whom it deals, bars the registration of the trust accounts from ever being filed with a private central agency or credit bureau. Thus, there is no central private source of information, and if there is a blessing to bureaucracy it is the fact that investigations in the gigantic and usually confused records of public agencies are extremely difficult.

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15-6

SECTION 16
TRUST FOUNDATION

The Organization and Creation of the Trust Foundation-

The trust foundation is a natural element of the equity trust operation. It is not a required element nor would it be necessary in the proper operation of any trust, but since tax-exempt, non-profit operations and benefits are highly desirable, then certainly we should have the trust make use of these procedures in the same way that you as an individual have made use of these procedures.

The trustees of an equity trust would take advantage of their ability to operate within the defined limits of a constitutional citizen. All constitutional citizens may create foundations or business entities to accomplish their activities. The trust would create a foundation under a trust indenture or agreement which would be executed and signed by the trustees.

This trust agreement is similar to the agreement that originally created the parent trust. The language of the trust foundation agreement, however, will vary considerably from that of the parent. The trust foundation agreement will set out in detail those elements of a tax-exempt organization under Section 501(c)(3) of the Internal Revenue

16-1

Code. The trust foundation agreement will have to be different and usually more extensive in its language than the language of the articles of incorporation which created your corporate foundation. The reason for the more extensive language necessary in the trust foundation agreement is that the trust foundation is not governed by a state corporate law and therefore must repeat all of the powers and qualifications necessary for the proper operation of a tax-exempt foundation without reference to any state law.

Your corporate foundation, on the other hand, referred directly to your state law and incorporated by reference all of the language of that statute. Most state laws set out all the powers and duties of foundations and this language need not be repeated in articles of incorporation.

Once the trust foundation is created, however, it must operate within the same guidelines and principles that affect the corporate foundation. All of the definitions and procedures that were discussed in the first sessions of this seminar apply equally well to the trust foundation. There are a few detailed changes and these will be explained.

Before we discuss the detailed operations of the trust foundation as they may differ from those of the corporate

16-2

foundation, two principles must be emphasized. First, the trust foundation, once created, is an entirely separate organization from the trust or the corporate foundation. Records are not commingled; accounting is kept entirely separate; and minutes of the board of trustees of the trust foundation are kept separate and are recorded differently from those of the parent trust.

Second, the trust foundation, once initially created and operated, must be dedicated to the benefit of mankind within the limits of the seven permissible purposes of Section 501(c)(3) of the Internal Revenue Code. The difference between the trust foundation and the corporate foundation in operation, however, arises in two areas. The trust foundation usually operates in a different way or field than does the corporate foundation, and the trust foundation usually operates more quietly than the corporate foundation.

DISTRIBUTE EXHIBIT #35

Initial Operations of the Trust Foundation - The major difference in setting up the initial accounts and

EXHIBIT 35DIFFERENCES BETWEEN THE TRUST, CORPORATION FOUNDATION
AND TRUST FOUNDATION

I. The Trust

- A. Formed through a trust agreement contract created between a creator and two or three trustees (minimum).
- B. A taxpaying entity to the extent it retains income in excess of \$100.00.
- C. An entity of limited duration which is renewable upon the discretion of the trustees.
- D. Not generally governed by any specific state act, but controllable under general state law.

II. The Corporate Foundation

- A. Created under state law - usually a state non-profit corporation act or non-stock corporation act.
- B. A tax-exempt organization qualified under Section 501(c)(3) of the Federal Internal Revenue Code of 1954.
- C. An organization with a perpetual life.
- D. Usually subject to state regulation from both the Secretary of State under the corporation act and the Attorney General under charities law, either express or implied.

III. The Trust Foundation

- A. Created by trust agreement in the same way that any trust is created.
- B. Tax-exempt as qualified under Section 501(c)(3) of the Federal Internal Revenue Code of 1954.
- C. An organization of limited duration renewable upon the discretion of the trustees.
- D. Generally subject only to the state attorney general in cases of gross misconduct by the trustees.

(over)

Each of these organizations is an entirely separate and independent entity. If they are used as elements of your particular estate plan, the independence and separateness should be respected in order to gain maximum benefit. Accounting should be kept entirely separate and different filing cabinets or drawers should be maintained for each organization.

Remember that the foundations are tax-exempt because they are dedicated to the proper purposes as defined by Section 501(c)(3) of the Internal Revenue Code. Unless these purposes are maintained and supported tax exemption is not possible.

* * * * *

records of the trust foundation from that of a corporate foundation will be found in business procedures. You will use trust business procedures to set up the proper papers for the trust foundation rather than corporate business procedures. For example, in opening the trust foundation checking account, you would normally show the entire trust foundation agreement to the bank to open the account. You would not file a "corporate resolution" form to open a bank account, but instead use the trust procedures. In the same way, you would execute the trust minutes and sign contracts in the name of the trust rather than using corporate procedures and corporate officers.

A trust foundation may have officers and, in fact, most trust foundations usually do. These are elected by the board of trustees of the trust foundation. The initial board of trustees of the trust foundation will generally be identical to the board of trustees of the parent trust, but changes in the board of trustees of the parent trust may or may not affect the actual names and identities of the board of trustees of the trust foundation. In fact, after a few years' operation, the boards of trustees of the parent trust and the trust foundation may, in fact, involve different parties. Essentially, this just means

16-4

that the trust foundation is an independent organization after the first steps taken by the parent trust.

Generally, however, the boards of trustees of the parent trust and the trust foundation are usually kept identical for ease of management.

Charitable Contributions - The parent trust may contribute to the trust foundation. ABC generally does not recommend this procedure, however, primarily due to the close relationship of the parent trust and the trust foundation. Rather, we recommend that the parent trust loan initial capital to the trust foundation. The trust foundation, however, may receive contributions from any other source as any proper 501(c)(3) organization. The corporate foundation could, in fact, contribute to the trust foundation for various reasons or just to generally endow the trust foundation. This would be accomplished through a resolution by the corporate foundation and a general grant or unrestricted endowment. Standard procedures would be used between the corporate foundation and the trust foundation in the same way that the corporate foundation would do business with any other unrelated foundation.

The trust foundation would itself accomplish charitable grants or activities in much the same procedures

as the corporate foundation. Trust minutes of the board of trustees of the trust foundation would record all trust foundation charitable activities just as minutes of the board of directors of the corporate foundation record corporation activity.

Reporting Requirements - Trust foundations because they are not created under a state's corporate laws are not required to file annual reports with the Secretary of State. Trust foundations, however, may fall within the scope of the charitable trust acts in the 11 states where they are statutory law and enforced vigorously. These states include Illinois, California, Michigan and Louisiana. In these states, annual reports to the attorney general's office may be required, depending upon local administration. You should consult with your local attorney to determine whether your trust foundation is a charitable trust or whether it is required under state law to register with the attorney general and file annual reports.

Your trust foundation is required to file all of the federal reports that your corporate foundation is required to file. All of the techniques and reasoning discussed in relation to federal forms concerning the corporate foundation apply in exactly the same way to trust foundations.

16-6

Trust Foundation Investments - Under an unusual quirk of the Internal Revenue Code, trust foundations are seemingly prohibited from investing in foreign countries. This does not bar the trust foundation from accomplishing charitable activities or research and development in foreign countries. It merely prohibits investment in foreign countries. Consequently, trust foundation investment should be limited to United States and its territories. If you are interested in foreign investments, your corporate foundation and the original equity trust are more than capable of accomplishing these investments without loss of benefit.

General Recommendations on Trust Foundation Operation- Because your trust foundation is generally used as a receptacle for "surplus" earnings developed in other entities under your control, such as the parent trust or corporate foundation, the trust foundation would generally have a large amount of capital available for philanthropic activity. Philanthropic activity must, under the law, be accomplished in one or more of the seven fields outlined in Section 501(c)(3) of the Internal Revenue Code, but the method of accomplishing philanthropic activity in the trust foundation should differ significantly from the method of

operation in the corporate foundation.

There does not seem to be any real need for wide publicity of the good works of the trust foundation. In fact, we recommend that gifts made, however, significant, be accomplished in such a fashion that the outside world is unaware of the identity of the giver. This does not mean that you would send Cashiers' Checks to colleges and universities without them being aware of the source. It would mean, however, that you would request the identity of the giver be kept private from unrelated parties to each charitable transaction.

For example, if you were to make a sizable donation to the college or university of your choice, you would negotiate with the president and the board of trustees of that college or university to make the gift, and then require the parties who know of the gift to report that they received it anonymously; that is, your trust foundation would receive acknowledgment from the college or university of the gift; your board of trustees would record the gift in trust foundation minutes, and the college would use the funds in any way that they felt were appropriate. However, the students of that college or university or inquiring reporters would be unable to discover the source of the

16-8

funds. Athletic stadiums, libraries, college classrooms, and other facilities have been constructed by such anonymous gifts in practically every college in the United States.

It is recommended that all research and development and substantial philanthropic programs involving large numbers of persons be accomplished through your corporate foundation. If the corporate foundation is unable to finance these operations, then a grant from the trust foundation or a loan from the trust foundation to the corporate foundation could be quietly made. Thus, your affairs would be like an iceberg. Ninety percent would be out of the view of the general public and ten percent in the form of your corporate foundation would be there for all to see. This, we believe, is as it should be. No other person has any right to know about your affairs unless you decide to tell him.

DISTRIBUTE EXHIBIT #36

Thus, the operations of your trust foundation, although perhaps more effective and more far-reaching than

16-9

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EXHIBIT 36OUTLINE OF FOUNDATION MANAGEMENT
ON AN ANONYMOUS LEVEL

- I. Operating a philanthropic organization on an anonymous level is difficult if the management intends to maintain the good faith levels of publicity and accomplishment that are an inherent part of proper management of a 501(c)(3) tax-exempt organization. One must always remember that the purposes of the organization must be maintained within the law regardless of the method of creation of the organization or government recognition. In other words, if the foundation is to claim tax-exemption under Section 501(c)(3), it must meet the definition of that section and operate exclusively for the proper purposes.
- II. It is impossible to operate completely in secret and still maintain proper operations. However, if the following considerations are satisfied, then your trust foundation or any foundation might operate as quietly as possible and avoid the glare of publicity or notoriety.
 - A. What programs might be accomplished by a foundation that can aid or develop or solve programs or problems involving a large number of people without the knowledge of the people?
 - B. How many people must know of the foundation's participation in the program?
 - C. Agreements of confidence and anonymity should be completed with the individuals who are aware of the foundation's participation.
 - D. Careful records of all correspondence should be maintained to give clear evidence of the actual operations of the "anonymous" type foundation.

The above suggestions are only starting points in formulating "quiet-type" programs.

- III. Some thought starter ideas on quiet-type programs include the following:
 - A. Scholarship programs where the college or university administers the program without revealing the name of the fund.
 - B. Religious grants where only the minister, priest or rabbi is aware of the donor.

- C. Literary programs involving the distribution of literature or providing of libraries on an anonymous basis.

As you can see, most of these programs are charitable in nature and this is usually the case when anonymity is desired. However, more experience with foundation programs should give you ideas and innovations to accomplish other programs on an anonymous level.

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those of your corporate foundation, would nevertheless never meet the public eye nor would the trust foundation be subjected to any great amounts of solicitations from other organizations. These solicitations would be referred to or handled by your corporate foundation.

DISTRIBUTE EXHIBIT #37

Memberships - Your trust foundation would generally not have any memberships nor would your trust foundation generally have any employees; that is to say, no persons receiving compensation for the work. Your board of trustees of the foundation or officers of the trust foundation would often accomplish considerable work, but since they may also receive compensation from the trust or incidentally be employed elsewhere, it would be expected that they would not receive compensation from the trust foundation. This would eliminate any possibility that your trust foundation would have to file W-2 forms or pay social security or unemployment taxes.

The rule of thumb that should constantly be kept in mind in terms of the trust foundation is to operate it as simply as possible with no employees, no complex

16-10

EXHIBIT 37NEGOTIATING ANONYMOUS GIFTS AND
GRANTS TO OTHER ORGANIZATIONS

This exhibit was not completed at the time of this seminar.
It will be mailed to you upon completion.

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solicitations, no complex research or development projects, but simple, though effective, philanthropic operation. Your trust foundation can operate without extensive supervision, generally without any detailed law work and with a very simple accounting system. It may be possible that your trust foundation will be the most wealthy of all your organizations. Nevertheless, simplicity of operation is still recommended.

If you have any questions concerning operation of the trust foundation, please ask them now because our next step is to discuss the general principles of relating the parent trust, the trust foundation, the corporate foundation, and yourself into an effective and economical operation.

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16-11

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SECTION 17TANDEM OPERATIONS

(Coordinated Function of Trusts and Foundations)

By now most of you are familiar with what we call the tandem organization of estate plans. This term simply means that two spheres of activity are created to segregate the operations of your estate so that you might be more effective in your foundation activity. The first sphere is called the "public sphere." The public sphere includes a corporate foundation and any other business entity with which you might work. The second sphere is called the "private sphere" and this would normally include only a trust and trust foundation.

You, as an individual, are not assigned to either sphere but operate in both.

By definition a tandem organization of your estate simply involves the coordinated operations of two separate spheres of activity. The overall objectives are efficiency and economy for philanthropic and private interests and the means to these objectives are found in the management principles we have discussed.

In order to better understand some of the management principles related to coordinated operations of trusts and

foundations, we should first briefly discuss the purposes of each of the spheres of activity that form the tandem estate plan.

(a) The private sphere - The private sphere is dedicated to the preservation of the property that you have acquired during your life for the comfort and security of your family. A man cannot think philanthropically unless he and his family are personally secure. The private sphere is created to protect property from the ravages of estate tax, inheritance procedures and undesired third parties. The private sphere is directed toward accomplishing good things for yourself and your family and to provide the ready reserves and resources necessary to accomplish all things for the safety and security of your family. No one other than your family has any business with how you accomplish various projects for your family unless you are doing something in an illegal manner or a manner that directly injures someone else. Assuming that illegal or harmful methods are not within your consideration, we suggest that the private sphere is just that - the sphere of activity which is private to you and your family and which should remain so.

(b) The public sphere - Your corporate foundation, however, and any other business entity with which you are associated, are created to deal with the public and to accomplish good things for society. These organizations are likely to advertise their accomplishments, available services, merchandise, and successful projects. These organizations form your public spheres - that sphere which relates to all other people and which provides the economic relationships with which you build your security.

Management of Property (Tandem Estate)

In properly coordinating the activities of a tandem operation one principle must constantly be emphasized. You have heard it before and you will hear it again, and the reason it is repeated so often is that it is the most important principle involved in proper estate management. This principle is simply "each of your organizations is a separate, independent body apart from yourself and must be treated as such to maintain individual benefits." To be specific, you must not at any time confuse or commingle any of the property assets or transactions of the various elements of the tandem estate plan. Money in the corporate foundation bank account must never be used to pay for repairs on property owned and used solely by the trust.

17-3

Money in the trust bank account must never be used to buy gasoline for automobiles owned by yourself and never used on trust business. These seem like simple enough examples, but they have been violated and confused in several cases.

The primary rule to keep in mind in managing property involved in a tandem operation is as follows: "If an entity has no property interest in a particular asset or transaction, it may never contribute funds toward the support, maintenance, or continuation of that property or transaction." In other words, if your foundation does not either own or lease a certain piece of real estate, it may not pay for the mortgage, real estate taxes, maintenance, or insurance on that property. To do so would endanger the legality of the foundation.

Perhaps this principle can be best illustrated in yet another way. Every person in this room is an independent entity, a human legal organization. None of you owns any percentage of the Merchandise Mart in Downtown Chicago. The Merchandise Mart annually pays about \$300,000 in real estate taxes (or has paid this since 1960). Does any person here feel that they should pay the real estate taxes or any part of the real estate taxes on the Merchandise Mart? The answer is obviously "No" - you don't own it.

Some of you, however, might lease some office or show-room space in the Merchandise Mart. If you do, and you wish to redesign your particular leased space, then I don't believe you would object to paying at least a portion, if not the entire bill, for the redecoration. This is because you have a property interest in the form of a lease in that particular space.

If we remember that the corporate foundation, the trust, and the trust foundation are just as independent and separate from us as we are from every other person, then handling property should not create any problems. Treat foundation property or leasehold interests entirely as foundation assets. These assets are dedicated to philanthropy. Just because you might have your trust checkbook available and your foundation checkbook in another purse or pocket, you should not pay foundation bills with trust checks. Neither should trust taxes be paid with foundation funds simply because the foundation has more money than the trust.

These are simple examples. The more complex an estate becomes through contracts or other documents, the easier it is to confuse assets and funds. For example, at some time in the near future you might find that you own

or control securities in four separate accounts; individually, your trust, your corporate foundation, and your trust foundation. You might decide that it would be easier to handle your portfolio through a single account. This might lead you to believe that all you would need to do is transfer title. Because your trust is obviously an easy place in which to operate an investment program you might decide to place every single security that you presently own or ever acquire through all entities in your trust.

Without proper consideration, however, you may have the following problems. First, how would you justify the transfers from your trust foundation and your corporate foundation to a profit-making, taxpaying entity? Second, would you be involved in owing transfer taxes and transfer payments to your broker because of this simple transaction? Third, would you be liable for attributable capital gains on the securities you transferred from your individual ownership to the trust? Fourth, would your foundations be guilty of any prohibited transaction?

Even though your securities did not leave your control, you may have caused a great deal of trouble through your treatment of individual, independent, legal entities as

completely under your ownership. Remember you may have control of each of these legal instruments, but you do not own them.

If every person in this room owned \$1,000 in "blue chip" investments it would be possible to transfer a great number of these investments from person to person in this room without any actual gain or loss attributable to any person. I doubt, however, whether any person in this room would make these transfers without serious consideration. The same serious consideration that you would display in dealing with unrelated parties should be displayed in dealing with your tandem estate elements.

All of this merely emphasizes the point at which we started. We must treat each legal element of the estate plan as a separate and independent body in order to gain full advantage of each of the instruments.

DISTRIBUTE EXHIBIT #38

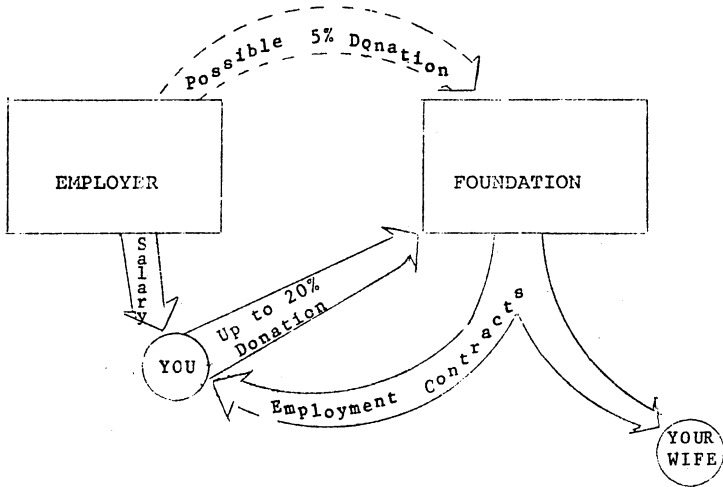
Management of Activity

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The proper management of activities is a little easier to keep in proper order than the principles of management of property. The rule here is quite simple. "If the activity solely relates to a family project, it should be

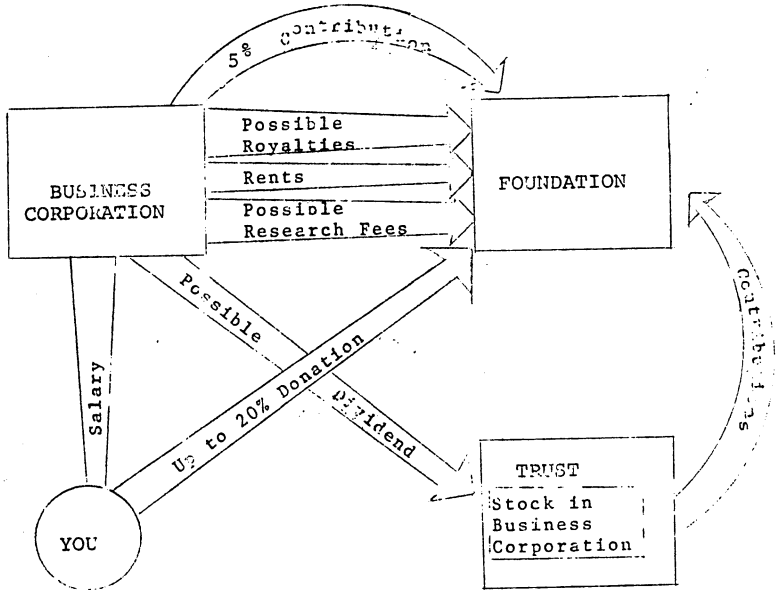
EXHIBIT #38

I. PIGGY BANK METHOD



- 1 -

II. MILKING OPERATION



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- 2 -

accomplished within the private sphere. If, however, the activity relates to outsiders in terms of benefits and contracts, then it should be accomplished in the public sphere.

A few illustrations of this principle should make it very easy to apply. If the activity that you contemplate concerns only your family, such as the purchase of a new home or summer home or a boat or something else for purely family enjoyment and pleasure, then quite obviously it should be accomplished in your private sphere, and since these acquisitions do not involve any philanthropic activity they would probably be acquired by your trust or yourself, as an individual, after taxes have been paid.

If the activity you wish to accomplish relates only to your family and is philanthropic, such as creation of a family scholarship fund at a local college or university, or the creation of a civic project in the name of your family, or to honor one of the family, then the trust foundation may accomplish it. Clothing and incidentals would obviously be purchased and acquired by the individuals with funds earned as an officer or employee of any one of the elements of your estate.

Activities that relate to other people, such as any business transactions or commercial services that might be

provided or philanthropic cooperative programs with outside agencies, should be accomplished in your public sphere. As outlined earlier, your trust foundation, as a part of your private sphere, would generally accomplish things quietly and anonymously. Your corporate foundation, on the other hand, would seek the publicity and accomplish the public relations part of your philanthropic activities. General scholarship programs relating to YMCA camps, 4-H programs, colleges, high schools, art, music, etc., which would be available to all comers, would be created through your corporate foundation. Generally, most of your activities will be accomplished in your public sphere. Unless the proposed activity or transaction relates solely to your family, you will accomplish the transaction or activity through your public sphere instruments. The private sphere will eventually protect the result of such transactions through income channels.

Management of Income (Tandem Estate Plan)

(The instructor should refer to the prior exhibit on the elements of common estate plans to illustrate the potential income relationships between each of the elements.)

Before I discuss the actual relationships between the public and private spheres of your tandem estate plan, we

should clearly define the types of relationships that are possible. These relationships will fall into familiar categories and transactions. Nothing magical, mysterious, or technical is involved.

Leases - All of you at one time or another have probably leased either an apartment or a car or some other piece of equipment of property. Leases are very flexible forms of income management. Leases are formed between tenants and landlords and we will discuss the relationship of these two parties, using these terms.

The costs of maintenance of any piece of property may be placed upon the shoulders of either the tenants or the landlord. If the landlord bears the burden of the maintenance and upkeep, then the tenant usually pays a higher rent. If, on the other hand, the tenant bears almost all the cost, then the rent is usually much lower. Real estate taxes are almost always paid by the owner of the property, although the cost is generally included in the rent. Leased property may be subleased at the discretion of both the landlord and the tenant. Approval of both parties is required before any sublease is usually effective. Under general law, a lease may be for any rent, regardless of the value of the property. In other

words, the rent need not relate to the actual fair market value of the property unless the lease also contains a purchase option agreement. Leases will form the most common type of income management device used in a tandem estate plan.

Sales - The second most common type of income management device is the sale of property. Sales may be made at any reasonable valuation. Sales may be made for outright cash and immediate transfer or on a time basis with installment credit buying allowed by the seller.

Care must be taken in accomplishing any sale between the entities to avoid what is known as depreciation recapture if the seller is a taxable entity. If you have any questions concerning this term, please ask your attorney. Sales should be evidenced by bills of sale or official title transfer documents. If land is being sold, then quit claim deeds or deed transfers should be executed.

Service Contracts - If any of the elements in your estate plan accomplish a service for another element, then compensation ought to be paid. Service contracts should be in writing to provide the best evidence of the proper transaction, but since contracts may also be oral, it would not be necessary to draft a contract for every

service transaction. If, however, the amount of compensation is large, ranging over \$1,000, it is highly recommended that such contracts be in writing.

Gifts and Contributions - We have discussed charitable contributions in prior sessions of the seminar. In review, generally you will only transfer gifts or contributions from taxpaying bodies into tax-exempt organizations. Gifts or contributions are almost never accomplished from tax-exempt organizations to taxpaying entities. We do not recommend giving or contributing any property from a tax-exempt organization to a taxpaying organization.

Loans - The third most common method of income management is in the form of loans. Loans should always be evidenced by a written instrument. Generally a promissory note is the first step. Substantial loans should be secured by some property owned by the borrower. The lender should charge some interest of a reasonable nature unless the lender desires to make an interest-free loan to a tax-exempt organization. If the lender is a foundation or other tax-exempt organization and the borrower is a tax-paying entity, such as a trust or individual, then reasonable interest of at least 3% to 5% should always be charged. If the loan is for a substantial amount (generally

in excess of \$1,000) you should consult an attorney to draft the proper papers unless you feel you have the skill to draft them yourself.

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17-13

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SECTION 18SIMPLE ESTATE PLANS TO FUND FOUNDATION ACTIVITIES

Now we should explore some of the variations that might be used in creating relationships between your public and private spheres.

(a) Allocations of property, as discussed earlier, may be accomplished in hundreds of ways. The exact and precise allocation of your property will depend on your personal intent and objectives. However, we have developed general rules that should help you in initially allocating property. First, your trust should include property that would tend to preserve and protect your family's security without creating liabilities. Some income-producing property should be placed in the trust. For example, your home and all real estate might be owned by the trust; some securities and valuable jewelry and other substantial items that should remain in the family may be owned by the trust. Automobiles should not be placed in the trust since they are normally not capital equity properties and because they produce high liabilities for the owners in most cases (with the exception of antique classic cars). Like all business organizations, your trust would need some

18-1

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operating capital and some cash should be placed in the trust to allow it to begin operations.

Your foundation might own some securities and other business properties, but generally your foundation would lease its facilities and equipment from other sources, such as the trust. Your foundation should essentially become a "shell" used to create and channel income for philanthropic purposes.

The trust foundation, on the other hand, is not used primarily as a shell, but as a receptacle for funds developed in both the trust and the corporate foundation.

(b) Income Transfers Within These Three Elements.

First, your trust might lease all necessary facilities and properties to the corporate foundation and perhaps to the trust foundation, although we generally recommend that space be donated to the trust foundation for its records and transactions. Second, loans at reasonable rates of interest and properly secured, if necessary, would be executed between any and all of the three organizations as required by the scope of operations of any of the three organizations; that is, if the trust were to purchase some real estate and required funds from the trust foundation it would generally borrow the funds and secure the loan with

the property purchased. Third, where it is found that the corporate foundation is the sole user of a piece of business equipment (not real estate) and it is highly inefficient to maintain a lease situation, the trust should sell that equipment to the foundation. This sale should be at reasonable value, and perhaps at a low value to avoid tax consequences and depreciation recapture.

(c) Perhaps the most common situation in income channeling, however, occurs when one deals with other business organizations. We have developed three common situations with variations to apply to most income conditions. We would like to close the seminar with a short discussion of these three methods of income channeling. We call them the tax-exempt piggy bank method, the dairy or milking operation, and the clinic operation.

(Note to Instructor. Since this next section involves advice on the reasonable effect of legal instruments, it is advised that you allow your associate counsel to explain these various estate plans. In the State of Connecticut, New York, California, and Illinois direct advice concerning the legal consequences derived from the use of a technical instrument has been construed as the practice of law, and in these four states such advice

from unlicensed persons is illegal and carries with it both criminal and civil penalties. This is a new doctrine of unauthorized practice of law and may be followed in other states. It is recommended that you avoid this practice until the U.S. Supreme Court makes a final decision in the case of the New York Lawyers' Association v. Norman Dacy which is presently pending in the United States Supreme Court. Your associate counsel should be trained in these three basic estate plans. Notify him ahead of the seminar of your intention to refer to him on this section to enable him to prepare properly.)

(1) Tax-exempt piggy bank procedure - The basic and minimal estate procedure that would be used to fund your foundation and through the foundation your private sphere, is through the use of the charitable deduction allowed under the Internal Revenue Code Section 170(b). This section allows any individual to deduct up to 20 percent of his adjusted gross income for donations made to private charities. If you are presently employed by a large organization over which you have little or no control, this procedure would enable you to fund your foundation with a maximum of 20 percent of your income without loss in terms of federal income taxes. You may, of course, donate more than 20 percent to your foundation, but you may not deduct

more than 20 percent from your income taxes in any year. Your foundation would then accomplish proper projects with these funds and might transfer some of the funds to your trust foundation. Generally, however, where this is the sole method of funding a foundation, the amounts do not initially create an unreasonable accumulation of income (for two reasons; one, the contributions are not income; and two, the earnings on these contributions are usually quite small). We do not generally recommend this procedure, however, unless it is the only one available.

In a recent Treasury ruling, the Internal Revenue Service approved another type of plan. If your employer will cooperate, you might direct him to contribute to your foundation. You might take a cut in salary to make this contribution equitable in terms of the employer's long-range economic planning. Such a contribution by the employer would not be deductible from your income nor would it be attributable as income to you. Instead, the employer would take a charitable deduction up to 5 percent of his adjusted gross income. An illustration of this plan would occur where an employee is earning \$30,000 a year but decides to take a cut to \$20,000 a year, if the employer will donate \$10,000 to a private charity directly. The employer would take a \$10,000 deduction for charitable

donations from his income tax liabilities and the employee would receive \$20,000 in taxable income; the foundation would receive \$10,000 in contributions from the employer. The net effect of this particular operation would allow the employee to produce for the overall estate plan much more than he would be able to preserve from a standard \$30,000 salary and 20 percent donation to his foundation. (Twenty percent of \$30,000 is \$6,000, and if the employer donates to the foundation, the foundation would be endowed tax-free with \$4,000 more.) Donations of this type from the employer must not be in consideration of services rendered by the employee or the foundation but must be made under an oral or written request as a gift and not for services rendered. If the money paid by the employer to the foundation is classified or categorized as funds paid for the services of the employee, then the tax-exempt status of the foundation may be endangered. This variation, however, is extremely useful in the initial funding of a foundation, particularly where the employer has generally few charitable deductions during the year and a large adjusted gross income.

(2) The dairy or milking operation - This type of procedure is applicable where the individual owns or

controls the business employer; that is, if you own or control your own business, you might milk the taxable profit out of it through deductible methods and direct the funds to the foundation. If you operate a corporation you might contribute five percent of your corporation's adjusted gross income to the foundation. The stock in your corporation might be transferred to the foundation (although this is not generally recommended). In addition, the foundation could perform research and development services for a contract price which would be deductible by your corporation and received as related fees by the foundation. Finally, you might additionally take advantage of the piggy-bank procedures.

(The instructor or attorney should chart these on a blackboard or other visual aid to show the directions and percentages of each payment.)

(The attorney or instructor explaining these should go into greater detail than these paragraphs indicate, but should not involve himself with any technical language or technical explanation of detailed legal instruments or language. If the instructor explaining this portion of the seminar is not a local attorney, great care should be taken to avoid specific advice to individuals concerning

18-7

their estate plan. This would definitely be construed as unauthorized practice of law.)

DISTRIBUTE EXHIBIT #39

Bibliography -(Pass out management bibliography and suggested reading. Explain some of the individual items, their value, their content and portions that are recommended. A short discussion about newspaper articles and other sources of information relating to trusts and foundations might be pursued.)

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18-8

EXHIBIT 39

MANAGEMENT BIBLIOGRAPHY

A bibliography on business management books is being prepared. Since there are few non-legal materials relating to trusts and no good books at all relating to trusts in the legal field, we cannot supply you with any information or further reading to increase your knowledge. You may, however, be interested in some of the other management principles, secrets and techniques that are valuable in any business situation, trust corporation, or otherwise. For this reason, we are assembling various titles that may be of interest to managers of foundations and trusts. If you have any suggestions, do not hesitate to give them to your instructor or mail them to Box 575, Barrington, Illinois 60010.

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SECTION 19CLOSE OF PROGRAM

(The instructor should prepare this section ahead of time with the associate attorney or attorneys and should lead a short discussion in where do we go from here. There are no hard and fast rules as to how to proceed from this point. This depends upon the attorneys and the instructor. The following items should be discussed.)

- (a) Instructions as to working with the attorney for junior and senior members.
- (b) The final topic should be an inspirational talk, designed to help encourage and bring in new members. Some of this material should have been covered in prior sessions, but this one should discuss in detail (1) the incentive program, and (2) the relation of membership to other ABC programs.

* * * * *

EXHIBIT 1

The Primary Purpose of Americans Building
Constitutionally (ABC). (A Trust)

To help citizens of the United States make
full use of their rights guaranteed them under
the Constitution.

* * * * *

EXHIBIT 2

The United States has spent over \$700,000,000,000, since 1946 to fight the "cold war" -- "to prevent the spread of communism."

This is more than the United States has spent in fighting all the "hot wars" including the War of Independence on up through World War II.

It is enough to pay the private indebtedness of every man, woman, and child in the United States plus over half of the corporate indebtedness.

We have given over \$150,000,000,000 since 1946 in foreign aid "to prevent the spread of communism."

What have been the Results?

Since 1946 over 800,000,000 have been enslaved by communism - an increase of over 500%.

Today the average American pays 41 cents out of every dollar of income for direct and indirect taxes. He must work over two days out of every five for the government before he can pay his own grocery bill or clothe his own children.

The average business man pays 63 cents out of every dollar of income for taxes. He works over three days out of five to pay his taxes before he can feed his family and clothe them -- or think about capital for expanding his business -- or providing

(over)

jobs for others. If he made \$10,000 in 1939, today he must earn over \$27,000 to have the same purchasing power as he had in 1939.

This is due to increased taxation and inflation -- from spending programs which continue to exceed government income plus rapidly increased taxation.

It is destroying incentive for research and development, thus making it more and more difficult to maintain our lead over our foreign competition in the areas of both commerce and armaments -- on both of which depends our national security.

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EXHIBIT 3Where will it stop?

In 1966 our rate of inflation has been 5 percent.

This means that if you earned \$7600 in 1965, in 1966 you would have to earn a raise of \$380 to break even. The trouble would be that you would then be in a higher income tax bracket so that you would have to have \$72.20 more to pay the higher income tax!

Already another substantial income tax increase is being considered for 1967.

Our government indebtedness is the highest in history.

Our government expenditures are the highest ever, approaching \$175 billion per year -- and yet deficit spending continues.

* * * * *

EXHIBIT 4

How much control have you been able to exercise
in the decisions which have lead to these conditions?

In the light of what has happened can we afford
to leave it to government to solve the problem?

What can be done?

What can you do?

* * * * *

EXHIBIT 5

National security

Depends upon

economic strength

Depends upon

motivation of those who produce

Depends upon

the ability of the individual to benefit
from his work

Depends upon

the ability of the individual to control
the fruits of his labor

Depends upon

the degree to which his property and earnings
are taxed away

* * * * *

EXHIBIT 6

Attitude of government toward private foundation taken from Congressional Investigation of Foundations by the Cox Committee.

"It appears that the present need for foundations is even greater than it has been in the past and there is a great likelihood that the need will increase in the future.....The foundation, once considered a boon to society, seems to be a vital and essential factor in our progress."

Another quotation in this connection taken from the U. S. Treasury Department Report on Private Foundations on Page 12.

"Private philanthropic organizations can possess important characteristics which modern government necessarily lacks. They may be many centered, free of administrative super structure, subject to the readily exercised control of individuals with widely diversified views and interests...precisely because they can be initiated and controlled by a single person or a small group, they may evoke great intensity of interest and dedication of energy. These values, in themselves, justify the tax exemptions and deductions which the law provides these philanthropic activities."

* * * * *

EXHIBIT 7

Fringe benefits your not-for profit foundation may provide for you:

Your - home	investments
automobile	pension plan (retirement income)
children's education	
insurance premiums	philanthropies
medical care	many others
recreation	

Food, clothing and miscellaneous would be paid out of personal income for which you would be taxed and which you would draw as salary from your not-for-profit organization.

As a result of these fringe benefits, the following taxes would be reduced or eliminated:

Income	Personal Property	Federal Estate
Excise	Tariffs	Eliminate Probate Costs
Sales	Capital Gains	
Social Security	State Inheritance	

Under most other forms, at death one-third to two-thirds of your estate is given to people you don't even know.

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EXHIBIT 2.

Some examples of Purposes

1. The purpose of the _____ Foundation is to promote well being of mankind wherever located through contributions to and participation in a variety of activities beneficial to mankind which shall include but not be limited to education, art, literature, music, research and development of efficiency in business and industrial communications, welfare and religious, civic and cultural activities with initial emphasis of character development of youth and related projects.
2. To promote the well being of humankind wherever located through contributions to and participating in a variety of beneficial activities established in the fields of health, education and welfare, with initial emphasis on education, research and development and in the sciences, methods, practice of philosophy, of nursing, geriatrics, medicine, medical science, pharmacy, vocations and other related activities, studies and philosophies concerned with the physical and mental well being of mankind, interest in the fields of health activity as especially concerned with general study and activity in regard to geriatrics, mental retardation and persons requiring intensive care and aid. Such studies will consider related physical and therapeutic methods and diagnoses including but not limited to non sectarian, religious and philosophical studies and also group and individual activities.
3. To benefit all of mankind wherever located, through research of medicine and medical science and contributions to the advancement of education, religion and cultural tradition.
4. which will include initial activities in research and development in the proper use of Community resources, both private and public, promotion of the values of responsible citizenship in the family unit through research, development and education in the insuring of human life and property values and the promotion of and contribution to religious, civic and cultural activities and education of all other diverse fields.

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EXHIBIT 7WHAT TO DO WHEN APPROVED CHARTER IS RETURNED TO YOU

Under most State laws, when your incorporation charter is returned to you by the Secretary of State, you are normally required to file the charter and a copy of the Articles of Incorporation with a local County Recorder of Deeds. You must generally do this within a stated time period (i.e. 15 days in Illinois, 10 days in Wisconsin). Be certain you do this as soon as it is practically possible. If these procedures are not completed in order, the Secretary of State or the Attorney General of your State may be empowered by law to take control of your foundation or dissolve your foundation due to improper filing. There is no reason to open your foundation to these penalties because of procrastination. Once these legal requirements are satisfied, you may turn to more practical procedures to begin your foundation activities.

- (a) Choose a bank that would be a depository of your foundation. It is suggested that you shop around for a bank that does not charge any service fees for your foundation account. Many banks do not charge n-f-p corporations for checking services, but this is a local option with the bank and has nothing to do with State law. Other banks might charge a smaller fee than they would for an individual or corporate account and still other banks charge full fees for not-for-profit checking accounts. When you decide upon a bank, obtain the corporate Resolution papers for opening an account and the signature cards from the bank. This should be obtained in duplicate to enable you to retain a copy. Most banks do not have n-f-p corporate forms, but if yours does, these are the proper forms to use. If your bank does not have n-f-p corporate forms then obtain the business corporation Resolution forms. Do not use the forms employed for clubs, churches and civic associations. Fill out the proper Resolution forms according to instructions.
- (b) Obtain a corporate book and a corporate seal making certain that the seal states "Not-For-Profit Corporation."
- (c) Have the proposed Executive Director and the Assistant Executive Director, if any, mail their letters offering their services in exchange for an employment contract. This should generally be done by certified or registered mail.
- (d) Prepare in advance the minutes of your first meeting of the Board of Directors and the Waiver of Notice.

- (e) Prepare in advance all other papers for signing by foundation-corporate officials, such as membership certificates, employment contracts, stationery orders, etc.
- (f) In some cases it will be necessary for your foundation to file legal notice in the newspapers to indicate the beginning of your foundation. In some States this is required by State law, but generally it need only be performed by those foundations performing business activities of the same nature as the Creator's prior business activities. Public notice in this case is necessary to give constructive notice to creditors, customers and other interested business. Such legal notice of "change of business form" should be placed in the classified ads of a local newspaper serving the County or counties in which the foundation is active. A daily newspaper is preferred under the law, but if no such daily is available or the rates are prohibitive then a weekly newspaper is sufficient.
- (1) If the prior business form was a partnership, limited partnership, corporation or a business operating under a fictitious name then the following language is usually mandatory: "The XYZ Company formerly doing business at 123 Main Street, hereby gives notice to all interested parties that as of January 1, 1967, it will be doing business as the XYZ Foundation duly organized under the not-for-profit corporation laws of the State of California."
- (2) If the prior business conditions were that of a professional, doctor, dentist, chiropractor, optometrist, etc., serving as a sole proprietor or non-fictional name, then the following form is proper: "The Smith Foundation is pleased to announce that Dr. Smith is now serving as Executive Director (Medical Director, Medical Administrator, Dental Administrator) of the Smith Foundation, as of January 1, 1967."
- (3) If none of the above conditions apply to your particular business situation and you are an employee of a large corporation or retired, or unemployed, then no legal notice is generally required in most States. State law should be examined to determine whether you must publish a public notice. If you are required to publish public notice and no language is given by the State Code then we suggest the following language be used: "We are pleased to announce the incorporation of the XYZ Foundation, whose general activities will be of the following nature ("summary of purpose"). The following people will serve as the initial Board of Directors: (names of initial Board of Directors)."

- (4) In all cases the legal notice should be prepared and signed by the Secretary of the foundation. Quite frequently, local papers, particularly weeklies in small towns, will pick up the incorporation of the foundation and will publish this news without cost to the creator. If a notice is published, or if you find an article about your foundation creation, save several copies of this for your files for future reference. A copy should also be given to your attorney for his files.

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-5-

EXHIBIT 9

HOW THE FOUNDATION BUYS PROPERTY

There are no mystical or unusual methods by which a foundation can buy or obtain property. Standard accounting and legal practices and good business management are as important here as in other business forms. There are some considerations however, that must be made in foundation purchases and sales to enable the foundation in which the individual is involved, to enjoy maximum tax and legal advantages.

- a. The purchase of property whether tangible or intangible from third parties totally unrelated to the foundation, is carried on in exactly the same way as in other purchases. If financing is required for purchases such as a large piece of real estate or an automobile, the financing would be made in the name of the foundation. All contracts and titles would be within the foundation and payment for purchases, mortgages, loans, etc., must be by foundation check. These procedures would make the foundation sole owner without "strings" of any kind, of properties and interests so acquired.

A problem might arise where a foundation has not been long established, in obtaining financing through most banks or savings and loan associations. Here the officers of the foundation might be forced to co-sign as an individual, for loans made to the foundation. This is normal business practice and serves to create credit standing for your foundation upon completion of the transaction. Any other details connected with normal purchases from third parties should be qualified and arranged with your attorney and/or accountant.

In many purchases, considerable savings might be possible for a tax exempt institution, in rebates for sales tax, exclusion from excise tax, and perhaps lower prices from private companies to not-for-profit tax exempt organizations. Inquiries should be made as to the proper procedures in each State for obtaining these tax savings and inquiry should be made of the proprietors of each business for price savings.

- b. Purchases from the creator or officers of a foundation, present different problems. The primary situation to avoid is "self-dealing" in terms of the IRS Code. Generally stated, this rule prohibits transactions between foundations and their creators and

officers, which do nothing more than enhance the position of the creator and officers. This might involve, if carried to abusive levels, in the refusal or retraction of tax exempt determination and general liability for taxes and other penalties for all persons involved. In the case of most small pieces of property, it is suggested that outright gifts be made of these properties to the foundation, rather than sale, but where sales are desired and represent substantial financial savings, it is suggested that outright gifts be made of these properties to the foundation, rather than sale, but where sales are desired and represent substantial financial savings, it is suggested that the seller (creator-individual) sell at a loss to the foundation, of from 10 to 25%. This normally takes the taint of self-dealing off the transaction, and no attempt should be made by the seller to deduct his loss as a charitable deduction.

- c. This process should be reversed where the creator might purchase properties from the foundation, but it is not recommended as part of standard procedures that the creator purchase any properties or receive any services from the foundation.
- d. The best way for a creator to transfer properties to a foundation is by outright conveyance. The following information might be a guide for such charitable contributions, although great care and analysis should be made of each individual contribution for tax purposes, since the Treasury has gone to a great deal of pains in recent years to distinguish various types of property contributions from each other.
 - 1. It has been suggested by some writers that the courts could hold that there is a realization of income by the owner by the transfer of property to charity. However, in view of recent cases, this would seem to be an unlikely possibility, particularly because of the clear public policy of encouraging charitable contributions. Most of the cases involving such donations would have ended in adverse rulings for the taxpayer if involved in private rather than "Charitable transfers."
 - 2. Because recent cases have criticized or questioned charitable gifts made to foundations with limitations or "strings" attached, it is recommended that gifts made to a foundation be outright without limitations.

3. If a charitable contribution is made in the form of property which the taxpayer sells in the course of his trade or business, he is entitled to a deduction for it.
4. In general, the donation of appreciated property to a charity does not cause a donor to realize income. Appreciated property which is subject to the deduction for depreciation falls within the scope of that general rule, thus, for example, a charitable contribution of a 40 year old building with a value of \$20,000 and original cost of \$50,000 and in the tax basis of \$10,000 due to prior depreciation deductions, would not cause a realization of any taxable income by the donor, even though he had already deducted \$40,000 through depreciation allowances.
5. Individuals may contribute 20% of the adjusted gross income for any taxable year (Code Section 170(b) (1)). Either spouse under a joint return can give the full percentage. An additional 10% above the 20% limit to private foundation may be given to churches, educational organizations or hospital. Corporation may give 5% of the taxable income for each year. (Code Section 170 (b) (2)). A mere pledge is not a contribution and the contribution must actually be paid to entitle the donor to a deduction. Gifts of appreciated property generally avoids a tax on appreciation. Other types of property that may be considered business properties: stock rights, life insurance, where there is an irrevocable assignment of the policy with the foundation named as irrevocable beneficiary and the gift sale of appreciated property where the transfer of the property is in part a sale and in part a gift (however, beware of self-dealing). There are approximately 10 other classifications that are recognized as different types of gifts under the IRS Code.

EXHIBIT 13HOW DO I CHARGE THESE EXPENSES:

	<u>Foundation</u>	<u>Personal</u>
<u>HOME EXPENSES:</u>		
1. When my home needs - painting - repairs - or service of any type (plumber, electrician, carpenter) _____		
2. When my home requires a full-time housekeeper _____		
3. When my home requires a part-time servant _____		
4. When my home requires a part - or full-time gardener _____		
5. When my home requires new furniture _____		
6. When my home requires garden supplies (fertilizer, plants) _____		

<u>INSURANCE:</u>		
1. Who pays fire insurance policy _____		
2. Who pays life insurance policy _____		
3. Is the Foundation or am I the beneficiary _____		
4. Should I notify my insurance companies _____		
5. How about accident insurance _____		
6. Is a Will necessary _____		

<u>TRAVEL AND EXPENSES:</u>		
1. On a <u>business</u> trip, who pays for:		
Car expense _____		
Gas expense _____		
Hotel and meals _____		
Cab or car rentals _____		
What reports do I keep _____		
2. On a <u>pleasure</u> trip:		
Car expense _____		
Gas expense _____		
Hotel and meals _____		

OTHER EXPENSES:Foundation Personal

Car repairs		
Car license		
New car		
Home water bills		
Home electric bills		
Home telephone bills		

COST OF HOUSEHOLD:

Food		
Clothing		
Doctor bills		
Medicine		
Entertainment (friends)		
Entertainment (business associates)		
Books, Magazines, Papers		

To make a Foundation profitable, how large should the yearly earnings be, and how sizable should the real estate be? _____

Is there a time limit on a Foundation when it is possible for the Government to cancel the Foundation? _____

Is it necessary to make contributions from the Foundation to non-profit organizations? _____

Has the Government the right to check Foundation records? _____

Is it possible for the State or Federal Government to annul Foundations? _____

How about bookkeeping? _____

* * * * *

EXHIBIT 1SOME DISADVANTAGES OF A NOT-FOR-PROFIT CORPORATION FOUNDATION.

1. Since any corporation receives its charter from the State, the State claims the right to require reports of the corporation's activities, and on occasion question its officers, at the discretion of such officials as the Attorney General and others. However, this affair is usually a simple one even though the power to do so exists.
2. The right claimed by the State to dissolve the corporation under certain grounds such as those listed in Section 50 of the Illinois General Not-For-Profit Corporation Act. However, the performance of the Act which brought about the dissolution will in some circumstances abate any action by the State (e.g. Illinois N.F.P. Act, Section 51.) Consult your own State Law and Counsel for interpretation.
3. Foundations must spend their money for so-called "exempt purposes" -- nevertheless, the foundation may operate in a very wide sphere of activity in furthering its exempt purposes.
4. Dispositions of property of a highly personal nature are prohibited by law and should not be done with foundation money, such as -- gifts to friends or family with no restriction as to purpose, or an entirely personal purpose, such as payment of a gambling debt, loan money to a family member or a friend for a highly speculative business venture, etc. One should avoid situations which might be helpful to a friend yet could cause trouble for his foundation.

5. Annual report form, Internal Revenue Service, 990-A, makes it a matter of public record:

- (a) Foundation's officers' salaries.
- (b) Foundation's holding of stock and other investments.
- (c) Its accumulations of capital gains and other income.
- (d) Dealings and relationships with contributors.
- (e) Names and addresses of persons receiving grants.
- (f) Their relationships to benefactors of the foundation.

6. Individual's deductions which he can claim for contributions to privately supported exempt organization limited to 20% of his adjusted gross income.

* * * * *

EXHIBIT 2THE CHARACTERISTICS OF THE SECOND ORGANIZATION

- (a) The second organization should be controlled by the same persons as the foundation to insure consistency of management and no loss of time in negotiations, contractual agreements or other forms of "red tape."
- (b) The second organization should be as free as practically possible from taxes.
- (c) The second organization should be able to receive and retain disbursements from the foundation, and yet remain legally independent and separate to limit the liability of both organizations.
- (d) The second organization should be ideally of a different nature than the not-for-profit corporation, so that it might be unaffected by any changes or disadvantages of not-for-profit corporate procedures and yet, the second organization should be in a position to take advantage of these procedures where desirable.
- (e) The second organization should be ideally able to benefit the creator in as many ways as possible, regardless of taxation, and still preserve the creator's estate.
- (f) The second organization should be relatively uncomplex, so that constant administration by counsel is unnecessary.
- (g) The second organization should be legally suitable, proven and court-tested to insure longevity, legality and safety.
- (h) And the second organization should be as flexible and adaptable as the foundation.

* * * * *

EXHIBIT 3PARTNERSHIPS

Partnerships consisting of two partners entering any one of many common business undertakings.

Some advantages	Some Disadvantages
Pride of seeming ownership and achievement, responsibility and reward. Property may be easily conveyed in and out of a Partnership. Can make advance arrangements for distribution of profits and losses based on a division of each Partner's contribution (i.e. services, capital, etc. and various combinations of each) to the success or failure of the partnership. No double taxation of earnings as in a corporation. No franchise or stock tax, and no corporation filing fees or reports. Not subject to or dependent upon the State unless you seek to limit your liability, use a fictitious name or employ other privileges granted by the State in its Partnership Act.	Illusory ownership soon becomes a pronounced liability. Partners are liable for Partnership activities as well as taxes. Partnership earnings are taxed to individual partners and may raise personal income taxes to a highly confiscatory level - even above corporate rates. Partnership or partners may pay income, excise, inventory, license, real estate, social security, and unemployment compensation taxes as well as partnership filing fees if the partnership seeks State privileges. Deceased partner's interest in the partnership devolves to the family as a part of his estate often forcing immediate liquidation at unfavorable prices. If the partnership is a success and otherwise an asset of the family, it is none-the-less lost to them upon the death of the partner related to them, as the death of a partner serves to force a dissolution of the partnership. Creditors may proceed to obtain a lien on the partner's assets, and one partner's reckless driving may cause a judgment to be had against the remaining innocent partner's home and other assets.

CORPORATIONS

Corporations are very flexible business organizations and it is consequently very difficult to make general statements true of all corporations. For convenience we will take a single type of corporation form, the closely held stock corporation with only one class of stock, the type most commonly used in family owned businesses.

Some Advantages

Ownership may be divided among many people in varying amounts.

Each family member has his own separate share which he may dispose as he wishes.

The person who creates a business may see his estate grow in size as the value of the business increases.

Undistributed corporate earnings are not taxed to the individual owner

A corporation has limited liability and may operate under its corporate name.

The corporation may have perpetual existence

Outsiders may be kept out through requirement of first refusal on all stock to the corporation or other stockholders.

Some Disadvantages

Persons owning small amounts of ownership may interfere by legal right in your management.

A family member's share may pass to a stranger who can disrupt your management and there are taxes on each member's share of ownership. A creditor may seize his shares to satisfy his debts.

When the creator dies the value of the business imposes a huge estate tax liability which may force the family to sell control of the business.

The corporation pays a tax on its earnings and the share holder must pay another tax on his receipt of the dividend. Should the corporation accumulate earnings the government may claim that it is being used to avoid tax on its shareholders and be subject to a surtax..

Should it neglect to maintain its corporate agent, it might be subject to a default judgment on the basis of a process served on the Secretary of State about which it has never heard.

Whenever any share holder dies his part of the corporation is taxed and subject to probate.

Should a stockholder die or his stock be seized by a creditor, the corporation would have to find a large sum of money on short notice.

SOLE PROPRIETORSHIP

(e.g. - Small grocery store owned and operated by man and wife with no formal agreements or conditions on operations.)

Some Advantages	Some Disadvantages
No need to separate income or expenditures of business into classifications of source or use.	No benefits of separation of income into tax-exempt classifications and capital gains categories.
Minimum necessary tax reports are required.	Maximum taxation and regulation.
No franchise taxes	Licenses to operate are usually required.
Freedom to decide what to do with property without reference to other investors (stockholders).	Total liability of individuals for business debts and expenses.
Minimum of contracts to be executed (employees are hired orally and purchases and sales are usually made by simple receipts).	No possible avoidance of social security or advantages of "corporate fringe benefits."
Simplicity of operations	Mixing of personal and business records.
Ownership (perhaps an illusory advantage).	Loss of control to the extent of the extensive taxes and regulations placed on such business forms.

ASSOCIATIONS

Not-for-profit organizations generally similar to Trade Associations, complex church structures or Unions.

Some Advantages	Some Disadvantages
May take advantage of laws governing their operations as distinguished from rules governing private foundations.	Require to form and clarify the Association lest it be taxed as a partnership or a corporation.
	difficult to maintain control as there are multiple positions of authority.
	Subject to limits that apply to all independent not-for-profit foundations, including disclosure of assets.

ASSOCIATIONS (Cont.)

Some Advantages	Some Disadvantages
	Should be in agreement between two or more entities to pursue proper objectives.
	May lose its exemption if no real activities are accomplished to "further industry."

* * * * *

EXHIBIT #4Advantages and disadvantages of different forms of Trust.

1. REAL ESTATE TRUSTS: Many States allow creation of land holding trusts for various purposes. The Illinois passive Land Trust is one for example. In spite of the name of this Trust, it is actually a special temporary trust created solely for the holding of title to land for a limited period. Trustees under the law, may not generally convey the property or deal with it without violating the trust. This type of trust has only limited tax and control advantages.
2. INSURANCE TRUSTS: The proceeds of a life insurance policy may be placed in an insurance Trust created during the life of the insured. Upon the death of the insured, the fund will then be administered for the benefit of the beneficiary of the Trust, often the wife of the insured, and upon the death of the trust beneficiary, the trust funds would be distributed to designated parties -- usually the children. Substantial tax savings are possible for the transfer to the wife of the beneficial interest, but the children must often bear the full brunt of taxation on the assets transferred to them. The Trustees of the insurance Trust are limited in their activities by many guide lines set out in both the State law and under the Trust agreement. Trustees are almost always either corporate Trustees, such as banks, insurance companies or individual lawyers. The insurance Trusts are not perpetual in nature and must terminate at a specified time, under the terms of the Trust agreement.

Renewal is usually impossible and undesirable or illegal. The insurance Trusts are usually created in relation to wills or refer to the Trust as the receptacle. Thus the estate of the decedent is "poured over" by the will into a Trust created for the specific purpose of isolating the decedent's property for tax savings and conservative management by banks or lawyers. Properly created insurance Trusts can provide many conventional benefits, death tax savings, but they have only limited efficiency in not-for-profit procedures. The drawback to insurance Trusts is that the distant heirs such as grand-children or great-grandchildren may be taxed an amount greater than the original tax saving provided by the Trust, due to the fact that tax rates have consistently increased over the years and will probably continue to do so. In other words, there is no continuing protection.

3. BANK TRUSTS: Bank Trusts, like insurance Trusts, are primarily created to preserve assets from shrinkage. Bank Trusts vary greatly, but they usually involve a special pre-drafted form will, which creates two or more Trusts upon the death of the creator, these Trusts to be administered by the bank as Trustee. Such Trusts often take advantage of the marital deductions for federal estate tax savings, and they provide limited protection in other areas of estate planning. Again, like Estate Trusts, the bank Trusts are usually severely limited by State law, business practice and the Trust agreement. Usually the beneficiary has little or no control over the

management of the Trust fund properties, since the beneficiary is not a Trustee. In both the bank Trust and the insurance Trust, the creator of the creator's estate retains some "strings" of interest and control. These "strings" are the reason that taxes are properly assessed against the Trust properties upon the death of the creator.

Most banks have found great value in limited Trusts. They advertise their use continually, and the Trust Department often constitutes the second largest department in a bank, second only to the savings department. You may have heard some of their advertisements, they say "Trusts can save significant amounts of estate taxes," and "Trusts can provide your family with security through sound financial management." A large bank in Chicago has stated . . . "Trusts should not be created solely for tax purposes, but nevertheless, large amounts of taxes can be saved through their proper use." (Northern Trust Company.)

All of these statements are true, but we believe that an Ownership Trust is far more efficient for these purposes than the Trusts that banks offer. Because most people do not wish to give up complete ownership, these limited Trusts sometimes provided by banks in which individuals have some "strings" of control, are popular. When such limitations occur, then a temporary Trust is created and the more significant benefits of the ownership Trust are forfeited.

4. ESCROW AGREEMENTS, ETC: Whenever you entrust a person with valuable property, and place conditions on its use and direction, you usually create a special Trust. Escrow agreements are short term Trusts as are "street account" securities transactions with your broker. In each of these Trust situations, the creator places definite limitations on the Trustee and the "equitable" interest and taxable interest remains in the creator. These short term limited Trusts are of great value for their purposes, but they should not be confused with the type of Trust we are about to discuss.

* * * * *

EXHIBIT 5

AN ANALYSIS OF THE OWNERSHIP TRUSTADVANTAGES

Since the Trust owns property, it may buy, sell, lease, loan and otherwise deal with the property for the purpose of building, expanding and strengthening the Trust in the interest of the beneficiaries. It is self perpetuating in nature which adds security. A Trust will protect and preserve properties and values for the beneficiary. Since the creator may be a beneficiary, the creator also may enjoy the advantages of Trust procedures. The Trustees are empowered to employ all persons necessary to preserve and build the assets of the Trust. Since Executive Director of the Foundation and the Managing Trustee may be one and the same person, there is consistency of management. It is possible to reduce taxable income of the Trust to near zero. A Trust can lower tax liability by making use of Not-For-Profit laws just as an individual may. A Trust may form divisions and agreements with other legal entities for protection of liability and reduction of taxes. The Trustees may decide to participate jointly with another business or they may decide to incorporate a stock corporation to accomplish Trust business, all of the stock being held by the Trust or the Trust may go into partnership with another Trust, Corporation, partnership, Foundation, etc., for the purpose of accomplishing some common objective.

DISADVANTAGES

Having to make the mental adjustment of giving up legal title of property in favor of control and use of property.

ADVANTAGES (CONTINUED)

DISADVANTAGES (Continued)

The Foundation within the Trust is controlled completely by the Trustees to strengthen the purpose of the Trust to take advantage of Not-For-Profit procedures to qualify for tax exemption.

The Trust Foundation may receive any properties or benefits in any amounts at any time without tax consequences from another Not-For-Profit qualified tax exempt Foundation. Gifts or endowments received by the Trust Foundation are not considered income under the Internal Revenue Code.

The Trust through the Trust Foundation may receive and retain disbursements of accumulated income from a State Chartered Private Foundation and yet remain legally independent and separate from this State Chartered Foundation. While State Chartered Foundations may be subject to change, the Trust is not so affected and may operate regardless of changes in N-F-P corporate proceedings.

A Trust is in a position to take advantage of favorable changes in N-F-P practices through the use of a multiple Foundation system.

On a \$10,000,000 estate, a Trust can save \$6,886,200. In the State of Illinois, the Attorney General estimated on an estate of \$1,000,000, for state taxes alone, an estate would pay \$106,296.00. Estimates of Federal taxation on \$1,000,000 estate could amount to as much as \$320,000 or more - a Trust would save all of this.

ADVANTAGES (continued)

DISADVANTAGES (Continued)

A Trust removes the need for forced sales of property often required under probate, and thus preserves values of property in addition to the taxes. A Trust eliminates probate fees and probate taxes.

A Trust eliminates fees for the Executor or Administrator.

A Trust also eliminates attorneys fees for probate, etc., which have been know to run as high as 1/3 to 1/2 of the estate after taxes.

A Trust often saves months and even years of time often required to settle an estate.

A Trust is able to protect the Creator's estate from all death taxes and death procedures.

A Trust enables control of the Trust properties to be transferred to heirs or anyone else the Creator may desire. Probate and tieups are completely eliminated.

A Trust provides the highest degree of privacy for ones' financial affairs available in any legal instance. This privacy may be maintained without a battery of attorneys.

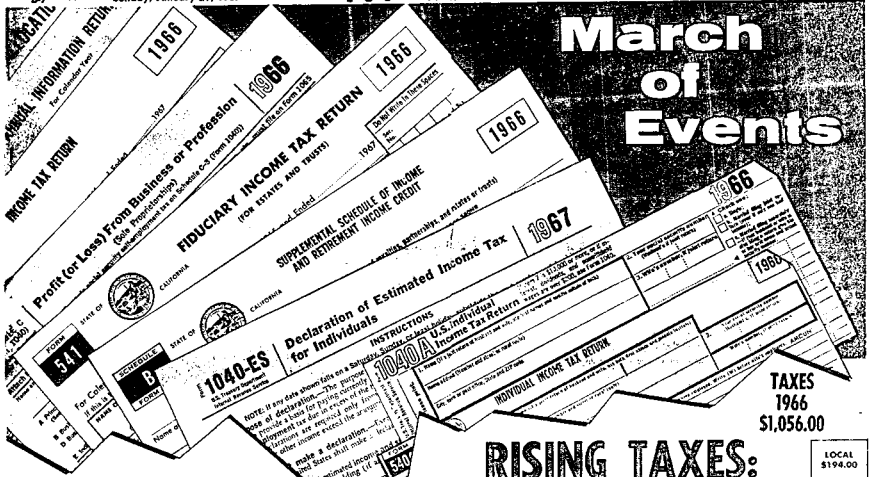
A Trust does not have to disclose the beneficiaries.

* * * * *

EXHIBIT 6

B-7 CC Sunday, January 29, 1967

LOS ANGELES HERALD-EXAMINER

By DICK HOUDICK
Herald-Examiner Staff Writer

FISCALLY SPEAKING, this was the tax week that was. On Monday, President Johnson asked Congress to extend postal security benefits by \$4.1 billion to be financed by increased payroll taxes.

On Tuesday, the President called for "a measure of sacrifice" to finance the nation's biggest budget. A 4 per cent cutback on present income taxes would help, he said.

On Wednesday, the Carnegie Commission on Educational Television asked Congress to impose an excise tax on all television sets manufactured in this country to finance noncommercial program production.

On Thursday, a Los Angeles city council committee recommended study of a \$32 million bond issue to offset operating losses of the Southern California Rapid Transit District. Taxes will help retire bonded indebtedness.

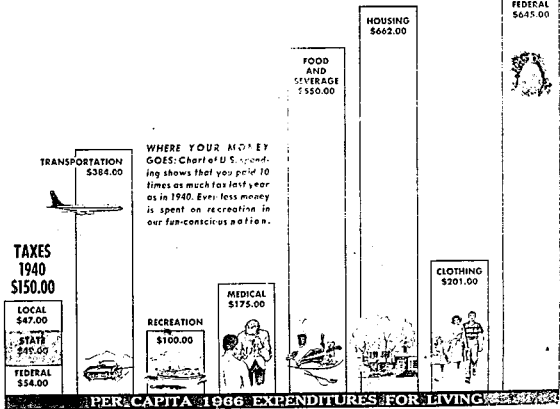
On Friday, the battle of words between Gov. Ronald Reagan and the students continued over whether students should pay tuition or the taxpayers should provide the complete support of the California university and state college systems.

On Saturday, taxpayers were asking each other where it all would end. Is there a way to survive in an economy of war, poverty and cultural demands; of income, sales and property taxes?

Alexander Smith, the 19th century Scottish poet, advised us to seek the thoughts of men of letters in matters of ignorance, war and taxes. However, Smith's counsel offers a basic dilemma too, in that even the academicians fail to agree on a solution to our tax problems.

To paraphrase Mark Twain, everyone complains about taxes but nobody does anything. In a special tax-time report, The Herald-Examiner explores possible solutions to the taxing problem of taxes!

RIISING TAXES: IS THERE AN END?



LOCAL \$194.00

STATE \$217.00

FEDERAL \$645.00

QUESTIONS AND ANSWERS

Question: UNDER WHAT CIRCUMSTANCES ARE ASSETS HELD IN ANY
#1 OTHER THAN THE TRUST?

If wealth is generated outside the trust, it may be added to the Trust by gift at a later date, subject to gift taxes, or may be donated or sold to the foundation as the situation might require

Since the most important functions of the foundations are generating tax-free income or absorbing through deductible contributions income otherwise taxable, there is no pressing need to transfer property to the foundation until it is to your advantage to get credit for a deduction.

The consideration for delaying conveyance to a foundation is that, Once received by the foundation, property must be used in furtherance of the foundation's exempt purpose. Although this is very broad and also includes investment and overhead, there remain the rules discussed in Exhibit #11 of Lecture 2 which will apply when the property is held by an exempt organization but not, of course, when held by an individual or Trust.

Question #2: COULD YOU GIVE US SOME SUGGESTED EXAMPLES OF THE BEST WAYS OF PLACING OUR HOMES, OUR INSURANCE AND OUR CARS IN THE TRUST OR FOUNDATION?

a) Home - assuming that you have a reasonable equity in it, it might best be held in the Trust and leased to the foundation. This will allow you to tap foundation earnings without any restriction as to use and at the same time probably convert the

home into a capital asset for a subsequent capital gains sale. Where the home is leased by the foundation its rental will reduce the foundation's income account, yet still allow the foundation to pay utilities and upkeep.

Your accountant can show you how to fix a rental price by balancing income against deductions so as to give the Trust (or you yourself, if you are not using a Trust) a maximum dollar return without increasing your taxable income. E.g. rent = interest, plus taxes, plus depreciation. Such rental must not exceed a "fair rental value" in the local market.

b) Car -- Since your active operations will probably be carried on by the foundation, the car should be provided by it. The foundation may buy or lease an auto for the use of its employees though purely as a matter of form, it might be best not to lease the car from yourself. For this same consideration of avoiding threshold questions, it might be best if neither the car nor home were provided until after exemption is recognized.

c) Insurance -- The general rule is that any employer -- be it a corporation or Trust -- has an insurable interest in its employee for the purpose of life insurance. You may want to have a large amount of term insurance in the beginning to fund your foundation in case anything should happen to you before your family was secure. A discussion of your goals with your insurance planner would be a good start on this question. Health and Accident Insurance is a permissible fringe benefit.

Question #3: HOW DOES ONE KNOW THAT THE FAMILY TRUST OR FOUNDATION IS EXEMPT?

The family Trust is generally a non-exempt entity. It is its non-exempt nature that gives it certain advantages -- e.g., freedom from the rules of self-dealing or limitations as to purpose - that has caused it to be included in this model arrangement.

The family foundation may apply for and receive a determination of exemption like any other foundation. (See #5551 of I.R.S.)

Question #4: CHARITABLE FOUNDATIONS ARE ALWAYS REFERRED TO. DO WE NEED MORE EVIDENCE CONCERNING EDUCATIONAL RESEARCH AND DEVELOPMENT?

No, "Charitable" is a shorthand expression for all organizations exempt under Section 501 (c) (3) of the Internal Revenue Code, the section which exempts, among other things, the charities, as well as scientific, educational, religious, literary, etc. The expression is used for convenience and even encouraged by some because they feel it hides the true nature of those organizations.

Question #5: EXPLAIN BY EXAMPLES WHEN A PAYMENT OR INVESTMENT IS MADE BY EACH OF THE THREE ENTITIES, OR BY YOU, WHICH ENTITY SHOULD MAKE THE PAYMENT?

As a general rule is that the party who benefits or who has the property interest, is the party who makes the payment. For examples, if a foundation is leasing property it is normal to expect the foundation like any lessee to pay for up-keep, utilities,

custodial care or the like. A lessee would not normally make expenditures on property which constitutes a capital investment, as for example, a lessee with a one year lease would not build a new wing on the building. Investments may be made by any entity. However, a tax exempt entity should not make highly speculative investments which would imperil its ability to perform its exempt purposes. Where the foundation owns or leases an automobile, the foundation may make payments for gasoline, minor repairs and general up-keep, but where they are paying you for the use of a car owned by you, as for example 10 or 15¢ per mile on company business, they could not make car payments, just as the foundation occupying your property under a short term lease could not make mortgage payments for your benefit. You would have to receive rental payments from the foundation, assuming that you are renting to the foundation, and then you would make the mortgage payment. For an explanation of how you can make the most out of these payments, refer to the discussion in question two above.

Question #6: CAN CHILDREN AS MEMBERS OF THE FOUNDATION RECEIVE AN ALLOWANCE TO HELP THEM EDUCATE THEMSELVES IN THE USE OF CAPITAL?

No, although like any other person they may receive educational grants which can have the same result. (Recall the use of beneficial certificates of the Trust.)

Question #7: CAN THE EDUCATIONAL FUND BE USED IN CURRENT EDUCATION EXPENSES FOR CHILDREN OF THE FOUNDATION WHO ARE IN PRIVATE ELEMENTARY AND SECONDARY SCHOOLS?

To begin with, the expression "children of the foundation" does not have legal significance. A relevant classification might be "children of a donor or officer of the foundation." Even these persons are eligible to receive educational grants. Refer your accountant to Section 117 of the Internal Revenue Code for an explanation of how such monies may be received by those children tax free to them. Whether or not it is taxable to them does not effect the foundation's ability to make such grants.

Question #8: WHAT CONSTITUTES SELF-DEALING?

Refer to exhibit 11 of Lecture III.

Question #9: MAY I LOAN THE FOUNDATION OR TRUST X DOLLARS TO PURCHASE MY HOME OR OTHER PROPERTY, THUS CREATING A CREDIT AGAINST WHICH I MAY DRAW?

Yes, the foundation or Trust may borrow from you as any other person may do.

Due to the exempt nature of the foundation, such loans must be at no more than fair interest. In either case, the interest on that loan is taxable to the lender.

Question #10: WE NEED THE STATE RULES OF PRIVATE EDUCATIONAL, SCIENTIFIC, HEALTH AND WELFARE FOUNDATIONS. IS THERE A BOOKLET BY THE STATE?

State rules of private, educational, scientific, health and welfare foundations is generally the state non-profit corporation law which is almost always available in pamphlet form. There are generally no other state laws applicable.

Question #11: WE NEED COPIES OF ALL STATE AND FEDERAL FORMS
REQUIRED

The state non-profit corporation law will tell you what reports such corporations have to make to the state. These are frequently mailed out by the state as a matter of course. You might inquire of your Secretary of State if this is your state's practice. The federal forms pertain only to taxation and may be obtained from the IRS on request. These forms were discussed in a hand out in Lecture III.

Question #12: WHAT HAPPENS TO THE GAIN WHEN THE TRUST SELLS
PROPERTY, OR DOES IT CONVEY TO THE FOUNDATION
FIRST?

The Trust is taxable on that gain, unless it avoids such tax. There are two ways in which a Trust may avoid that tax. First, it may pay the money out to beneficiaries in which case the Trust can deduct what monies it pays out and reduce its tax to zero, or two, exercise it unlimited deduction for contributions and achieve the same result.

Question #13: MUST THE TRUST FOUNDATION HAVE THE SAME, OR
SIMILAR PURPOSE TO THAT OF THE NOT-FOR-PROFIT?

It need not have, though of course, where their purposes overlap this will make it convenient for cross endowments.

Question #14: HOW IS THE TRUST REGISTERED? THROUGH COURT ORDER
CF COUNTY CLRK?

The Trust need only be recorded in a county wherein it owns
encumbered real estate.

Question #15: WHAT ABOUT NOT-FOR-PROFIT MAILING PRIVILEGES?

This information was covered in Exhibit 1, part (c) of the
second lecture material. (Bulk mailings of 200 pieces or more
may qualify for this privilege)

Question #16: A REQUEST ON SOCIAL SECURITY INFORMATION. PLEASE
OBTAIN THE NAME AND NUMBER OF FORMS REQUIRED TO
INFORM THE SOCIAL SECURITY BOARD TO EXEMPT BOTH
EMPLOYER AND EMPLOYEE FROM PAYING THE SOCIAL SECURITY
TAX, AND THE ADDRESS OF THE DEPARTMENT WHICH MUST BE
CONTACTED ON THIS SUBJECT AND HOW IS THIS INITIATED?

By virtue of the exemption ruling, the employer is exempt from
federal insurance contribution act, FICA (social security). Other
information regarding your specific case may be obtained through
your local social security office.

Question #18: IS NOT THE TRUST FOUNDATION REVEALED WHEN X DOLLARS
ARE ENDOWED, GIVEN OR TRANSFERRED TO IT BY THE NOT-
FOR-PROFIT FOUNDATION, OR WHEN INVESTMENTS ARE MADE
(PRIVACY)?

Not to any more exposure than is normal.

Question #19: IS NOT THE TRUST FOUNDATION REVEALED WHEN A BANK
ACCOUNT IS SET UP OR WHEN TRANSFERS ARE MADE TO
IT (PRIVACY)?

See Answer to Question #18.

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Question #20: WHAT CAN BE DONE WITH PRESENT INCOME PROPERTY AND HOW DO YOU SUGGEST CONVEYANCE - BY DEED, BY GRANT OR SALE TO THE TRUST OR FOUNDATION? ON INCOME PROPERTY, WHICH IS HELD FOR THE BENEFIT OF THE FOUNDATION - WHICH FOR THE TRUST?

The not-for-profit corporate foundation serves its highest and best use creating and generating cash flow! The Trust on the other hand is the ideal legal instrument to own property - which may be conveyed by deed in Trust, Grant, gift, etc! Of course the Trust can and may have a foundation within its framework.

Question #21: EXHIBIT 9, PAGE 3, ITEMS 3 AND 4. CHARITABLE CONTRIBUTIONS MEANS CONTRIBUTIONS TO OUR FOUNDATION? AND IS PROPERTY REFERRED TO IN ITEM 3 INCOME PROPERTY THAT THE DONOR WISHES THE FOUNDATION TO HOLD? WOULDN'T IT BE BETTER PLACED IN THE TRUST?

"Charitable contributions" is that contribution to any organization where contributions may be legally deductible from your income tax, that includes, foundations, churches, schools, hospitals, etc., and you or your Trust can make contributions to any of these entities.

No, by "property which the tax-payer sells in the course of his trade or business", we mean inventory.

No, inventory is not usually placed in the Trust.

Question #22: EXPLAIN CONVEYANCE OF ENCUMBERED PROPERTY ON EXHIBIT 11, PAGE 2 WHERE YOU SAY "CERTAIN TYPES OF LEASES?"

Page 2 of Exhibit 11, refers to the so called "business lease." These are leases, the income of which is not entirely tax exempt.

These leases, generally speaking, are leases which run for more than 5 years on property which is subject to a debt incurred in its purchase/

Question:#23: SINCE THE TRUST IS A FOR-PROFIT STRUCTURE, HOW IS IT THAT ASSETS ARE NOT TAXABLE, AND ARE INSURANCE PROCEEDS TAX FREE?

The Trust is a taxable entity. It may however, avoid its tax burden through the device of its 100% "charitable" deductions. Thus, any taxable income which might accrue to the Trust can be set off by a deduction of a like amount. This deduction may be either for "charitable" contributions or for distribution to beneficiaries.

It is the general rule that death benefits paid on an insurance policy do not constitute taxable income.

Question #24: PREPARE A SAMPLE EMPLOYMENT CONTRACT. DO WE NEED EMPLOYMENT CONTRACTS FOR OUR TRUST?

We do not have a sample employment contract, but it would be a simple matter for you and your counsel to draw one up, in light of your individual circumstances and desires.

Question #25: WHAT ARE CALIFORNIA LAWS FOR STATE OR INDIVIDUALS TO DISSOLVE THE FOUNDATION OR TRUST?

See Associate Counsel.

EXHIBIT 2QUESTION AND ANSWER #1

WHEN YOU PUT MONEY INTO A FOUNDATION, THERE IS NO WAY TO GET IT OUT.

It does seem that it might be difficult to get money out of a foundation. In fact some attorneys have even asked this question. The important thing to keep in mind is -- to what use do you want to put the money? -- in the given case. You naturally want to use it for those things which will be of the greatest value. Money belonging to the foundation is usable for all of the purposes for which the organization was created. Funds may be deployed consistent with the purposes as outlined by the individual who created the foundation. From this you can see that it is necessary for the creator to give ample thought and care to the purpose for which he is creating the foundation. If he does this, the money in the foundation will serve very well the purpose the creator originally had in mind.

* * *

EXHIBIT 2QUESTION AND ANSWER #2

I DON'T LIKE THIS IDEA OF GIVING UP OWNERSHIP OF MY PROPERTY.

Yes, you are right. The foundation or trust will own the property. Am I right in assuming that what you want is control of the property? It is true that most people associate ownership with control, however, under the present legal system, absolute ownership by an individual can in certain cases mean that property can be taxed and taxed and taxed, until the owner has lost all control. However, the creator of a foundation can control property and maintain that control by transferring ownership to a foundation because third parties such as creditors and government regulating agencies do not have primary legal rights to state what should be done with property owned by the foundation. If you desire legal title rather than control of property, then foundation not-for-profit methods would be of little interest to you. Ownership by a foundation gives the creator direction and control of the property to do with as he sees fit in carrying out the purposes for which it, the foundation, was created. Isn't this what you want?

* * *

EXHIBIT 2QUESTION AND ANSWER #3

FOUNDATIONS ARE FOR CHARITABLE PURPOSES.

You are right, there are many foundations which have been created for charitable purposes, and the common use of the term "charitable" has led many people to feel that all foundations are created for this purpose. However, the not-for-profit laws that are in use by all of the states have many other purposes for which foundations may be established. Some of these are research, education, religious, cultural purposes, promoting civic activities, developing the health and welfare of the nation, testing for public safety and also in raising the general standard of living. This of course means that you can establish a not-for-profit corporation, using any or all of these different purposes that would best suit your activities and desires. This is one of the reasons why so many people want to understand how they can establish foundations within the law.

* * *

EXHIBIT 2QUESTION AND ANSWER #4

I JUST CAN'T SEE HOW MY WORK AND BACKGROUND CAN POSSIBLY
QUALIFY ME FOR ALL THESE BENEFITS.

It is true that there are some lines of activity which possibly would not qualify one for establishment of a not-for-profit corporation. At first it sometimes seems difficult to see just how one's activities would make it possible to gain the benefits that are available. One way that has been found which helps along this line is to think over and write down all of the benefits that people derive from the use of your product or service. When this has been thoroughly thought through, it becomes obvious that many types of activities, professions and business qualify. For the reason that foundations are created to do good work and are granted charters on the basis of benefiting mankind in general, experience has shown that there is no legitimate product or service that does not benefit mankind. Shall we take a little time to work out a purpose under which your activities might qualify?

* * *

EXHIBIT 2QUESTION AND ANSWER #5

IT SOUNDS TOO GOOD TO BE TRUE.

I will agree that it does sound too good to be true. With well over one million laws affecting each and every individual in the U.S. either directly or indirectly, it is understandable why many people are skeptical on this subject. Many people have not had an opportunity to become familiar with or understand the laws that govern not-for-profit procedure and yet the foundations in the U.S. number in the tens of thousands and may number well over 100,000. The people who have established these foundations are reaping the many benefits available. For the most part none of the persons involved in these thousands of foundations would ever desire to break the law. During the past 24 months there has been a very rapid growth of the foundation activity under the laws provided for their establishment. From this evidence there can be no doubt that there is a sound legal basis which is valid, permissible, and tested. Foundation methods have been tried and tested in the courts and the legal precedences are as old as corporate law. There are no penalties for proper foundation management and on the other hand, there are a multiplicity of benefits, not only for you but for mankind in general.

EXHIBIT 2QUESTION AND ANSWER #6

IF THE IRS COMES IN 5 YEARS FROM NOW AND SAYS: "YOU OWE US \$6,000 _ WHAT DO I DO THEN?"

This is a disturbing thing to have happen to anyone and I must agree that certain IRS agents have in the past attempted to impress the taxpayer with their authority and power. There are, however, laws which govern and limit their power. You have the right as a citizen to ask any IRS agent for complete identification, and then you have the further right to be represented by your counsel. Should such a thing ever happen to you, by all means insist on complete identification from the agent and then call your attorney. If you have followed the rules and purposes under which your foundation has been organized, you need have little fear, since you are protected under the law and the rights guaranteed you by the Constitution.

* * *

EXHIBIT 2QUESTION AND ANSWER #7

I'VE TALKED TO MY ATTORNEY AND HE SAYS IT CAN'T BE DONE.

Well, of course, your attorney has a right to his opinion and I must admit that none of us ever won any beauty contests. Undoubtedly your attorney is a very intelligent and capable man. This is fortunate because attorneys do have to deal with all of the millions of laws. Like several other professions, the legal profession demands that most attorneys be specialists. Legal specialists who are involved with activities other than estate planning or taxation would have no opportunity to examine the legal basis or procedures of foundations, and most attorneys specializing in tax or estate planning have not had the opportunity to do deep research on this topic. It is not a question of lack of intelligence or training. It is simply that the bulk of the law is so vast that it is very difficult to begin research in an unfamiliar area. There is no question, but that any intelligent, well trained attorney after considerable research and experimentation could discover the proper procedures and methods and so advise you. We, however, are fortunate in that we have access to approximately 40 years of research that has already been done. Most attorneys are unable to undertake or complete this type of research in a reasonable length of time without the aid of experienced men. ABC has experienced men. It is human nature to doubt that with which we are unfamiliar. Since most attorneys are actually unfamiliar with nfp procedures, they doubt the values or practicability of the foundation.

EXHIBIT 2QUESTION AND ANSWER #8

I CAN'T BELIEVE IT IS LEGAL

Since most people have not had their attention called to not-for-profit procedures, it is understandable that they would be thought to be illegal. Yet the 1965 U.S. Treasury Report states that there are tens of thousands of tax exempt organizations which report each year. The Treasury agrees that these entities are operating within the law, and that they render a tremendous service for mankind. When such organizations as the Ford Motor Company, Mott Industries, the Mayo Clinic and many others, have determined that foundation procedures are beneficial, and, at the same time tens of thousands of others, both large and small, have reached the same conclusion the evidence exists to prove legality. Under the principle of equality under the law, you are entitled to the same opportunities and control of your affairs that these organizations have achieved. In addition, in the last two years foundation activity has increased so remarkably, that there can be no doubt as to the legal basis of these methods -- they are sound, valid, permissible and tested. Courts throughout the nation have upheld their validity.

* * *

QUESTION AND ANSWER #9

IF IT IS LEGAL, WHY CAN'T MY ATTORNEY FIND OUT ABOUT IT AND ADVISE ME ON IT?

I am sure your attorney could find out about not-for-profit procedures and would then be in a position to advise you of it. I am sure your attorney is thoroughly capable. The question which I believe you might want to settle in your own mind is, "how long might I have to wait to get accurate information and how much would I have to gain by moving quickly with tried, tested and proven procedures?" You see there are well over one million laws which effect every individual in the United States in one way or another. This means that it is physically impossible for an attorney to be an authority on all the laws at any given time. The legal profession then must be specialized in each phase of the law in which it deals. Unless a specialist is involved in estate planning or taxation, he would have no opportunity to examine the legal basis or procedures of foundations. Most attorneys specializing in tax or estate planning simply have not made themselves familiar with, or have not had the time to deeply research this topic. Because of the vast bulk of the law, it would require a great deal of time for an inexperienced attorney to do this. There is no doubt that any intelligent well-trained attorney, after long research and experimentation would be able to discover proper not-for-profit procedures and methods. However, in the interest of saving you time and money, ABC has provided experienced men who have access to more than 40 years of research in not-for-profit procedures,

that have been used in setting up these other organizations.
Thus, you have the opportunity to save a great deal of time and money.

* * *

EXHIBIT 2QUESTION AND ANSWER #10

THE MORE I LOOK INTO THIS, THE MORE I AM CONVINCED THAT I WILL HAVE AN UNBEARABLE AMOUNT OF LEGAL AND ACCOUNTING DETAILS TO HANDLE

It does seem that there is a considerable amount of detail and bookkeeping to handle. I can readily understand your concern. When any procedure involves a change in thinking and application there is some re-education that has to be completed. The truth of the matter is, however, that the details to be handled can be carried out quickly and easily since there are no unusual or complex legal procedures with which you, as a modern businessman, would not ordinarily be familiar. ABC will refer you to legal and accounting experts that have been trained to handle your questions, should any occur in the future. The actual operation of your not-for-profit organization may actually require fewer records and therefore will be simpler than those you have been required to use under "for-profit operations, particularly if you have had a stock corporation. As an idea which lends proof to this statement, there are many more laws which must be followed under "for-profit" procedure than there are required for not-for-profit operation. This means less bookkeeping and fewer reports, which again saves you time and money and greatly reduces the chance of error. Does this seem like a reasonable conclusion?

EXHIBIT 2QUESTION AND ANSWER #11

THE PENALTIES FOR TAX EVASION ARE STRICT AND VERY SEVERE

Yes, I agree that the penalties for tax evasion are strict and severe, as are the penalties in many other areas where the laws are broken, and you are to be complimented on your concern about avoiding that type of situation. Your foundation methods of operation have been tried and tested in the law, and precedences have been established that are as old as corporation law. As you know there are no penalties for keeping taxes as low as possible, as long as it is done within the law --

"Anyone may arrange his affairs that his taxes shall be as low as possible; he is not bound to choose that pattern which best pays the treasury; there is not even a patriotic duty to increase one's taxes.

"Over and over again courts have said that there is nothing sinister in so arranging affairs as to keep taxes as low as possible. Everyone does it, rich and poor alike and all do right; for nobody owes any public duty to pay more than the law demands.

"Taxes are an enforceable exaction, and not a voluntary contribution." Judge Learned Hand, Halvering vs. Gregory
69 Federal (2nd) 809

Every state in the union has laws designed to promote the operation of not-for-profit foundations for worthy causes, and this permits you to do so if you wish.

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EXHIBIT 2QUESTION AND ANSWER #12

I WOULDN'T WANT MY FREINDS TO KNOW I AM NOT PAYING MY SHARE OF
THE TAX LOAD

There is nothing wrong in wanting to bear your share of a consumer burden. You are to be complimented on wanting to carry your share of the tax load. Many other good Americans feel the same way about it. Your share of the tax burden, however, is only as great as you decide by the method in which you choose to organize your economic affairs under the law. To show you how some of the leaders of our nation have felt about this, let me point out that Presidents Johnson, Eisenhower, Kennedy and Roosevelt, as well as Harry Truman and Herbert Hoover created their respective foundations for the purpose of promoting projects of their choice. You have as much an obligation to avoid paying too much tax as you do to avoid paying too little. Perhaps more of us could benefit mankind to a greater degree by taking these steps to keep taxes as low as possible.

* * *

EXHIBIT 2QUESTION AND ANSWER #13

WHAT IS GOING TO HAPPEN WHEN IRS REALLY FINDS OUT YOU ARE MASS
MERCHANDISING THIS AND DRYING UP THEIR SOURCE OF INCOME?

Off hand, it would seem that making a great effort to inform citizens of their rights under the Constitution is a little unusual and might attract the attention of those who collect taxes. In a situation of this kind one must consider the responsibility of the various governmental bodies and how they fit into the picture. For example, the Congress, and not the IRS, has primary government jurisdiction over the ways and means that the country's resources are employed. The IRS is charged solely with enforcing the laws legislated by the Congress, and consequently the IRS may not internally legislate as to the growth and development of not-for-profit organizations. It is the business of the Congress to provide an answer as to the source of tax income. In the long run, the attitude of the citizens determines the attitude of Congress.

* * *

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EXHIBIT 2QUESTION AND ANSWER #14

I HAVEN'T GOT \$7,000.

I am sure there are many people who do not have \$7,000. Today with the rise of inflation, the decrease in the purchasing power of money and the increase in taxation, it becomes more and more difficult to accumulate even a part of this amount. I am sure that anything you can do that would result in saving all, or part of \$7,000 would be of interest. Many people have found that they save many times \$7,000 in the first year, by being able to better control their finances, reduce taxes and more efficiently arrange their financial affairs. Then too, under ABC's membership program, it may be possible to earn a membership starting with as little as \$1,000 and working with others to build membership. Where it is decided to gain membership in this manner a little more time and energy is required, but it is a thoroughly practical and sound way to become a member of ABC and gain the benefits available in this membership, as so many others are now doing. If you are interested, I would be glad to show you the details of how this may be done.

* * * /

EXHIBIT 2QUESTION AND ANSWER #15

WHY ARE YOU GUYS SO SECRETIVE ABOUT THE PEOPLE IN YOUR ORGANIZATION

This is an intelligent question and deserves a sound answer. It involves your personal privacy and that of others in ABC. As you know, ABC is a membership organization and one of the benefits of ABC membership is to help members protect and maintain their privacy -- one of the basic fundamental rights of citizenship. On occasions when names have been mentioned, certain individuals connected with ABC and many who are not so connected, were interrupted in their work or their rest, by phone and letter to verify information and to make disclosures. Naturally, they have asked us not to disclose their names, and we respect their request. It may be of help to you to know that any information you may require concerning ABC membership program may be obtained through someone who is already a member. If you were in the position of these men would you like to have your privacy similarly protected?

* * *

EXHIBIT 2QUESTION AND ANSWER #16

AFTER I SIGN UP HOW DO I KNOW I WILL GET SERVICE WHEN I NEED IT?

I appreciate your concern about the service you would need and get after signing up for membership in ABC. This is something to which you are entitled. One reason that I am sure you can get the service you need is that responsible professional and businessmen are charged with the leadership in this organization. Your sponsor is a responsible individual and has certain standards of responsibilities which he is expected to satisfy. ABC has many members who have much to gain by seeing that new members are properly serviced. I believe that this is one of the best reasons why you can expect the kind of service you need and want.

* * *

EXHIBIT 2QUESTION AND ANSWER #17

I HAVE A LOT OF CONFIDENCE IN YOU -- BUT NOBODY CAN BUCK UNCLE SAM

I appreciate your confidence and also the fact that nobody has yet been able to successfully buck Uncle Sam and I for one hope that it stays that way. In fact, if it was a case of bucking Uncle Sam then I would say that our membership was due for a quick and drastic decline. Let me see if I can explain it this way. The primary purpose of not-for-profit procedures is to benefit mankind in general. Foundations are created to do good work. With experience over the years it has been found that not-for-profit procedure lifts certain burdens from government that otherwise government would be required to carry. This means a saving both to government and the tax payer. As a result every State in the Union has laws designed to promote the establishment of not-for-profit corporations. In fact, Congress and other law making bodies within the states have recognized the good that foundation procedures can produce. This is good for the private economy of the country and accomplishes many things that could not be done otherwise. Not-for-profit procedures have been tested in the law and are as old as corporation law. It has the support of Congress even though many attorneys and others have not been made aware of this type of support. Have I made it clear how we are working with Uncle Sam instead of bucking Uncle Sam?

* * *

QUESTION AND ANSWER #18

MY ATTORNEY CAN DO THIS - WHY PAY YOU \$7,000?

I have no doubt your attorney could handle the matter for you, particularly if you can spare the time and the money required to carry on the research and investigation involved. Undoubtedly your attorney is a capable man with a fine education and good background. Am I right, in assuming that you are interested in saving the greatest amount of money in the shortest length of time?

There are millions of laws which require that attorneys, among other professionals, must be specialized. Specialists not involved in estate planning or taxation have little opportunity to examine legal bases or procedures of foundations. Most attorneys specializing in tax or estate planning have been unable to spend the time to deeply research the topic of foundations. This means that the client of an attorney might have to wait many weeks and months to have his affairs properly arranged.

There is no doubt that any intelligent attorney could, after considerable research and experimentation, discover the proper procedures and methods and so advise you. We, however, are in a position to save you a great deal of time and money since our attorneys are experienced and can pass this information along to associate counsel so that your work can be done quickly and in most cases can save you a great deal of time and money.

QUESTION AND ANSWER #19

I SIGNED UP A MONTH AGO, WHEN AND HOW AM I GOING TO GET
TAX EXEMPTION?

I don't blame you for wanting to get your tax exemption, and a month seems like quite a period of time. The law governing federal tax exemption is quite clear and when the proper amount of time has elapsed, and the applicant has properly satisfied both the time and action requirements, the exemption will be recognized. One of several procedures is open to your foundation. Your attorney can advise you.

* * *

QUESTION AND ANSWER #20

IS THIS ANOTHER CHAIN LETTER PROGRAM?

Chain Letter? If you feel that this is being used as a chain letter program, I can understand your concern. Actually nothing resembling a chain letter is included in ABC's membership plan. It is nothing more than a sponsorship program wherein one member may sponsor an applicant into membership. This is done for many reasons; to strengthen the quality of the membership and also to build membership, since there is strength in numbers. This is the same principle used in building the membership of social clubs, golf clubs, country clubs, etc., and this method of sponsorship is employed to save you time and money.

* * *

QUESTION AND ANSWER #21

I AM AFRAID THE \$7,000 MIGHT NOT BE ENOUGH TO PROTECT ME

\$7,000 does not seem to be a tremendous amount to protect your rights as a citizen. You may, of course, pay any amount that you believe will be sufficient to protect you, over and above the \$7,000 fee. As you know there is strength in numbers and as the membership continues to grow, the strength of your protection grows with it. Also, when you realize that not-for-profit procedure is encouraged by both State and Federal law-making bodies, the chance of your being challenged is greatly reduced, as long as you adhere to the rules and live within the purpose of your foundation. Of 12,000 (?) not-for-profit organizations chartered in 1964, only 239 were disallowed tax-exempt recognition and many of these were later approved. Self-responsibility is the key. If you are aware of the few pitfalls in foundation management, you will be able to avoid them. All of mankind and your family may benefit greatly from proper foundation procedures and abuse is not necessary. With this knowledge and practice great amounts of funds are not necessary to provide protection. Have I made it clear how your rights can and will be protected?

* * *

QUESTION AND ANSWER #22

WHO DO I CALL WHEN QUESTIONS COME UP?

You may call your sponsor, your attorney, your accountant, or all three, when questions arise. These people will be qualified to answer your questions about the allocation of expense items and can guide you in making future plans. As time goes on there will be more and more attorneys in each area who will be qualified to answer questions concerning not-for-profit procedure.

* * *

QUESTION AND ANSWER #23

WHAT PROOF HAVE YOU GOT THAT ABC METHODS WILL WORK?

ABC uses only established not-for-profit procedures, coupled with sound business practice and methods well within statutory limits of approved activities. You may ask your sponsor if they are working for him. Perhaps the best proof that ABC methods will work, are that such foundations as the Kennedy, Mott, Ford and hundreds of others were originally organized under the same principles now in use by ABC. Not only have these foundations stood the test of time, but they have prospered and continue to render enormous and increasing benefits to mankind. The number of such organizations is rapidly increasing. Reports of the U.S. Treasury agree that these methods work and that they produce benefits for those who create them. The last six Presidents of the United States have had their not-for-profit organizations. The best proof that is available, of course, is not our promises as to what the methods will do but what these procedures have done and are continuing to do. Does it seem reasonable to you that this is evidence that they will continue to work in the future?

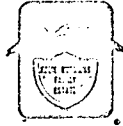
* * *

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EXHIBIT NO. 2

Declaration of Trust of this Constitutional Trust

TO BE ADMINISTERED BY NATURAL PERSONS,
HOLDING TITLE IN JOINT TENANCY, ACTING UNDER
THEIR CONSTITUTIONAL RIGHTS AS CITIZENS OF THE
UNITED STATES OF AMERICA.



THIS DECLARATION OF TRUST AUTHORIZES ITS
TRUSTEES TO OPERATE UNDER THE NAME OF

AMERICANS BUILDING CONSTITUTIONALLY (A TRUST) N.F.P. by

✓ THIS AGREEMENT, CONVEYANCE and ACCEPTANCE, made
and entered into at the time and on the date ap-
pearing in the acknowledgment hereto attached, by
and between ROBERT D. HAYES, Creator and Grantor
hereof, and RICHARD J. STEPHENSON and J. ALTON LAUREN,
Acceptors hereof in joint tenancy who shall compose
the Board of Trustees and Executive Officers for
conducting said business.

Constitutional Trust

The Grantor hereby constitutes and appoints the above designated Trustees to be, in fact, Trustees of the Trust hereby created and established. The Grantor for and in consideration of the objects and purposes herein set forth, the cash sum of One Dollar in hand paid and other considerations of value the receipt of which is hereby acknowledged, does hereby sell, assign, convey and deliver unto said Trustees, in TRUST—who are to hold legal title in joint tenancy and not as tenants in common, to collectively act by virtue of this covenant as a Board of Trustees under the name herein designated—certain properties, business projects, operations under way or contemplated, dealing in equities, formulae, entitles, patents, copyrights, business good-will, or other business desired to be engaged in by said Trustees.

The Trust name and other things of value to constitute a Trust (estate), including rights in reversion or remainder wherever situate, and other things of value too numerous to mention, and having its principal place of business in the State of Illinois, County of Lake, Barrington, Kelsey Road, P.O. Box 575, 60010

The above named Trustees, for themselves and their successors in trust, do hereby accept the conveyance in trust and acknowledge delivery of all the property specified, together with all the terms of the Trust herein set forth, agreeing to conserve and improve the Trust, to invest and reinvest the funds of said Trust in such manner as will increase the financial rating of the Trust (estate) during the period of outstanding liabilities of the various properties and enterprises in commerce for gain, exercising their best judgment and discretion, in accordance with the Trust minutes, making distribution of portions of the proceeds and income as in their discretion, and according to the minutes, should be made, making complete periodic reports of business transactions, and upon final liquidation distributing the assets to the beneficiaries as their interests may appear; and in all other respects administering said Trust (estate) in good faith, strictly in conformity hereto.

Constitutional Trust

Trustees

Trustees shall be not less than two in number, but may be increased for practical reasons beneficial to the Trust. The Trustees herein mentioned by name, or their successors elected to fill vacancies, shall hold office, have and exercise collectively the exclusive management and control of the Trust property and business affairs;

PROVIDED, where succession may be desired, the first named Trustee shall hold office for one year, the second, for two years, the third, for three years, in this manner using the same principle for additional Trustees, the successor to each Trustee being elected for a full term of five years;

PROVIDED, HOWEVER, that a Trustee may resign or be removed from office by a resolution of the Board of Trustees unanimously concurred in whenever in their opinion said Trustee shall have been guilty of fraud, malfeasance in office, gross neglect of duty, or for cause by the mandate of a court of competent jurisdiction; and

PROVIDED FURTHER, that in the event of death, removal from office, or resignation, the Trustees shall appoint or elect a successor by the unanimous concurrence of the remaining Trustees. Should the entire Board of Trustees become vacant, a court of equity may appoint one Trustee, who, in turn, shall appoint the additional Trustees. Should objection be filed to appointment of additional Trustees, the Same shall be spread upon the minutes. Any such objection shall deprive the candidate from accepting the trusteeship.

The signing and acknowledging of this Agreement by such Trustee or Trustees, elected or appointed, shall constitute their acceptance of this Trust; and the Trust property, assets and emoluments thereof shall immediately vest in the new Trustee or Trustees without any further act or conveyance.

TRUST
Sect No.

Constitutional Trust

Trustees' Meetings

By a regular act of the Trustees they may provide for meetings at stated intervals without notice and special meetings may be called at any time by two or more Trustees upon three days' written notice. At any regular or special meeting a majority of the Trustees shall constitute a quorum for conducting business, PROVIDED, affirmative action may only be had upon a majority vote of the Trustees, whether present or absent, except that at special meetings called for a special purpose the majority present may affirmatively act in emergency matters.

Powers of Trustee

Trustees' powers shall be construed as general powers of citizens of the United States of America, to do anything any citizen may do in any state or country, subject to the restrictions herein noted. They shall continue in business; conserve the property, commercialize the resources, extend any established line of business in industry or investment, as herein specially noted, at their discretion for the benefit of this Trust, such as, viz.: buy, sell or lease land for surface or mineral rights; buy or sell mortgages, securities, bonds, notes, leases of all kinds, contracts or credits, of any form, patents, trademarks or copyrights; buy, sell, or conduct mail-order business, or branches thereof; operate stores, shops, factories, warehouses, or other trading establishments or places of business of any kind; construct, buy, sell, lease or rent suitable buildings or other places of business; advertise different articles or business projects; borrow money for any business project, pledging the Trust property for the payment thereof; hypothecate assets, property, or both, or the Trust in business projects; own stock in, or entire charters of corporations, or other such properties, companies, or associations as they may deem advantageous.

Resolutions of the Board of Trustees authorizing a special thing to be done shall be evidence that such act is within its power. Any one lending or paying money to the Board of Trustees shall not be obliged to see the application thereof, all funds paid into the treasury are and become a part of the corpus of the Trust.

Constitutional Trust

Administration

The Trustees shall regard this instrument as their sufficient guide, supplemented from time to time by resolutions of their Board covering contingencies as they arise and recorded in the minutes of their meetings, or by by-laws, rules or regulations, as deemed expedient and consistent with the orderly conduct of business.

Officers and Management

The Trustees may in their discretion elect among their number a President, Secretary and Treasurer, or any other officers they may deem expedient for proper functioning. Any Trustee may hold two, or more, offices simultaneously, their duties being such as are usual or are prescribed. They may employ agents, executives, or other employees, or designate third persons to hold funds for specific purposes.

Expenditures

The Trustees shall fix and pay compensation of all officers, employees or agents in their discretion, and may pay themselves such reasonable compensation for their services as may be determined by the Board of Trustees.

Construction

The Trustees, officers, agents or employees possess only such authority as awarded them herein. Authority is understood and meant to be similar to that awarded an executor of an estate wherein the testator directs (illustration) "that my Executor is directed to handle the estate in the manner he thinks to be to the best interest, limited by the terms hereof, without the necessity of resort to the court for permission or approval of any transaction, intending herein to leave open for the court the question of conscientious dealing of my Executor only."

Constitutional Trust

Liabilities

The Trustees shall, in the capacity of Trustees and not individually, assume only such liability as may attach to said Trust property assets. This Trustee liability shall not in any manner jeopardize their individual or personal holdings and for any losses they should suffer for any reason through services, they shall be reimbursed from Trust property to the same extent as would non-interested persons.

Notice

Notice is hereby given to all persons, companies or corporations extending credit to, contracting with, or having claims against this Trust or the Trustees hereof, that they must look only to the funds and property of the Trust for payment or for settlement of any debt, tort, damage, judgment or decree, or for any indebtedness which may become payable hereunder; that the Trustees, officers or agents are mere employees and not personally liable when dealing with the Trust properties or matters.

Document

It is expressly declared that a Trust, and not a partnership, is hereby created; that neither the Trustees, officers, or certificate holders, present or future, have or possess any beneficial interest in the property or assets of said Trust, nor shall they be personally liable hereunder, as partners or otherwise; that no Trustee shall be liable for the act or omission of his or her Co-trustee, or any other person, whatsoever, whether employed by such Trustee or not, or for anything other than his own, personal breach of Trust.

Certificates of Interest

For convenience the equitable interests for distribution shall be divided into One Hundred units, substantially in the certificate form hereto attached. They shall be non-assessable, non-taxable and negotiable and the lawful possessor thereof shall be construed the true and lawful owner thereof. The lawful owner may, if he so desires, cause his beneficial certificate to be registered with the Secretary of the Board of Trustees.

Constitutional Trust

Death... Insolvency... Bankruptcy

Death, insolvency or bankruptcy of any certificate holder, or the transfer of his certificate by sale, gift, devise or descent, shall not operate as a dissolution of this Trust, or in any manner affect the Trust or its operation or mode of business. Ownership of beneficial certificate shall not entitle the holder to any legal title in or to the Trust property, nor any undivided interest therein, nor in the management thereof, nor shall the death of a holder entitle his heirs or legal representatives to demand any partition or division of the property of the Trust, nor any special accounting, but said successor may succeed to the same equitable or distributional interest upon the surrender of the certificate as held by the deceased for the purpose of re-issue to the then lawful holder or owner.

Duration... Closure

This Trust shall continue for a period of twenty-five years from date, unless the Trustees shall unanimously determine upon an earlier date. The Trustees may at their discretion, because of threatened depreciation in values, or other good and sufficient reason, liquidate the assets, distribute and close the Trust at any earlier date determined by them. The Trust shall be proportionately and in a pro rata manner distributed to the beneficiaries. In the event this instrument has been recorded with the Recorder of Deeds, they shall then file with said Recorder a notice that the Trust shall cease and determine; and, thereupon, the Trustees shall automatically be further discharged hereunder. PROVIDED, their administration and distribution has been made in good faith, otherwise a court of equity may be invoked to review and correct any tort or error.

Renewal

At the expiration of this Agreement the then Trustees, if they so desire and believe that said Trust should not be closed, may renew this Agreement for a like or shorter period. A resolution of said renewal shall be entered upon the minutes (and also recorded in the Recorder's Office in the event this Agreement has been recorded) at least 120 days prior to the expiration hereof, and publication shall be made in a newspaper of general circulation in the county of a copy of said resolution not less than 60 days prior to the expiration hereof.

Constitutional Trust

Trustees' Declaration of Purpose of this Constitutional Trust

SHALL BE

To help citizens of the United States make full use of their rights guaranteed them under the Constitution, AMERICANS BUILDING CONSTITUTIONALLY (A TRUST) N.F.P. hereby makes available membership to every citizen who is duly qualified.

THE TRUSTEES by their resolution of purpose may perform and function for any purpose on behalf of any individual, group or combination of individuals, severally or collectively.

IN SUCH INSTANCES the powers and authority of the Trustees shall be defined and limited to the general purposes set forth by the Declaration of Purpose.

FOR THESE PURPOSES the Trustees may have authority to take possession, management and control of corpus, as agent, escrowee or trustee of the lawful holder of Interim Certificate, as issued by the Trust.

THE TRUSTEES may issue Interim Certificates, calling for as many subdivided units as a holder may be entitled to on a per cent basis of the whole. However, they may first allocate a per cent of subdivided units for purposes or activities as the nature of the Declaration of Purpose warrants. Under no circumstances shall the Trustees possess authority to sell or negotiate, directly or indirectly, Interim Certificate unit or units.

THE TRUST SHALL have authority to provide itself with operating funds through commercial loans, directly secured by assets or income of the Trust, provided such authority is possessed, in writing, from the principal.

THE TRUSTEES SHALL issue to individual persons interested in the premises, or groups, as the case may be, uniform Trust Interim Certificates, therein and thereby setting forth that the Trust is not the vendor or owner of the premises; that its sole activity consists of private, personal representation of individual Interim Certificate holders, as set forth in the Declaration of Purpose.

Constitutional Trust

Restrictions

Nothing herein contained shall be construed to authorize the Trust to issue beneficial certificates of interest in excess of the number herein provided, nor for a nominal value at variance with the provisions hereof.

Purport

The purport of this instrument is to convey property to Trustees to constitute a Trust (estate) for the benefit of the beneficiaries, held by the Trustees, in trust and in joint tenancy for the duration hereof, and to provide for a sane and economical administration by natural persons acting in a fiduciary capacity, to begin at once and not to be deferred until after the death of any creator, settler or maker, as occurs when such Trust Estates are created by Last Will and Testament, the settlers, creators or makers of this covenant preferring that the Trustees act solely within their constitutional rights as based upon their common law rights and immunities vouchsafed to citizens of the United States of America and defined in Article IV, Section 2, PROVIDING, that "Citizens of each state shall be entitled to all privileges and immunities of citizens in the several states," and Article VI, Section 2, PROVIDING, that "The Constitution of the United States and the laws made in pursuance thereof shall be the supreme law of the land;" and the 14th Amendment thereof, PROVIDING, that "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States." The administration of this Trust shall be amenable to judicial regulation on occasion arising and under the paternalism and protection of the court. Citations applicable and various rulings pertaining to Trust Estates and constitutional rights of contract and collective bargaining (except copartnership relationship, which is not applicable) may be found.

Nothing herein contained shall be construed as an intent to evade or to contravene any Federal or State Law, nor to delegate to Trustees any special power belonging exclusively to franchise of incorporation.

Constitutional Trust

IN WITNESS WHEREOF the Grantor and Creator hereof and the Acceptors hereof, for themselves, their heirs and assigns, have hereunto set their hands and seals in token of the conveyance, delivery and acceptance of property, assets, or other things of value, and the obligations and duties as herein assumed as Trustees of said Trust and assent to all stipulations herein as imposed and expressed.

Robert D. Hayes (SEAL)
Creator

Robert D. Hayes (SEAL)
Richard J. Stephenson (SEAL)
J. Alton Lauren (SEAL)

Trustees

DOC. 1310318
FILED FOR RECORD IN RECORDERS
OFFICE LAKE COUNTY, ILLINOIS

JUL 15 '66 - 4 30 PM

Frank J. Mustra
FRANK J. MUSTRA, RECORDER

COUNTY OF Lake
STATE OF Illinois } S S

I, Lorenz F. Hellman, a Notary Public
an officer authorized by law to administer oaths, do hereby certify that

ROBERT D. HAYES, creator, and ROBERT D. HAYES
RICHARD J STEPHENSON and J. ALTON LAUREN

as trustees of the AMERICANS BUILDING CONSTITUTIONALLY (A TRUST) N.F.P.
personally appeared before me this day and acknowledge that they
signed, sealed and delivered the above and foregoing Trust indenture for the
uses and purposes therein set forth, and that the trustees by their signatures
evidenced the acceptance of the duties, obligations and faithful performance
of said Trust Indenture.

Witness my hand and seal this FIFTEENTH day of JULY, 1966

Commission expires

JUL 14, 1977

Lorenz F. Hellman
Official Signature

mailed

R.D. Hayes
Box 575
Barrington 220 60010



EXHIBIT NO. 3**EXHIBIT 1**

The Primary Purpose of Americans Building
Constitutionally (ABC). (A Trust) .

To help citizens of the United States make
full use of their rights guaranteed them under
the Constitution.

* * * * *

EXHIBIT 2

The United States has spent over \$700,000,000,000. since 1946 to fight the "cold war" -- "to prevent the spread of communism."

This is more than the United States has spent in fighting all the "hot wars" including the War of Independence on up through World War II.

It is enough to pay the private indebtedness of every man, woman, and child in the United States plus over half of the corporate indebtedness.

We have given over \$150,000,000,000 since 1946 in foreign aid "to prevent the spread of communism."

What have been the Results?

Since 1946 over 800,000,000 have been enslaved by communism - an increase of over 500%.

Today the average American pays 41 cents out of every dollar of income for direct and indirect taxes. He must work over two days out of every five for the government before he can pay his own grocery bill or clothe his own children.

The average business man pays 63 cents out of every dollar of income for taxes. He works over three days out of five to pay his taxes before he can feed his family and clothe them -- or think about capital for expanding his business -- or providing

(over)

jobs for others. If he made \$10,000 in 1939, today he must earn over \$27,000 to have the same purchasing power as he had in 1939.

This is due to increased taxation and inflation -- from spending programs which continue to exceed government income plus rapidly increased taxation.

It is destroying incentive for research and development, thus making it more and more difficult to maintain our lead over our foreign competition in the areas of both commerce and armaments -- on both of which depends our national security.

* * * * *

EXHIBIT 3Where will it stop?

In 1966 our rate of inflation has been 5 percent.

This means that if you earned \$7600 in 1965, in 1966 you would have to earn a raise of \$380 to break even. The trouble would be that you would then be in a higher income tax bracket so that you would have to have \$72.20 more to pay the higher income tax!

Already another substantial income tax increase is being considered for 1967.

Our government indebtedness is the highest in history.

Our government expenditures are the highest ever, approaching \$175 billion per year -- and yet deficit spending continues.

* * * * *

EXHIBIT 4

How much control have you been able to exercise
in the decisions which have lead to these conditions?

In the light of what has happened can we afford
to leave it to government to solve the problem?

What can be done?

What can you do?

* * * * *

EXHIBIT 5

National security

Depends upon

economic strength

Depends upon

motivation of those who produce

Depends upon

the ability of the individual to benefit
from his work

Depends upon

the ability of the individual to control
the fruits of his labor

Depends upon

the degree to which his property and earnings
are taxed away

* * * * *

EXHIBIT 6

Attitude of government toward private foundation taken from Congressional Investigation of Foundations by the Cox Committee.

"It appears that the present need for foundations is even greater than it has been in the past and there is a great likelihood that the need will increase in the future.....The foundation, once considered a boon to society, seems to be a vital and essential factor in our progress."

Another quotation in this connection taken from the U. S. Treasury Department Report on Private Foundations on Page 12.

"Private philanthropic organizations can possess important characteristics which modern government necessarily lacks. They may be many centered, free of administrative super structure, subject to the readily exercised control of individuals with widely diversified views and interests...precisely because they can be initiated and controlled by a single person or a small group, they may evoke great intensity of interest and dedication of energy. These values, in themselves, justify the tax exemptions and deductions which the law provides these philanthropic activities."

* * * * *

1. Benefits of N-F-P Foundation Procedures. EXHIBIT 1

A. Personal and Family Benefits

"What can be accomplished by creating a foundation?

1. Keep control of wealth.
2. Can keep for the donor many attributes of wealth by many means:
 - a) Designating the administrative management of the foundation.
 - b) Control over its investments.
 - c) Appointing relatives as directors of the foundation.
 - d) Foundation's assets can be used to borrow money to buy other property that does not jeopardize its purposes. Thus, foundation funds can be enhanced from the capitalization of its tax exemption.
3. The foundation can keep income in the family.
4. Family foundations can aid employees of the donor's business.
5. Foundations may be the method of insuring that funds will be available for use in new ventures in business.
6. We can avoid income from property while it is slowly being given to a foundation by a combination of a trust and the charitable foundation.
7. We can get the 20% charity deduction in other ways:
 - a) By giving away appreciated property to the foundation, we escape a tax on the realization of a gain.
 - b) We can give funds to a foundation to get charitable deduction currently in our most advantageous tax year.
 - c) Very often local personal and real property taxes can be avoided.
 - d) We can avoid speculative profits.
 - e) We can give away valuable "frozen assets," white elephant estates, residences, valuable works of art, and collections of all arts." ---

Chairman's Report to the Select Committee on Small Business (Patman Report) House of Representatives, 87th Congress (1962) Page 17. This is a quote from Cleveland Marshall Law Review.

A-1 Retention of control within family.

"Present law imposes no limit upon the period of time during which a donor or his family may exercise substantial influence upon the affairs of a private foundation." Treasury Report on Private Foundations, Senate Finance Committee, Feb. 1965, Page 9.

"In slightly over two-thirds of all foundations by number, the donor or persons related in some way to the donor made up 50% of those trustees who take some voice in investment policy, including the decision of how much of the currently available funds will be re-invested and how much will be applied to charitable purposes." -- Treasury Report, Page 84.

"The foundation may aggregate the donations received, paying out merely the income which these aggregations earn and holding capital for some special purpose, perhaps to buy assets from the donor's estate at his death." (i.e., where in the case of a closely held corporation, reasonable value of the stock might be much more than the actual market price in a forced sale to pay estate costs.) -- House Report No. 2681, 83rd Congress, Second Session, Page 5.

A-2. Perpetuate family control

"Perhaps the most frequent motivation in the creation of large foundations today is that the proprietor of a substantial enterprise who wishes to have it continue after his death in the hands of his family has insufficient liquid means available to satisfy his estate obligations at his death." House Report 2681 - 83rd Congress, Second Session, 1954. Page 6.

(Refer to Ford Foundation).

"There is nothing illegal about such a plan. It is entirely proper as the law now stands and is a mechanism to reach just the results which the Ford Family anticipated." House Report 2681 - Page 7. Supra.

The use of a foundation to permit a family to control a business after the death of a proprietor is widely promoted. For example, the August 15, 1954 issue of the J. K. Lasser tax reports contained this statement: "Note there is nothing wrong - morally or legally - in using a foundation to effectuate tax savings. A family can legitimately establish a foundation where charitable motives are closely tied to reduced costs of charitable giving because of income tax deductions allowed. Also, the owner of a business may create a foundation so as to cut his estate and leave his family in control of the business after death" House Report 2681, 83rd Congress, Page 11.

"So substantial parts of the great fortunes of those who have profited by the enormous expansion of American industry have found their way into tax-exempt foundations. These foundations have already passed and will continue to pass -

by right of inheritance - to the control of heirs or their trustees. This enables a few individuals to control ever increasing tax exempt wealth." Patman Report, Page 18 (1962)

"The Ford Foundation offords a good example of the use to solve the death tax problem and at the same time the problem of how to retain control of a great enterprise in the hands of the family. 90% of the ownership of Ford Motor Company was transferred to the Ford Foundation created for the purpose. Had it not been, it is almost certain that the family would have lost control." -- House Report No. 2681, 83rd Congress, Second Session, 1954. Page 6.

"Closed Corporations. Perhaps the greatest advantage is afforded closed corporations. Through the use of a foundation the operator of a closed corporation may be able to keep voting control of the corporation in the family after the death of the principal stockholder. Estate and gift taxes are frequently so high that sale of the stock is necessary in order to pay them, the result being that the family loses control of the corporation. However, the principal stockholder can avoid this result by granting or bequeathing nonvoting stock in the corporation to the foundation. Since such a gift or bequest is deductible for estate or gift tax purposes, the result may be that the taxes will then be small enough so that they can be satisfied out of the other estate assets without selling the voting stock." - Patman Report, Page IX (1963).

A-3 Pay Salaries to Family

The following answers are by former Commissioner Mortimer Caplin. Quoted in Patman. I. Page 73 (1962)

"Q. Will the IRS deny exemption to a foundation solely on the ground that it is controlled by one family?

A. No. The internal Revenue Service Code provides no basis upon which the Service may deny exemption to a foundation solely on the ground that it is controlled by one family."

"Q. In what way, if any, does the code prohibit a donor or testator from transferring the controlling stock of a business to a foundation and have it (the foundation) hold the stock in perpetuity with self-perpetuating directors or trustees voting the stock as they please?

A. The code does not in any way prohibit an arrangement of this sort."

"Q. Does the code permit a board of trustees and officers of a foundation to be staffed by the founder, his family and associates?

A. Yes."

Only judicial decision on "control" Barber v. Edwards, 130 F. Supp. 83 (M.D.Ga 1955) Exemption upheld.

"Remote relatives may be employed in the business; friends may be assisted; business acquaintances may be accommodated." Treasury Report, Page 34.

"Representative Patman questioned the compensation granted to trustees of the Ford Foundation who sometimes received \$5,000 for attending a single meeting." Patman Report, 1964, Page 136.

Former Commissioner of Internal Revenue, Mortimer Caplin, was asked about salaries paid to a creator of a foundation or his family:

"Q. Is a foundation generally required to pay out all net income within a specified period of time after the close of the taxable year?

A. No. Generally speaking, a foundation is required to pay out its income in furtherance of its exempt purposes and to meet expenses, without being limited to a specified period of time within which to accomplish the same, and providing any accumulation is not unreasonable in amount or duration."

"Q. May trustees and officers of foundations receive compensation?

A. They may receive compensation commensurate with services rendered."

(Patman Report, Page 73, Page 74. (1962)

"Employment of donor's sister for life at \$15,000 per year was reasonable.
(Home Oil Mill v. Willingham, 68 F. Supp. 525 (1946))

A-4 Make grants not constituting income to family.

"An exemption was upheld of a scholarship fund which was supposed to give preference to the relatives of the donor named "Gulentz." 57 F. Supp. 502 (1944).

Section 117 of the IR Code allows any person to receive tax-free incidental expenses in a grant to cover travel, research, clerical help or equipment.

In another case an exemption was upheld where the persons receiving the benefits were all old and deserving family retainers.

William B. Chase T.C.M. 234 (1960) scholarships could be awarded to anyone but were in fact awarded only to employees of related corporations and their children.

A-5 Look after family's pet charities or worthy causes.

A-6 Income splitting through salaries to family members.

A-7 Use of Foundation to improve your family's cash position.

You can actually improve your family's current cash position while building up the foundation. Let us say you give \$12,000/year to your foundation. Instead of cash you give \$12,000 worth of stock each year. Let us say you give stock worth \$670 per share on which you have the basis of \$50. Your deduction is figured on the value of the property given rather than on its cost to you. Figuring a taxable income of \$80,000/year, this donation cuts your income tax and increases your family's after tax cash income by \$7,960. Compare this with the \$12,000 worth of stock to an outsider, you will lose the stock entirely and improve the family cash position by \$9,275 per year. With the foundation it costs you \$1,625 out of pocket to keep the stock and its income for future use in your foundation." --- Encyclopedia of Tax Shelter Practices - Prentice-Hall Inc. 1963.

"Tax exemption is a costly thing. It explains in part why only one-third of the income of the Nation is actually taxed." Patman Report, Page 133 (1962)

A-8 Reduce Estate Tax

"The gift to the foundation lifts a future estate State tax lien at 32% estate State tax rate. This charge will be some \$2,900 (remember the gift of \$12,000 value), so the foundation not only gives you liquidity, retains control over the stocks, preserves assets and income for future use, but it actually does more for your family's ultimate asset position than any other disposition of the stock." -- Encyclopedia of Tax Shelter Practices - Prentice-Hall, Inc. 1963

"The usual procedure then is to transfer (or arrange to transfer at death) to a foundation created for the purpose, enough of the ownership of a corporation to reduce the estate tax impact to a point where the liquid assets of the proprietor (and other means he may have devised to solve the problem) are sufficient to meet the death taxes. Such donations are usually in the form of preferred or non-voting stock. Combinations of these advantages result:

1. The family may remain in full voting control.
2. The family has a pleasant partner, managed by gentle hands.
3. The family may reap the benefit of any increase in the value of the equity.
4. If further inflation should come, it is the family which can become entitled to receive the benefit of the increase in monetary value of the company.
5. No working capital is lost by the venture; and
6. The foundation may even be used as a vehicle for the employment of associates and relatives." House Report No. 2681 - 83rd Congress, Second Session, 1954, Page 6.

"Moreover, it is not only the enormously rich who create foundations today. Countless owners of substantial business enterprises are today planning to solve their estate problems through the use of foundations, and there is reason to believe that this tendency will continue and perhaps even increase. Ingenious experts in estate and tax planning have devised many interesting ways to use a foundation in an estate or business plan." -- House Report No. 2681 - 83rd Congress, 2nd Session, Page 11.

A-9 Most useful, provide non-income corporation fringe benefits to family-employees which reduces need for drawing taxable salary.

"Nonetheless, the modes of human satisfaction have almost infinite diversity; and the ways in which wealth can be employed for personal advantage are; consequently, multiple and highly varied. Many donors, too, have manifested a common and deep-seated tendency to regard a foundation which they have created as their own, to be availed of for their own ends where a contemplated use does not involve obvious and direct deflection of assets from charity and where no specific statutory prohibition lies in the way." Treasury Report, Page 54.

Foundations may provide health insurance for an employee-family member. IRC 105

A foundation employee may live rent free.

The Treasury department has this to say:

"The value of lodging furnished to an employee by an employer shall be excluded from the employee's gross income if three tests are met:

- 1) the lodging is furnished on the business premises of the employer.
- 2) the lodging is furnished for the convenience of the employer.
- 3) the employee is required to accept such lodging as a condition of employment." Regs. § 1.119-1(b)

"Not only may a creator draw benefits from his controlled foundation, but he may also draw benefits from a foundation owned or controlled business corporation. The corporation may be used to satisfy dominant individual's desires, ranging from furnishing his home to allowing excessive executive compensation." -- U.C.L.A. Law Review, May, 1966. Page 951

A-10 "Business corporations can accumulate income since former Shareholders may be employed at adequate salaries."

- A-11 Properly done you may even arrange for an annuity to a family member of foundation.

"Apparently, private individuals may even receive annuities from a foundation's income. The position of the Internal Revenue Service is that private individuals may not receive annuities from a foundation's income, but there are, however, court decisions which hold under the "predominant purpose" doctrine that the payment of annuities from a foundation's income does not preclude exemption (Francis Edward McGillick Foundation v. Commissioner, 278F (2d) 643 affirming 30 T.C. 1130; Commissioner of Internal Revenue v. Grinn, 173F. (2d) 483, affirming 9 T.C. 533)."-Patman Report, Page 16. 1962.

In a 1960 case, a Federal Circuit Court held that an exemption was not affected even though the trust was charged with paying gifts, annuities, administration expenses, taxes, debts and salaries to or for the benefit of the donor's estate or family. 273 F. 2d-643.

Lewis v. U.S. 189 F. Supp. 950 (1961) Trust held exempt despite provision to pay monthly annuity to decedent's grandniece. Generally, Leiserer v. Stockton - 1922 Supreme Court.

- A-12 Use it to take advantage of high appreciation of assets

For a long time the Manufacturer's Hanover bank held property with a basis of \$2 1/2 million. Suddenly it donated to a Foundation it controlled - gaining a \$ 5 1/2 million tax deduction. Immediately the Foundation sold it for \$ 5 1/2 million. Result: Bank received a \$5 1/2 million tax deduction; Foundation paid no tax on a \$3 million (short term) capital gain; and the \$5 1/2 million remained in the Bank's control through the Foundation which, since it was capital gains, need never be distributed. Patman Report p. 6 (1966).

"At present, when a contribution to a foundation is made in property as distinguished from cash, the donor's deduction is figured at value of the property on the date of the donation instead of at donor's cost." - Patman Report, Page 83 (1963).

- A-13 Use Foundation funds for investment to increase wealth under your control

Let us take an example of a person with annual income from salary, dividends and investments of \$80,000 per year. Suppose you create a foundation and give it \$12,000

per year. Your annual income tax bill is cut from \$39,480 to \$31,520. Of the \$12,000 gift, \$7,800 is tax money, \$4,200 comes out of your personal pocketbook. This \$4,200 kept in your personal portfolio earning 4% compounded, but taxed in the 66% bracket would accumulate to \$47,400 in 10 years. The \$12,000 in the foundation earning 4% compounded, tax free would accumulate to \$148,300. So your comparison would be whether you would be prepared to exchange \$47,400 free for personal use, for \$148,300 that you and your family can have to do the work that interests you. (Figures from Encyclopedia of Tax Shelter Practices, Prentice-Hall, Inc. 1963.)

"Trustee Sturgis an attorney, interrogated concerning the advantage of the use of a trust, testified that if Mr. Little had made the investment himself without the use of the trust (i.e. foundation), the government would take about two-thirds of the profits in taxes." -- Senate Report #101, 81st Congress, 1st Session, Page 13. (1949).

"How the principal trusts (i.e. foundations) under discussion in this report were able to increase their original contributions to \$1,100 to their present net worth of over \$6,000,000 is an intriguing story. This can be understood by a few examples of the methods followed by trustees showing a plan obviously formulated in advance, whereby assets of the corporation would be converted into cash, the cash in turn being distributed in benefits to the trust. This cash received tax free by the trustees was then available to Textron for the purchase of Textron securities or physical assets." -- Senate Report #101, 81st Congress, 1st Session, Page 20.

"One of the most apparent loopholes in the foundation business involves the abuse of capital gains. According to the present laws that supposedly regulate foundations, capital gains not only escape taxation, but they also do not have to be given away to charity if they are reinvested within a reasonable period of time. To put this in prospective, it is just as though the typical wage earner was given an exemption from income tax so long as he doubles his payments on his home, or bought more U.S. Savings Bonds, or splurged in some certified diamonds for his wife: in other words so long as he invested a surplus from his salary he could escape taxes."--Patman Report, 4th installment, 1966, Page 1.

"The ways and means committee hearings of 1948-49 revealed that educational institutions and private charitable foundations had moved into commercial and industrial fields.

Some had inherited substantial interests in business, as was the case with the Ford Foundation. Others had purchased control of businesses. A Tax-exempt cancer research organization, for example, had acquired a variety of industrial firms. Mr. Royal Little and the operations of his Textron trusts were given due attention. In fact, the record lists about 40 different types of businesses controlled by educational and charitable organizations." Patman Report, Page 1. (1962)

"Many foundations have become a vehicle for trading in securities and dodging the capital gain tax. Capital gains of foundations are not only tax exempt but they are permitted to place them in the principal account instead of the income account." -- Patman Report, Page 130 (1962).

A-14 The Foundation may provide 'FRIENDLY' loans.

Speaking of loans to persons allowed by the tax law, the report says: "The advantages to the borrower of such a loan by a foundation -- and the corollary value of the favor done by the foundation to the director or donor who arranged the loan - can, nevertheless, be considerable. The delays, inconveniences, and formalities of applying for a bank loan can be eliminated; embarrassing questions can be avoided; the assurance that one's obligation resides in friendly hands can be secured." - Treasury Report, Page 51.

B. Benefits in operating business resulting from control over an exempt foundation.

B-1 Keep control in friendly hands over the generations.

"Foundations have commonly been established as convenient vehicles for maintaining control of a private corporation within a family while substantially diminishing the burden of income, gift, and estate taxes for the family." - Treasury Report, Page 37.

"It is true of course that the foundation's donor is parted with legal title to the money, securities or property donated and in that sense is no longer beneficial owner of the foundations, but there can be little doubt that the typical family foundation exists solely to accomplish the donor's goals. Its funds come indirectly from him and, were it not for the foundation, they would come directly from his pocket. In either case, the foundation's assets are directly and totally within his control. If the foundation owns securities, the donor-controller in effect can vote the securities, can cause them to be sold or pledged,

or direct the disposition of their income. Thus, to a very great extent he has benefits substantially equivalent to those of ownership." U.C.L.A. Law Review, May, 1966, Page 960.

"For all practical purposes, they are subject only to the authority of their own directors or trustees, who are not accountable to stockholders or to public regulatory agencies. . . . After the death of Eisel Ford in 1943, the Ford Foundation was used to save the Ford family from losing control of the Ford Motor Company. If not for the foundation device, they would have had to sell stock to the public long before they did in order to pay estate taxes. The foundation permitted Henry Ford's heirs to run the company for many years without the inconvenience of answering to stockholders or the Securities and Exchange Commission." - - Patman Report, Page 73. (1962)

B-2 Provide through deductions or other arrangements for reduction of corporation tax but keep money available.

"Mr. Ewing further testified that under the provisions of such a trust indenture, it would be feasible for a manufacturer in collusion with such a charitable trust, to avoid tax and thereby accumulate millions of dollars to gain a competitive advantage over orthodox manufacturers. He further contended that under such trust indenture, it would be possible for a manufacturer to create trusts with a preconceived plan of having their foundations at its beck and call with little of the trust capital ever paid to the beneficiaries." - - Senate Report #101, 81st Congress, 1st session, Page 13, 1949.

"The Internal Revenue Code contains no provision to prevent large funds from being built up by foundations from contributions received by them. Since a corporation's annual contribution to its foundation is capital in the hands of the foundation and only the income from these contributions need be distributed, the Internal Revenue Service cannot prevent large funds from being built up by corporation-created foundations. And, since contributions are not subject to the provisions for distribution annually, the prohibition against unreasonable accumulations does not apply." --Patman Report, P. 16. (1962)

"Foundations have loaned money to their creators, traded stock and property with them, paid for insurance policies on the life of the donor, financed benefit programs for a contributor's employees, and engaged in many other activities whose relevance to charity and social welfare seems remote." --Patman Report, P. 71 (1962)

B-3. Provide "good-will" assistance to keep workers happy.

"Allegedly, the provisions of the Scholler trust also include the right to use the foundation as a conduit for employee benefits. When a foundation-controlled company is able to use tax-free funds for the benefit of its employees, the inherent competitive advantages to the company are obvious." ---Patman Report, P. 15 (1962)

"Other foundations have been used to pay benefits to employees of a private company. The Harnischfeger Foundation, Inc., of Milwaukee, has regularly contributed sums from \$100 to \$10,000 to employee organizations of the Harnischfeger Corp. From 1952 to 1958, the Harnischfeger Employees Benefit Association received \$40,500 from the foundation. The benefit association, the foreman's club, the engineers club, and the trap club and all benefited from the foundation's largess in 1959. Mr. Walter Harnischfeger, himself, received a loan of \$40,000 at 4 percent interest in 1955 from the foundation." ---Patman Report, P. 80 (1962)

"The operations of the three Baird Foundations, of New York City, indicate clearly that control of foundation funds affords boundless opportunities for lavishing favors upon business acquaintances and friends."---Patman Report, Page III. (1963)

"The corporate foundation is formed for convenience, or, more likely, as an entity into which excess profits can be funnelled for later use. On the business side, it can be used as a source of loans to the corporation or its officers, or to other corporations with which closer dealings may be desired." --U.C.L.A. Law Review, May, 1966 Page 945.

B-4 Use it as source of "friendly financing" from tax-free accumulations.

In December, 1945, the Rhode Island Charities Trust (foundation controlled by Textron, Inc.) purchased the Manville Mill, consisting of real estate, machinery and fixtures belonging to the Manville-Jenckes corporation, which was a wholly owned Textron subsidiary, for \$1,200,000. In this manner, Textron was able to secure a substantial amount of money from the trust to be used as working capital against its various operations. The Manville Mill was then leased back to Textron so that its use thereby could be continued without interruption." ----Senate Report #101, 81st Congress, 1st Session, P.13, (1949)

"The Sears Foundation is controlled by the Sears Company . . . the relationship of the foundation to the company should not be taken lightly. When Sears needed a loan of 1.2 million dollars, it went to the Sears Foundation and obtained the money at 3% interest." . . . U.C.L.A. Law Review, May, 1966 Page 947.

"It is to be noted that these trusts were particularly helpful to Textron during the period of rapid expansion in 1945 and 1946. It was during this period that Textron's credit was strained to the limit. It was questionable whether the company would have been able to complete this expansion program, except by the use of these trust funds." - - -Senate Report #101, 81st Congress, 1st Session, 1949, P. 16.

"Such sale and lease-back deals are the equivalent of providing these companies with instant capital with which they can accelerate their growth in competition with independent service station operators, and small retailers. This enables these big oil companies, General Electric, and the Woolworth chain to expand without having to go into the money market for capital." ---Patman Report, Page 14. (1962)

"It is alleged that the Scholler Foundations' deed of trust, as amended, permits the foundation to make loans to the business corporations, which it controls, at such rates of interest as the trustees see fit. This permits funds earmarked for charity to be used as venture capital. The foundation's business corporations are thus given a great advantage over other private business corporations by being able to make taxfree contributions to the foundation and thus build up a large reserve which they may tap at will. How can private business-especially small business-compete with such an arrangement." ----Patman Report, Page 15. (1962)

"At least three of the four Mott Foundation wholly-owned department stores, all competing with numerous small retailers, have used the Foundation as a handy source of cash. This of course adds up to quite a competitive advantage." ----Patman Report, Page XII. (1963)

B-5 Foundation's name on public service activities can create good will for business (e.g., Ford Foundation & Ford Motor Company.)

Bob Hope sold rights to publication of Bob's life story to Bob & Dolores Hope Foundation. Publicity to private party was an ancillary benefit not affecting exemption. (1961)

- B-6 Foundations can accumulate income and income so accumulated not subject to surtax and may be used for internal improvements.

"Another advantage which foundation businesses have over their taxable competitors is their freedom from the demands of shareholders for current distributions of earnings. A remarkable number of foundation-owned enterprises proceed from year to year realizing substantial profits, but making negligible or no distributions to their parent organizations." - Treasury Report, Page 33.

"This common willingness of foundations to defer indefinitely the realization of profits from their commercial operations -- an attitude frequently not shared by the shareholders of other businesses -- makes it possible for the profits to be invested in modernization, expansion, and other programs which improve the competitive posture of the foundation-owned business." -- Treasury Report, Page 33.

Tax on accumulation of profits may not apply to foundation owned businesses. "The restrictions of existing law upon accumulations of income by businesses become operative only where a corporation is "formed or availed of for the purpose of avoiding the income tax with respect to its shareholders"; where the shareholders of the business are themselves tax exempt, the limitations may not apply. Similarly, the statute which prohibits unreasonable accumulations of income by foundations applies only to accumulations within the foundation itself; it does not prevent retention of earnings in a separate, though controlled, entity. As a consequence, many foundations have permitted large amounts of income to accumulate in their business subsidiaries." --Treasury Report, Page 34.

- B-7 It is many times the case that a business may be itself operated as an exempt organization.

For example, Educational Testing Service of Princeton sells educational testing materials and enjoys tax exemption, yet the California Testing Bureau of Monterey, California sells the same type of material, yet must pay taxes.' Patman Report, Page 9 (1962)

It is well known that the Rand Corporation of Santa Monica performed research work yet because of its relation to its purpose it is tax free. ---Patman Report, P. 13 (1962)

Business Week and Fortune report on American business scene and must pay tax on the operations. Nations Business, a publication of the U.S. Chamber of Commerce performs the same services in competition yet it is tax exempt. A

similar situation obtains between the tax exempt Journal of the American Medical Association which last year had \$10-1/2 million of advertising revenue and the tax paying Medical Economics and Medical World News. Thus, in large part due to its tax exempt status, the National Geographic is able to offer lower advertising rates than its competitors Holiday and Venture. Time Magazine, October 7, 1966, p. 64.

"Advantages accrue to both the foundation and the donor:

1. The foundation pays no Federal income tax.
2. The donor neither pays gift tax nor estate tax on contributions to the foundation.
3. For income tax purposes, an individual donor is granted a deduction up to 30 percent of his net income; a corporate donor is allowed to deduct up to 5 percent.
4. The donor's contributions constitute capital to the foundation - not income -- so they need not be distributed." --Patman Report, Page 15-16.(1962

C. Miscellaneous Benefits of Exempt Operation

C-1 Favorable Postage Rate.

Non-profit organizations often are eligible for reduction in postage rates. Eligibility may depend upon the type of organization, and the class and content of the material to be mailed. Reductions are available in 3rd and second class mailings. Specific details may be obtained from your postmaster.

C-2 May be exempt from certain state taxes, e.g., sales and realty taxes.

A foundation's exemption from the state taxes depends on the various state laws, but as a general rule will follow the results of a Treasury Department determination of your exemption from federal taxes.

It is often the case that an exempt organization will voluntarily pay an amount in lieu of taxes to cover the benefits it receives from police and fire protection. This not only seems a just arrangement to foundation managers, but also may cause the local taxing authorities to be more co-operative in recognizing a property tax exemption.

C-3 An exempt organization may be eligible to receive surplus government property.

Both real and personal surplus government property may be obtained at preferential rates by certain exempt organizations. Through a program administered by the Department of Health, Education, and Welfare, surplus federal property is allocated to state agencies for surplus property which distribute it for health or educational purposes. The Federal Property and Administrative Services Act of 1949 governs the donation of surplus property to non-profit organizations.

C-4 A foundation need not pay social security tax. (i.e., the Federal Insurance Contributions Act.)

The fourth paragraph of the standard determination letter issued by the Internal Revenue Service recognizing a claim for tax exemption provides:

"You are not liable for the taxes imposed under the Federal Insurance Contributions Act (social security taxes) unless you file a waiver of exemption certificate as provided in such act. You are not liable for the tax imposed under the Federal Unemployment Tax Act . . ."

C-5 An exempt organization can receive special fares on overseas flights.

Generally speaking, these lower group fares may be available to membership organizations whose members have more in common than a mutual desire to travel cheaply. Details on the terms of special rates authorized by the Civil Aeronautics Board for overseas flights as well as an advisory opinion as to a group's eligibility for special fares may be obtained from the Bureau of Air Opinions, CAB, Washington 25, D.C. Arrangements may also be handled through a travel agent.

Savings on such arrangements may be substantial. For example, round trip charter flights from New York to London or Paris are available for less than one-half the usual minimum for such a trip.

C-6 Miscellaneous Benefits of Foundation

Your n-f-p exempt status has financing advantages.

- (a) Federal financing under Small Business Act, National Housing Act, the National Institutes of Health, Hill-Burton Act and numerous others.
- (b) Financing through private sources is assisted by the foundation's freedom from tax liens and its inability to milk corporate assets through excessive salaries or high dividends. There is also the availability of not only your own untaxed surplusses but that of other foundations.

"Despite the fact that the IRS disapproves of the use of borrowed funds for the purpose of financing purchases of mortgages and other types of investments, the Noyes Foundation has been constantly engaged in churning money by borrowing at one rate and lending it at a higher rate. From 1951 through 1962, the foundation borrowed over \$5 million for such purposes. (See page 64 for details of such transactions." --Patman Report, Page VII. 2nd Installment.

"On March 29, 1957, the Noyes Foundation borrowed from the Bankers Trust Co., \$550,000 on a note due March 31, 1958, bearing interest at 4-1/2 percent annually. Payment of the note was guaranteed by Mr. Charles F. Noyes. This sum was borrowed for the express purpose of making a loan in the same amount to the Glickman Corporation, of New York City, at 10 percent interest. The transaction enabled the Foundation to receive interest of \$55,000 per year at an interest expense of only \$24,750 annually. Hence, with no cash outlay the Foundation received a net return of \$30,250 per year. At these interest rates, it is not surprising that the Glickman Corporation has been in deep financial distress. The loan was paid off in full by the Glickman Corp. on February 1, 1960. (See pp. 61, 61)" --Patman Report, PP. VII and VIII. 2nd.

"Some Ford Foundation loans were made at what appear to be preferential rates of interest. Why, for example, was the Duke Power Co., of Charlotte, N. C., charged only 2.65 percent interest on \$3 million, 20 year loan, while other borrowers paid 6-1/2 percent? Duke Power, incidentally, is owned 57% by Duke Endowment, another tax-exempt foundation." ---Patman Report, Page 79., 1st installment.

* * * * *

EXHIBIT 3

SELECTED BY-LAWS

OF

PRIVATE FOUNDATION

* * *

ARTICLE III - MEMBERS

Sec. 1. Election of members: Application for membership may be presented by members, and shall be elected by a vote not less than a majority of the Board of Directors.

Sec. 2. Classes of members: The Board of Directors may establish more than one class of members and determine the designation and their qualifications.

(a) Sustaining members: Sustaining members shall be those members who enter the foundation upon payment of a membership fee and approval by the Executive Director.

(b) Family Members: Family members shall be non-dues paying members of the foundation upon election by the Board of Directors.

Sec. 3. No class of membership, however created, is entitled to vote on any matter.

* * *

Sec. 5. Transfer of Membership: Memberships may be transferred only upon the consent of, and upon such terms as shall be fixed by the Board of Directors.

(a) Transfer of sustaining membership may be permitted upon the approval of the Board of Directors.

(b) Family membership may not be transferred under any conditions.

ARTICLE IV - MEETING OF MEMBERS

Sec. 1. Place of Meetings: All meetings of the membership shall be held at the registered office of the foundation or at such other place as the Directors or President shall, from time to time designate.

* * *

ARTICLE V - THE DIRECTORS

Sec. 1. Powers: The Board of Directors shall:

- (a) Manage the affairs of the foundation, except as otherwise provided in the Articles of Incorporation or By-laws.
- (b) Adopt a corporate seal as the seal of the foundation.
- (c) Designate a banking institution or institutions as depository for the foundation's funds; and the officers authorized to make withdrawals therefrom, and to execute obligations on behalf of the foundation.

Sec. 2. Number of Directors: The number of Directors shall be _____ in number.

Sec. 3. Election and term: Directors subsequent to the initial Board of Directors named in the Articles of Incorporation shall be elected or appointed by the existing members of the Board of Directors at the time such election or appointment is necessary. Directors shall serve for a term of _____ years and may be re-elected.

Sec. 4. Qualifications: A Director subsequent to the initial Board, shall be a family member of the foundation, shall be age twenty-one or over and a citizen of the United States.

* * *

Sec. 6. Quorum: A majority of the Directors shall constitute a quorum to transact business of the foundation.

ARTICLE VI - THE OFFICERS

Sec. 1. The officers of the foundation shall be: A President, Vice-President, Treasurer and Secretary and Executive Director, and such other officers as the Directors shall designate. As hereafter determined by the Directors, any one or more officers may be made ex-officio members of the Board of Directors.

Sec. 2. Election and term: The officers shall be elected at the meeting of the Directors held immediately after the annual meeting of the members or at such other meeting of the Directors as shall be called for such purpose, and officers elected shall hold office for the ensuing year and until their successors shall be elected.

* * *

Sec. 4. Executive Director: The Executive Director shall serve under an employment contract executed between himself and the foundation and shall serve for a term to be agreed upon by the parties. The Executive Director shall be an ex-officio member of the Board of Directors and shall preside at all meetings of the Board of Directors. In his absence the President shall preside.

The duties of the Executive Director shall be to conduct all foundation affairs and his power shall supercede that of the President of the foundation in the normal day to day activities, financial affairs, employment practices, and all other business activities.

* * *

ARTICLE VII - CERTIFICATES OF MEMBERSHIP

Sec. 1. Certificates of membership: The board of Directors may, as it sees fit, provide for certificates of membership to be issued to duly elected members in good standing, and in such form as they shall determine. Such certificates shall be signed by the President and Secretary and shall bear the seal of the foundation.

* * *

ARTICLE VIII - THE FISCAL PERIOD

The fiscal year of the foundation shall begin on the ____ day of _____ and end on the ____ day of _____.

ARTICLE IX - AMENDMENTS

The By-laws of the foundation may be amended, repealed or new by-laws adopted by the Directors.

THESE BY-LAWS ARE INCOMPLETE AND ARE TO
BE USED ONLY FOR EDUCATIONAL PURPOSES.

* * * * *

EXHIBIT A.THE R. O. A. B. UNDATION

THE BOARD OF DIRECTORS AND THE OFFICERS OF THE R. O. A. B. FOUNDATION, DULY ORGANIZED UNDER THE LAWS OF THE STATE OF ILLINOIS, DO HEREBY DECLARE THAT _____ HAS BEEN ELECTED A FAMILY MEMBER OF THE FOUNDATION, AND IS ENTITLED TO ALL OF THE RIGHTS, POWERS AND PRIVILEGES APPERTAINING THERETO.

THE PURPOSE OF THE ROAB FOUNDATION IS TO PROMOTE THE WELL BEING OF MANKIND WHEREVER LOCATED THROUGH CONTRIBUTIONS TO, AND PARTICIPATION IN A VARIETY OF ACTIVITIES BENEFICIAL TO MANKIND, WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO EDUCATION, ART, MUSIC, LITERATURE, RESEARCH AND DEVELOPMENT OF EFFICIENCY IN BUSINESS AND INDUSTRIAL COMMUNICATIONS, WELFARE AND RELIGIOUS, CIVIC AND CULTURAL ACTIVITIES, WITH INITIAL EMPHASIS ON CHARACTER DEVELOPMENT OF YOUTH AND RELATED PROJECTS.

AND THE MEMBER PLEDGED HIS ENERGIES TO AID THE FOUNDATION IN SUCH ENDEAVOR.

Effective this _____ day of _____, 1966.

MEMBERSHIP CERTIFICATE NO. _____

Secretary _____

President _____

EXHIBIT 5

By-laws of a Civic Club.

1. Name: The name of this club is _____ incorporated under the State of _____ under the _____ law on the _____ day of _____, 1967.
2. Objects: Objects of this club shall be to protect and promote the best interests of the citizens of the nation, the state and this area, hereinafter set forth: to promote and strive for the improvement and betterment of all public facilities and services; to promote and encourage a better community and civic spirit and to foster good will and friendship between and among all the residents of said area, to cooperate with county, town, village, state and federal officials and with other civic and public organizations for the general welfare of the entire community.
3. Membership: Membership may be of several classes as provided by the Board of Directors and shall be initially of one class.
 - (a) the initial class of members shall be those persons elected by the Board of Directors.
4. Dues: Annual dues may be assessed from each member equally by the Board of Directors.

* * *

6. Meetings:
 - (a) The annual meeting of the members shall be held on the _____ day of _____, of each calendar year for the express purpose of electing directors and officers and for conducting such other business as may come before the members at that time.
 - (b) Regular meetings of the members shall be held as per agreement and Resolution of the members.
 - (c) Special meetings of the membership may be called by the President, whenever he shall deem the same necessary or whenever he shall be called upon to do so by two members of the Board of Directors or four members of the club.
 - (d) Notices of all such annual and special meetings shall be in writing given or mailed to each member not less than 5 nor more than 10 days before the date set for any such meetings, but such notice may be waived in writing by agreement of 2/3 of the members at any such meeting. No notice is required for a regular meeting of the membership. 2/3 of the members shall constitute a quorum of the membership. Voting shall be by a majority vote cast in person or by proxy. Proxies shall be in writing subscribed by the member and shall be presented by the presiding official of the meeting, to be qualified.

(over)

7. Directors: The affairs and business of this club shall be managed by a Board of ____ Directors elected by a plurality vote of the members present, at the annual meeting or such special meeting as may be called. Such Directors shall serve for the ensuing year or until their successors have been elected and qualified.

* * *

8. Officers: The officers of this club shall be four in number, a President, Vice President, Secretary and a Treasurer. No one person may hold more than one office. All officers must be members of the club.

* * *

9. Committees: Committees shall be designated and appointed by the President or the Board of Directors as may be required.

* * *

11. Amendments: By-laws of this club may be amended or revised by the Board of Directors, by 2/3 vote of all Directors and approval by the affirmative vote of a majority of the members present at the annual meeting or at any regular or special meeting, provided that notice of any such meeting contains a summary of the proposed amendment or amendments.

THESE BY-LAWS ARE INCOMPLETE AND ARE TO
BE USED ONLY FOR EDUCATIONAL PURPOSES.

* * * * *

EXHIBIT 6

THINGS TO BE CONSIDERED IN YOUR EMPLOYMENT CONTRACT

- A Break down your personal expenses for taxes into categories of types of expenditures, and after each category set out the amount spent each year; namely, home, food, clothing, furnishings, utilities, education, entertainment and insurance.
- B With your activities, consider what expenses might be properly assumed under foundation-corporation practice without taxes or with some tax saving. Not every fringe benefit is tax free, but some may be accomplished under the foundation at an over-all tax saving. For example, if the home is conveyed to the foundation, the following advantages might be possible: Upkeep of the home and the utilities would be paid by the foundation; the insurance on the home would be paid by the foundation; ownership and value of the home would not be includable in a creator's estate for inheritance or death tax purposes, thereby saving these important taxes, and the sale of a home and the purchasing of a new one would not fall under the eighteen month income tax rule, which would mean that any profit made in the transaction could be kept in the foundation without taxes. You, as the foundation executive, could be permitted to live in the home as part of your employment contract in return for services rendered. In some cases, this could be accomplished tax free, but at the worst the employee would be forced to pay taxes on a reasonable rental value of his living quarters as ordinary income.

This tax payment would not necessarily be a disadvantage if, for example, a reasonable rental value of the home was found to be \$200 per month, the taxes would be paid on \$2,400 income per year for the home. A taxpayer normally in the 50% bracket would pay \$1,200 taxes on this amount, but since foundation procedures might lower his taxable income, subsequently he might end up in the 30% or 22½% bracket and a tax payment due on a reasonable rent value of the home amount to \$720 for the year. This amounts to \$80 per month rent. In some localities, depending upon state and county law and the interpretation of these laws by county real estate boards, it may be possible to exempt the foundation headquarters (the home) from real estate taxes ordinarily assessed. This might result in a savings in excess of the tax payment on living quarters. Thus, even in the worst situation an overall tax saving is derived.

- C All major charitable contributions ought to be made through the foundation, and if this category occurred in the breakdown, you would not have to pay this amount to yourself in salary. This would result in a further reduction in income tax you would need to pay.
- D Education expenses, academic-type hobbies, library and scientific research equipment and materials would be owned and supplied to the employee (Executive Director) as a normal part of the foundation activities. Such items would not be included in the employment contract and, of course, would not have to be considered as a necessity by the Executive Director when he totals his salary. This would result in further savings in income tax. All of the tangible items could, of course, be kept at the foundation headquarters for use by foundation employees. Tangible expenses such as education and research trips are commonly borne by foundations as contrasted with the fact that they are not commonly assumed by business corporations or individuals before taxes.
- E After complete consideration of all expense items and determination of which items can be assumed by the foundation, Executive Director should total the amount not assumed by the foundation, and this should be the amount paid in salary. Computation of the new tax bracket should then be made to determine the overall possible tax saving of the other items.
- F Methods have been developed by which the following items may be borne by foundation-corporations; home, furnishings, utilities, education, medical expenses, insurance, transportation, and some entertainment. Generally, food, clothing and most entertainment cannot be provided by foundations although in some situations these have been provided by foundations.
- G A more detailed tax breakdown and possible further savings should be discussed with your accountant and/or attorney.

* * * * *

EXHIBIT 7WHAT TO DO WHEN APPROVED CHARTER IS RETURNED TO YOU

Under most State laws, when your incorporation charter is returned to you by the Secretary of State, you are normally required to file the charter and a copy of the Articles of Incorporation with a local County Recorder of Deeds. You must generally do this within a stated time period (i.e. 15 days in Illinois, 10 days in Wisconsin). Be certain you do this as soon as it is practically possible. If these procedures are not completed in order, the Secretary of State or the Attorney General of your State may be empowered by law to take control of your foundation or dissolve your foundation due to improper filing. There is no reason to open your foundation to these penalties because of procrastination. Once these legal requirements are satisfied, you may turn to more practical procedures to begin your foundation activities.

- (a) Choose a bank that would be a depository of your foundation. It is suggested that you shop around for a bank that does not charge any service fees for your foundation account. Many banks do not charge n-f-p corporations for checking services, but this is a local option with the bank and has nothing to do with State law. Other banks might charge a smaller fee than they would for an individual or corporate account and still other banks charge full fees for not-for-profit checking accounts. When you decide upon a bank, obtain the corporate Resolution papers for opening an account and the signature cards from the bank. This should be obtained in duplicate to enable you to retain a copy. Most banks do not have n-f-p corporate forms, but if yours does, these are the proper forms to use. If your bank does not have n-f-p corporate forms then obtain the business corporation Resolution forms. Do not use the forms employed for clubs, churches and civic associations. Fill out the proper Resolution forms according to instructions.
- (b) Obtain a corporate book and a corporate seal making certain that the seal states "Not-For-Profit Corporation."
- (c) Have the proposed Executive Director and the Assistant Executive Director, if any, mail their letters offering their services in exchange for an employment contract. This should generally be done by certified or registered mail.
- (d) Prepare in advance the minutes of your first meeting of the Board of Directors and the Waiver of Notice.

- (e) Prepare in advance all other papers for signing by foundation-corporate officials, such as membership certificates, employment contracts, stationery orders, etc.
- (f) In some cases it will be necessary for your foundation to file legal notice in the newspapers to indicate the beginning of your foundation. In some States this is required by State law, but generally it need only be performed by those foundations performing business activities of the same nature as the Creator's prior business activities. Public notice in this case is necessary to give constructive notice to creditors, customers and other interested business. Such legal notice of "change of business form" should be placed in the classified ads of a local newspaper serving the County or counties in which the foundation is active. A daily newspaper is preferred under the law, but if no such daily is available or the rates are prohibitive then a weekly newspaper is sufficient.
- (1) If the prior business form was a partnership, limited partnership, corporation or a business operating under a fictitious name then the following language is usually mandatory: "The XYZ Company formerly doing business at 123 Main Street, hereby gives notice to all interested parties that as of January 1, 1967, it will be doing business as the XYZ Foundation duly organized under the not-for-profit corporation laws of the State of California."
- (2) If the prior business conditions were that of a professional, doctor, dentist, chiropractor, optometrist, etc., serving as a sole proprietor or non-fictional name, then the following form is proper: "The Smith Foundation is pleased to announce that Dr. Smith is now serving as Executive Director (Medical Director, Medical Administrator, Dental Administrator) of the Smith Foundation, as of January 1, 1967."
- (3) If none of the above conditions apply to your particular business situation and you are an employee of a large corporation or retired, or unemployed, then no legal notice is generally required in most States. State law should be examined to determine whether you must publish a public notice. If you are required to publish public notice and no language is given by the State Code then we suggest the following language be used: "We are pleased to announce the incorporation of the XYZ Foundation, whose general activities will be of the following nature ("summary of purpose"). The following people will serve as the initial Board of Directors: (names of initial Board of Directors)."

- (4) In all cases the legal notice should be prepared and signed by the Secretary of the foundation. Quite frequently, local papers, particularly weeklies in small towns, will pick up the incorporation of the foundation and will publish this news without cost to the creator. If a notice is published, or if you find an article about your foundation creation, save several copies of this for your files for future reference. A copy should also be given to your attorney for his file.

THE INFORMATION MAY BE INCOMPLETE IN SOME STATES. FOR MORE COMPLETE AND ACCURATE INFORMATION PLEASE CONSULT WITH LOCAL COUNSEL. THIS LIST IS FOR INSTRUCTIONAL PURPOSES ONLY.

EXHIBIT 8WHAT TO PREPARE FOR THE FIRST BOARD MEETING

The first Board of Directors meeting constitutes a real or hypothetical meeting of the persons who will begin the activities of the foundation. The 3 to 5 members of the initial Board of Directors should meet personally, although it has been corporate practice merely to distribute papers for signatures after they have been prepared. The meeting of the initial Board of Directors in person, is important so that all parties may become familiar with foundation-corporate procedures and with the initial aims and projects of the foundation. The Board of Directors should be prepared to meet regularly, even frequently, and any initial members who would not be able to devote this time or concern for foundation activities ought to be replaced. The following steps should be taken prior to the first Board of Directors meeting to save time, prevent confusion, and eliminate any possible conflicts:

- (a) A complete proposed draft of the By-Laws should be prepared.
- (b) The papers required for filing a Resolution with a Bank and opening a checking account should be fully prepared, minus the proper signatures.
- (c) A corporate seal should be obtained.
- (d) A corporate record book should be obtained.
- (e) The names and titles of the officers of the foundation should be determined.
- (f) If there is to be a change in the membership of the Board of Directors from the initial Board, the names and addresses of the new members should be prepared.
- (g) All procedures under State law concerning the foundation Charter and Articles of Incorporation should be completed prior to the first meeting of the Board.
- (h) The names of proposed family members other than the Board of Directors should be determined.
- (i) A letter signed by the Proposed Executive Director offering his services in exchange for an employment contract should have been received prior to the meeting.
- (j) If there is to be an assistant Executive Director, a similar letter should have been received prior to the meeting, from this person.

- (k) If there are any proposed sustained members, a list of the names, addresses and qualifications should be prepared.
- (l) It is highly recommended although not necessary that the president or proposed Executive Director prepare a possible grant program empowering the Executive Director to begin work on a general basis. This would enable the foundation to start activities immediately or at least to begin investigatory work and would not require a subsequent meeting within an unreasonable time.
- (m) Prepare for signature, undated letters of resignation of members of the Board where it is necessary. Undated letters of resignation are recommended to be used where there are members of the Board serving as nominees or merely as place holders to fill out the State requirements. These persons generally are unrelated to the foundation creators and disinterested as to foundation activities and purposes and should have no real voice in the operation of the foundation. To prevent and discourage any attempt in the future for such outsiders to gain control of the foundation an undated letter of resignation might be signed effective as of the date placed at the top of the letter. The controlling individuals of the foundation could then date that letter whenever they wished the third party or nominee to resign.
- (n) Most of this material should be included in previously drafted minutes of the first meeting of the Board of Directors and these minutes should merely be read for the information of the members present at the meeting. Few changes should be accepted and the proper signatures are all that is required. Items that should be included are:
 - (1) Ratification of Officers.
 - (2) Ratification of the Seal.
 - (3) Ratification of the bank Resolution.
 - (4) Ratification of the filing of the charter and Articles of Incorporation.
 - (5) Election of family members.
 - (6) Election of sustaining members.
 - (7) Approval of any proposed grant program.
 - (8) Acceptance of the offer of the Executive Director and Assistant Executive Director.
 - (9) Ratification of any other actions by the promoters of the foundation.
 - (10) Ratification and approval of proposed draft of By-Laws.

Most of this information in the proper language is usually included in standard forms for the first minutes of the Board of Directors that are available from many form book companies. The language and form of other Resolutions that would have to be passed may be obtained from counsel or may be drafted with guides of other material.

HOW THE FOUNDATION BUYS PROPERTY

There are no mystical or unusual methods by which a foundation can buy or obtain property. Standard accounting and legal practices and good business management are as important here as in other business forms. There are some considerations however, that must be made in foundation purchases and sales to enable the foundation in which the individual is involved, to enjoy maximum tax and legal advantages.

- a. The purchase of property whether tangible or intangible from third parties totally unrelated to the foundation, is carried on in exactly the same way as in other purchases. If financing is required for purchases such as a large piece of real estate or an automobile, the financing would be made in the name of the foundation. All contracts and titles would be within the foundation and payment for purchases, mortgages, loans, etc., must be by foundation check. These procedures would make the foundation sole owner without "strings" of any kind, of properties and interests so acquired.

A problem might arise where a foundation has not been long established, in obtaining financing through most banks or savings and loan associations. Here the officers of the foundation might be forced to co-sign as an individual, for loans made to the foundation. This is normal business practice and serves to create credit standing for your foundation upon completion of the transaction. Any other details connected with normal purchases from third parties should be qualified and arranged with your attorney and/or accountant.

In many purchases, considerable savings might be possible for a tax exempt institution, in rebates for sales tax, exclusion from excise tax, and perhaps lower prices from private companies to not-for-profit tax exempt organizations. Inquiries should be made as to the proper procedures in each State for obtaining these tax savings and inquiry should be made of the proprietors of each business for price savings.

- b. Purchases from the creator or officers of a foundation, present different problems. The primary situation to avoid is "self-dealing" in terms of the IRS Code. Generally stated, this rule prohibits transactions between foundations and their creators and

officers, which do nothing more than enhance the position of the creator and officers. This might involve, if carried to abusive levels, in the refusal or retraction of tax exempt determination and general liability for taxes and other penalties for all persons involved. In the case of most small pieces of property, it is suggested that outright gifts be made of these properties to the foundation, rather than sale, but where sales are desired and represent substantial financial savings, it is suggested that outright gifts be made of these properties to the foundation, rather than sale, but where sales are desired and represent substantial financial savings, it is suggested that the seller (creator-individual) sell at a loss to the foundation, of from 10 to 25%. This normally takes the taint of self-dealing off the transaction, and no attempt should be made by the seller to deduct his loss as a charitable deduction:

- c. This process should be reversed where the creator might purchase properties from the foundation, but it is not recommended as part of standard procedures that the creator purchase any properties or receive any services from the foundation.
- d. The best way for a creator to transfer properties to a foundation is by outright conveyance. The following information might be a guide for such charitable contributions, although great care and analysis should be made of each individual contribution for tax purposes, since the Treasury has gone to a great deal of pains in recent years to distinguish various types of property contributions from each other.
 - 1. It has been suggested by some writers that the courts could hold that there is a realization of income by the owner by the transfer of property to charity. However, in view of recent cases, this would seem to be an unlikely possibility, particularly because of the clear public policy of encouraging charitable contributions. Most of the cases involving such donations would have ended in adverse rulings for the taxpayer if involved in private rather than "Charitable transfers."
 - 2. Because recent cases have criticized or questioned charitable gifts made to foundations with limitations or "strings" attached, it is recommended that gifts made to a foundation be outright without limitations.

3. If a charitable contribution is made in the form of property which the taxpayer sells in the course of his trade or business, he is entitled to a deduction for it.
4. In general, the donation of appreciated property to a charity does not cause a donor to realize income. Appreciated property which is subject to the deduction for depreciation falls within the scope of that general rule, thus, for example, a charitable contribution of a 40 year old building with a value of \$20,000 and original cost of \$50,000 and in the tax basis of \$10,000 due to prior depreciation deductions, would not cause a realization of any taxable income by the donor, even though he had already deducted \$40,000 through depreciation allowances.
5. Individuals may contribute 20% of the adjusted gross income for any taxable year (Code Section 170(b) (1)). Either spouse under a joint return can give the full percentage. An additional 10% above the 20% limit to private foundation may be given to churches, educational organizations or hospital. Corporation may give 5% of the taxable income for each year. (Code Section 170 (b) (2)). A mere pledge is not a contribution and the contribution must actually be paid to entitle the donor to a deduction. Gifts of appreciated property generally avoids a tax on appreciation. Other types of property that may be considered business properties: stock rights, life insurance, where there is an irrevocable assignment of the policy with the foundation named as irrevocable beneficiary and the gift sale of appreciated property where the transfer of the property is in part a sale and in part a gift (however, beware of self-dealing). There are approximately 10 other classifications that are recognized as different types of gifts under the IRS Code.

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- (o) Prepare a waiver of notice of the first meeting of the Board of Directors prior to the meeting and before any other business is attempted have all of the members of the Board of Directors sign the waiver. This should be regular practice prior to all meetings of the Board of Directors. When the minutes have been read and all of the business discussed and enacted, have the Secretary sign the prepared minutes and close the meeting.

THIS INFORMATION MAY BE INCOMPLETE OR
UNNECESSARY IN SOME STATES. PLEASE
CONSULT WITH LOCAL ATTORNEYS FOR MORE
COMPLETE AND ACCURATE INFORMATION. THIS
LIST IS FOR INSTRUCTIONAL PURPOSES ONLY.

* * * * *

EXHIBIT 10THE RECORDS WHICH THE TREASURY REQUIRES OF GRANTORS

- (a) Name and address of recipient
- (b) Amount of grant
- (c) Purpose of this disbursement
- (d) Relation, if any, to persons who created or controlled foundation.

In addition to these skeletal records, good practice would suggest a procedure for processing grants by the foundation. Such procedures will both serve to assure the Treasury that you are operating a bona fide program (and this may be prudent since the initial recipients of your philanthropy may tend to be children and relations, if not you yourself) and to make things easier in your relations with strangers whom you might want to consider helping (i.e., it can make it more impersonal and easier to say no).

Mr. Harvey B. Matthews, Jr. of the Ford Foundation, speaking at New York University's Conference on Charitable Foundations, suggested these steps for processing grants:

- (1) A stated program containing some sort of guidelines for determining what sort of grants will be considered (e.g., tuition scholarship for college students).
- (2) Application - require some written application which makes clear that the person is applying for a grant and not just making an inquiry. The application should make clear what the money is wanted for so that the foundation can tell whether it falls within the foundation's program and corporate purposes.
- (3) Action Control - Mr. Mathews suggests that a piece of paper be attached to the application to record everything that is done regarding the application.
- (4) Preliminary screening and review. At this stage the foundation compares the request with its program to see whether or not the request falls within the grant program.

- (5) Final consideration. The merits of a proposed grant are compared against the availability of funds and a judgment made whether it is really worthwhile or desirable on the part of the foundation.

As a matter of form, the initial screening should be done by one officer who then refers those he considers worthwhile to the directors or some committee of directors who make the final decision on the grant and its terms.

- (6) The person in charge of the grant program notifies the recipient of the acceptance or rejection of his application by letter.
- (7) There should be in addition a follow up on the grant, a formal closing out of the terms of the grant, and an evaluation of the benefits derived from the foundation's use of its money in this particular instance.

As it was alluded before, the test of the propriety of a grant is whether it is in furtherance of the foundation's exempt purpose. A child, spouse, or relative of a donor or Foundation officer may properly receive such a grant (and of course in those cases, adherence to form is more important). With proper planning, the grant may be made in such a way as to result in no taxable income to the recipient. Cf. § 117 Revenue Code. Of course, since this is a grant rather than an expense account, the complicated rules relative to expense accounts have no application.

* * * * *

EXHIBIT 10A

THE R O A B FOUNDATION

SAMPLE APPLICATION FOR GRANT TO STUDENTS

FOR SPECIAL TRAINING

APPLICANT'S NAME _____

ADDRESS _____

AGE _____ OCCUPATION _____ U. S. CITIZEN _____

GRANT FOR THE STUDY OF _____

INSTITUTION WHERE STUDY IS TO BE MADE _____

PREVIOUS GRANTS, AWARDS _____

If Student, complete the following:

PRESENT SCHOOL _____

MAJORING IN _____

OTHER COURSES OF STUDY IN RELATED FIELD _____

Complete in own words, reason for request for grant and why you are qualified to receive special training.

THIS FORM IS ONLY TO BE USED FOR ILLUSTRATIVE PURPOSES. INDIVIDUAL FORMS FOR INDIVIDUAL GRANT PROGRAMS SHOULD BE DRAFTED.

Recommendation of Present Teacher (If student) _____

EXHIBIT 11WHAT FOUNDATIONS CAN AND CAN'T DO

Being a corporation, the foundation normally will have all the rights and powers enjoyed by similar corporate organizations under State law and there is no need to enumerate them other than to say that they are almost invariably wide enough to allow any act desired by the directors. For example, the Illinois General Not-For-Profit Corporation Act provides "Each corporation shall have power:...to have and exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is organized." IGNFPCA, § 5(n).

For our purposes here, a more relevant question is: what acts should not be performed in order to preserve the foundation favorable tax status.

1. A foundation is prohibited from entering into the following transactions with a substantial donor or his family.
 - (a) lending any part of its income or corpus, without the receipt of adequate security and a reasonable rate of interest;
 - (b) paying any compensation, in excess of a reasonable allowance for salaries or other compensation for personal services actually rendered;
 - (c) making any part of its services available on a preferential basis;
 - (d) making any substantial purchase of securities or any other property, for more than adequate consideration in money or money's worth;
 - (e) selling any substantial part of its securities or other property, for less than an adequate consideration in money or money's worth;
 - (f) engaging in any other transaction which results in a substantial diversion of its income or corpus to such person.
2. The foundation is further prohibited from performing any of the following acts:
 - (a) accumulating an unreasonable amount of income;
 - (b) using its income to a substantial degree for purposes unrelated to its exemption.

- (c) investing its income in such a way as to jeopardize its ability to carry out its purposes. (Note: these last three prohibitions apply only to income and not to corpus (c.g. gifts or donations received) and in practice present no particular problem with good counseling.

3. A foundation may not endorse a particular political candidate or advocate passage of a particular piece of legislation. It may, however, advocate a particular point of view. E.G., a conservation group could advocate the desirability of conservation but could not advocate approval of a particular law to achieve conservation.

These are general descriptions of the activities which will imperil a foundation's tax exempt status and are found in section 501 to 504 of the Internal Revenue Code.

Unrelated Business Income

There is a situation in which a foundation may be subject to income tax on certain of its earning without affecting its exempt status. This is called a tax on unrelated business income. Although there are a good many limitations on this tax, the general rule is that an exempt organization is taxable at corporate rates on the income from a trade or business regularly carried on by the organization, the conduct of which is not substantially related to the performance of the organization's exempt purpose.

For example, a tax-exempt clinic would pay no tax on its fees from patients but might be taxable on the income of a restaurant operated by the clinic in its building which served the public. Of course, since income from investments is generally untaxed, the clinic could incorporate the restaurant, own all the stock, and pay no tax on the dividends received from the restaurant corporation.

This tax on unrelated income does not apply to income from interest, dividends, royalties, most rents, and passive investments generally. The only problem with rents may arise under certain types of leases on property which is subject to a debt incurred in purchasing it.

The unrelated business tax is apparently not a major item in the tax treatment of exempt organizations. During the year 1962, for example, only 1,648 report forms (990-T) were filed with the Internal Revenue Service.

* * * * *

EXHIBIT 12WHAT REPORTS A FOUNDATION MUST MAKE ---
UNDER WHAT CONDITIONS

1. Federal reports.

- (a) Form 1023 application for recognition of exempt status. This report which is filed only once is not strictly necessary, but it makes things easier and gives the foundation an assurance of its status.
- (b) Form SS-4 Employer Identification Number. Must be shown on 1023 or applied for at the same time.
- (c) Form 990-A an annual information return for an organization exempt under Section 501 (C) (3). It is a two page simple information return. It is due on the 15 day of the 5th month after the end of the foundation's annual accounting period.
- (d) Form 990T - annual report of unrelated business income (or form 990-T-FY). This report should be filed even if no unrelated income is received since filing will start the 3 year statute of limitations, thereby providing you protection against errors made prior to that period.
- (e) Form 1099 and 1096. Exempt organization like all tax payers are required to report payments of rents, salaries, premiums, annuities, compensations, remunerations, emoluments or other fixed or determinable gains, and income aggregating over \$600/year. This is to be filed on or before February 28 in the year following the year of payment. Revenue Code IRC, Section 6041.
- (f) Foundation will also make withholding tax returns normally required under IRC Section 6051.

2. State Reports.

- (a) There is usually an annual report relative to your State charter. It is a simple report and self-explanatory, asking only the names of your officers and directors and a statement of the sort of activity you have been engaged in.
- (b) There may be in addition, one or two information requests from various State agencies. These are generally to determine if your activity brings you within their area of concern. A private foundation is usually not subject to these State regulatory agencies.

YOU SHOULD CHECK WITH A LOCAL ATTORNEY FOR LOCAL LAW.

EXHIBIT 13HOW DO I CHARGE THESE EXPENSES:HOME EXPENSES:Foundation Personal

- | | <u>Foundation</u> | <u>Personal</u> |
|---|-------------------|-----------------|
| 1. When my home needs - painting - repairs - or service of any type (plumber, electrician, carpenter) _____ | | |
| 2. When my home requires a full-time housekeeper _____ | | |
| 3. When my home requires a part-time servant _____ | | |
| 4. When my home requires a part - or full-time gardener _____ | | |
| 5. When my home requires new furniture _____ | | |
| 6. When my home requires garden supplies (fertilizer, plants) _____ | | |

INSURANCE:

- | | | |
|--|--|--|
| 1. Who pays fire insurance policy _____ | | |
| 2. Who pays life insurance policy _____ | | |
| 3. Is the Foundation or am I the beneficiary _____ | | |
| 4. Should I notify my insurance companies _____ | | |
| 5. How about accident insurance _____ | | |
| 6. Is a Will necessary _____ | | |

TRAVEL AND EXPENSES:

- | | | |
|---|--|--|
| 1. On a <u>business</u> trip, who pays for: | | |
| Car expense _____ | | |
| Gas expense _____ | | |
| Hotel and meals _____ | | |
| Cab or car rentals _____ | | |
| What reports do I keep _____ | | |
| 2. On a <u>pleasure</u> trip: | | |
| Car expense _____ | | |
| Gas expense _____ | | |
| Hotel and meals _____ | | |

Foundation Personal

OTHER EXPENSES:

Car repairs _____
 Car license _____
 New car _____
 Home water bills _____
 Home electric bills _____
 Home telephone bills _____

COST OF HOUSEHOLD:

Food _____
 Clothing _____
 Doctor bills _____
 Medicine _____
 Entertainment (friends) _____
 Entertainment (business associates) _____
 Books, Magazines, Papers - _____

To make a Foundation profitable, how large should the yearly earnings be, and how sizable should the real estate be? _____

Is there a time limit on a Foundation when it is possible for the Government to cancel the Foundation? _____

Is it necessary to make contributions from the Foundation to non-profit organizations? _____

Has the Government the right to check Foundation records? _____

Is it possible for the State or Federal Government to annul Foundations? _____

How about bookkeeping? _____

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EXHIBIT 1SOME DISADVANTAGES OF A NOT-FOR-PROFIT CORPORATION FOUNDATION.

1. Since any corporation receives its charter from the State, the State claims the right to require reports of the corporation's activities, and on occasion question its officers, at the discretion of such officials as the Attorney General and others. However, this affair is usually a simple one even though the power to do so exists.
2. The right claimed by the State to dissolve the corporation under certain grounds such as those listed in Section 50 of the Illinois General Not-For-Profit Corporation Act. However, the performance of the Act which brought about the dissolution will in some circumstances abate any action by the State (e.g. Illinois N.F.P. Act, Section 51.) Consult your own State Law and Counsel for interpretation.
3. Foundations must spend their money for so-called "exempt purposes" -- nevertheless, the foundation may operate in a very wide sphere of activity in furthering its exempt purposes.
4. Dispositions of property of a highly personal nature are prohibited by law and should not be done with foundation money, such as -- gifts to friends or family with no restriction as to purpose, or an entirely personal purpose, such as payment of a gambling debt; loan money to a family member or a friend for a highly speculative business venture, etc. One should avoid situations which might be helpful to a friend yet could cause trouble for his foundation.

5. Annual report form, Internal Revenue Service, 990-A, makes it a matter of public record:

- (a) Foundation's officers' salaries.
- (b) Foundation's holding of stock and other investments.
- (c) Its accumulations of capital gains and other income.
- (d) Dealings and relationships with contributors.
- (e) Names and addresses of persons receiving grants.
- (f) Their relationships to benefactors of the foundation.

6. Individual's deductions which he can claim for contributions to privately supported exempt organization limited to 20% of his adjusted gross income.

* * * * *

EXHIBIT 2THE CHARACTERISTICS OF THE SECOND ORGANIZATION

- (a) The second organization should be controlled by the same persons as the foundation to insure consistency of management and no loss of time in negotiations, contractual agreements or other forms of "red tape."
- (b) The second organization should be as free as practically possible from taxes.
- (c) The second organization should be able to receive and retain disbursements from the foundation, and yet remain legally independent and separate to limit the liability of both organizations.
- (d) The second organization should be ideally of a different nature than the not-for-profit corporation, so that it might be unaffected by any changes or disadvantages of not-for-profit corporate procedures and yet, the second organization should be in a position to take advantage of these procedures where desirable.
- (e) The second organization should be ideally able to benefit the creator in as many ways as possible, regardless of taxation, and still preserve the creator's estate.
- (f) The second organization should be relatively uncomplex, so that constant administration by counsel is unnecessary.
- (g) The second organization should be legally suitable, proven and court-tested to insure longevity, legality and safety.
- (h) And the second organization should be as flexible and adaptable as the foundation.

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EXHIBIT 3PARTNERSHIPS

Partnerships consisting of two partners entering any one of many common business undertakings.

Some advantagesSome Disadvantages

Pride of seeming ownership and achievement, responsibility and reward.

Property may be easily conveyed in and out of a Partnership.

Can make advance arrangements for distribution of profits and losses based on a division of each Partner's contribution (i.e. services, capital, etc. and various combinations of each) to the success or failure of the partnership.

No double taxation of earnings as in a corporation. No franchise or stock tax, and no corporation filing fees or reports.

Not subject to or dependent upon the State unless you seek to limit your liability, use a fictitious name or employ other privileges granted by the State in its Partnership Act.

Illusory ownership soon becomes a pronounced liability. Partners are liable for Partnership activities as well as taxes.

Partnership earnings are taxed to individual partners and may raise personal income taxes to a highly confiscatory level - even above corporate rates.

Partnership or partners may pay income, excise, inventory, license, real estate, social security, and unemployment compensation taxes as well as partnership filing fees if the partnership seeks State privileges.

Deceased partner's interest in the partnership devolves to the family as a part of his estate often forcing immediate liquidation at unfavorable prices.

If the partnership is a success and otherwise an asset of the family, it is none-the-less lost to them upon the death of the partner related to them, as the death of a partner serves to force a dissolution of the partnership.

Creditors may proceed to obtain a lien on the partner's assets, and one partner's reckless driving may cause a judgment to be had against the remaining innocent partner's home and other assets.

CORPORATIONS

Corporations are very flexible business organizations and it is consequently very difficult to make general statements true of all corporations. For convenience we will take a single type of corporation form, the closely held stock corporation with only one class of stock, the type most commonly used in family owned businesses.

Some Advantages

Ownership may be divided among many people in varying amounts.

Each family member has his own separate share which he may dispose as he wishes.

The person who creates a business may see his estate grow in size as the value of the business increases.

Undistributed corporate earnings are not taxed to the individual owner

A corporation has limited liability and may operate under its corporate name.

The corporation may have perpetual existence

Outsiders may be kept out through requirement of first refusal on all stock to the corporation or other stockholders.

Some Disadvantages

Persons owning small amounts of ownership may interfere by legal right in your management.

A family member's share may pass to a stranger who can disrupt your management and there are taxes on each member's share of ownership. A creditor may seize his shares to satisfy his debts.

When the creator dies the value of the business imposes a huge estate tax liability which may force the family to sell control of the business.

The corporation pays a tax on its earnings and the share holder must pay another tax on his receipt of the dividend. Should the corporation accumulate earnings the government may claim that it is being used to avoid tax on its shareholders and be subject to a surtax..

Should it neglect to maintain its corporate agent, it might be subject to a default judgment on the basis of a process served on the Secretary of State about which it has never heard.

Whenever any share holder dies his part of the corporation is taxed and subject to probate.

Should a stockholder die or his stock be seized by a creditor, the corporation would have to find a large sum of money on short notice.