

May 4, 1961

MEMORANDUM RE ROBERTSON

Re: Meeting with Mr. Hatfield Friday, April 28

1. At the request of Mr. Hatfield, Assistant Director, Tax Rulings Division, the undersigned conferred with him on Friday afternoon, April 28.

2. Mr. Hatfield stated he wished he had received the request for consideration at least two weeks before. He further stated that his division was examining carefully the question of whether or not they could rule that, in any event, this gift was "for the use" of Princeton.

3. Mr. Hatfield then suggested that the Service would rule favorably that the gift was deductible for income and gift tax purposes on the condition that the Foundation, after a year of operation, received a favorable ruling from the Exempt Organizations Branch that it was exempt from income tax.

4. We advised Mr. Hatfield that such a ruling would not give the taxpayer any protection insofar as the deductibility of the gift for gift tax purposes was concerned. We reiterated that unless a ruling as to deduction for gift tax purposes was forthcoming, the donor could not make the gift in view of the possibility that one-half of the \$32,000,000 might be dissipated in taxes.

5. We then emphasized that the gift was to an institution completely under Princeton's control. We reiterated that Princeton would not have accepted such a gift unless it could have full control over the fund

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and its administration. Otherwise, it could not commit itself to such an extensive program as envisaged in the formation of a new graduate school of public administration.

6. We also emphasized the advantages from Princeton's point of view in the use of such an intermediary foundation. Mr. Hatfield then inquired as to why a trust form had not been used and indicated that this would give him much less difficulty.

7. We then pointed out:

(a) That the gift was to an institution which qualified and that under the prior policy of the Gift and Estate Tax Branch of the Tax Rulings Division, a ruling should issue as to the gift tax deduction for the simple reason that otherwise the operation could not be instituted.

(b) That, even if this policy were changed, the gift in question should be the subject of a favorable ruling because

(1) it is conditional on the institution qualifying under IRC Section 501(c)(3), otherwise the gift must go to Princeton. (Mr. Hatfield indicated concern that in the intervening period there could be a loss occurring through an improper use and management of the Foundation which would mean that the property would not go to a qualified institution.)

(2) That in this case the gift was actually to or for the use of Princeton in view of the control by Princeton of the Foundation. We urge that whatever happened after the gift, the property was from the moment of gift held for the use and benefit of Princeton and any loss would be occasioned by

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Princeton's own activities through its control. This means that Princeton would have the use of the property from the inception whether a gain or loss ensued.

8. In this connection, we noted that:

(a) If the donor contributed an active business operation to Princeton, the gift would be to Princeton's use even though the business operation would be subject to tax. In the present instance, Princeton has as full control and ownership of property in question as if it owned all the stock of a corporation or the entire assets of a business. This follows from its possession of four out of seven member-trustees.

(b) We noted that the member-trustees were member-trustees with primary responsibility to Princeton in view of their official status as officials of Princeton. (Three of four are member-trustees by virtue of their official status, the President, Chairman of the Board of Trustees, Chairman of the Executive Committee. The fourth, already appointed, is a Charter or life Trustee of Princeton.)

(c) We advised Mr. Hatfield that in fact Mr. Robertson had virtually given up to Princeton every right except the right to witness his money being spent and an opportunity to speak with respect to operation (but not to exercise any control).

(d) We noted the dilemma on the horns of which Mr. Hatfield proposed to put the donor. Having given up complete control of the Foundation to Princeton, the donor would be in no position to see to it that the Foundation operated in such a way as to qualify under

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Section 501(c)(3). The activities and direction of the association are entirely subject to the direction of Princeton's official representatives. Thus, in the light of Mr. Hatfield's argument, it is feasible that Princeton, through its representatives, could cause the donor to be taxed on the gift.

9. Mr. Hatfield then reiterated that his section was attempted to find a way to rule that this gift was made for the use of Princeton. He suggested that it would be helpful for the President of the University and for Mr. Robertson to submit joint statements that the Foundation was in fact subject to Princeton's control. We noted that this was obvious from the record, but we would agree to contact Princeton to determine what their reaction might be to such a suggestion.

10. After discussions with Mr. Mestres, we advised that President Goheen would submit such a statement if it would in fact dispose of the matter, but that under the circumstances, Princeton felt that the whole gift might be lost if a similar request were made to Mr. Robertson. We then suggested that we would obtain President Goheen's letter if it was material. (Mr. Hatfield said that he would not guarantee anything, but that he believed that such a letter would "tip the scales".)

We asked Mr. Hatfield if any other data would be necessary or useful - including elimination of the power of the corporation to "develop real estate". He made no further suggestions in this regard.

11. It was our conclusion that such a letter should be submitted although it in fact merely confirms the record. We urge the submission

of such a letter in view of the clear indication by Mr. Hatfield that it would be sufficient to tip the scales in favor of the ruling. Mr. Hatfield's whole attitude indicated that despite his reservation of guarantee, submission of such a letter would be sufficient.

REM
JEM

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