

Washington, DC 20224

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Russell Sage Foundation
112 East 64th Street
New York, NY 10021

Person to Contact:

Mr. Barrett
(202) 555-6160

Telephone Number:

Refer Reply to:

OP:E:EO:R:2

Date:

E.I.N.: 13-1635303

13 JAN 1985

Dear Sir or Madam:

This refers to your letter dated November 6, 1985, in which you request a ruling that you are an exempt operating foundation (within the meaning of section 4940(d)(2) of the Internal Revenue Code) and thus you are exempt from the two percent excise tax on net investment income imposed by section 4940 of the Code.

Our records show that you were recognized as exempt from federal income tax in November of 1916, and that you are presently exempt under section 501(c)(3) of the Code. ~~You were held to be an operating foundation as described in section 4942(j)(3) on June 14, 1972.~~

Your By-Laws provide that your Board of Trustees are your only members; and that the Board has the power to elect additional members within proscribed limits, and shall fill vacancies when they occur. Currently, your 15 member Board is composed of bankers, businessmen, lawyers, scholars and journalists who you profess to be representative of the social science community.

Further, your By-Laws provide that your officers are elected annually by the Board of Trustees. You state that no officer is a "disqualified individual" as defined in section 4940(d)(3)(B) of the Code.

Section 4940(a) of the Code provides for the imposition on each private foundation which is exempt from taxation under section 501(a) for the taxable year, with respect to the carrying on of its activities a tax equal to 2 percent of the net investment income of such foundation for the taxable year.

Section 4940(d)(1) of the Code states that no tax shall be imposed by section 4940 on any private foundation which is an exempt operating foundation for the taxable year.

Section 4940(d)(2) defines the term "exempt operating foundation" to mean any private foundation if -

(A) such foundation is an operating foundation (as defined in section 4942(j)(3)),

(B) such foundation has been publicly supported for at least 10 taxable years,

(C)... the governing body of such foundation -

(i) consists of individuals at least 75 percent of whom are not disqualified individuals, and

(ii) is broadly representative of the general public, and

(D) at no time during the taxable year does such foundation have an officer who is a disqualified individual,

Section 4940(d)(3)(B) of the Code provides that the term "disqualified individual" means, with respect to any private foundation, an individual who is --

(i) a substantial contributor to the foundation
(ii) an owner of more than 20% of --

(I) the total combined voting power of a corporation,
(II) the profits interest of a partnership, or
(III) the beneficial interest of a trust or unincorporated enterprise, which is a substantial contributor to the foundation, or

(iii) a member of the family of an individual described in clause (i) or (ii).

Section 302(c)(3) of the Deficit Reduction Tax Act of 1984 (P.L. 98-369) states that "[a] foundation which was an operating foundation (as defined in section 4942(j)(3) of the...Code...) as of January 1, 1983, shall be treated as meeting the requirements of section 4940(d)(2)(B) of [the] Code...."

Section 1.170A-9(a)(3)(v) of the Income Tax Regulations indicates, in another context, that the governing body of an organization may be considered to represent the broad interests of the public if it is composed of persons having special knowledge or expertise in the particular field or discipline in which the organization is operating, or of community leaders, such as elected or appointed officials, clergymen, educators, civic leaders, or other such persons representing a broad cross-section of the views and interests of the community.

Based on the information submitted, we have determined that your organization is a private operating foundation within the meaning of section 4942(j)(3) of the Code, was described as a private operating foundation on January 1, 1983, the governing body of your organization is

broadly representative of the general public, and none of your officers is a disqualified individual. Therefore, your organization meets the requirements of section 4940(d)(2) to qualify as an exempt operating foundation

Based on the above we rule as follows:

- (1) ~~You are an exempt operating foundation under section 4940(d) of the Code.~~
- (2) ~~You are exempt from the tax imposed by section 4940(a) of the Code.~~

These rulings are based on the understanding that there will be no material changes in the facts upon which they are based. Any such changes should be reported to your key District Director.

We are informing your key District Director of this action. Please keep a copy of this ruling in your permanent records.

Sincerely yours,

J. A. Tedesco

J. A. Tedesco
Director, Exempt Organizations
Technical Division

Address any reply to:

P.O. Box 18236, Philadelphia, PA 19108
Department of the Treasury

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**District Director
Internal Revenue Service**Date
AUG 22 1972In reply, refer to
AU:1112:JMRutgers The State University
c/o Peat, Marwick, Mitchell & Co.
Gateway I
Newark, NJ 07102

Gentlemen:

This refers to your request for a determination of the filing status of Rutgers The State University.

Since your organization is a unit of the State of New Jersey, its income is exempted from Federal income tax by Section 115 of the Internal Revenue Code.

As an organization exempt from Federal income tax under Section 115 of the Internal Revenue Code, your organization is not required to file annual Exempt Organization Information Returns. Form 990

Sincerely yours,

Alfred L. Whinston
District Director