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CONFIDENTIAL

February 15, 1972

Mr. Irving Bernstein
United Jewish Appeal, Inc.
1290 Avenue of the Americas
New York, New York 10019

Dear Irving:

In the early part of January I received a telephone call from Emanuel Feigin, the Internal Revenue Service agent who did an audit of UJA and UIA during 1970/71. He advised me that additional letters of complaint had been received questioning UJA's tax exempt status on the basis of UIA's relationship with a registered foreign agent, namely the Jewish Agency-American Section, Inc. I told Mr. Feigin, with whom I had become somewhat friendly, that the person who could best explain the situation was Gottlieb Hammer.

An immediate meeting with Gott was not possible because of his absence from the City. When he returned, Gott arranged a meeting with Mr. Feigin for February 1st, which meeting I attended.

The letters which prompted the new inquiry were identical xerox copies of the same series of letters which had prompted the 1970/71 investigation. The allegation dealing with the relationship to the Jewish Agency-American Section, Inc. had been in the earlier letters but had not proved to have been of any concern to Internal Revenue Service at that time. Gott explained that there was no relationship between UIA and the Jewish Agency-American Section, Inc., which he also advised had recently been delisted as a foreign agent. Mr. Feigin was satisfied and will report so to his superior. He also indicated that a letter would be sent to the taxpayers who had raised the question advising that the matter had been reviewed and that no further action was required.

Mr. Feigin also had in his file a different letter of complaint addressed to Internal Revenue Service. I noted that the letter was a four page letter from Norman F. Dacey, the author of the widely discussed book, "How To Avoid Probate." Mr. Dacey raised a whole series of questions concerning UJA's tax exempt status most of which relate back to the arguments presented in an article with which I believe you are familiar that appeared in the Virginia Law Review some years ago written by a Mr. Mallison. He also brought up the claim that UJA funds have been used to meet some of the Rascco losses.

Gott and I furnished Mr. Feigin with answers to the various arguments presented by Mr. Dacey. We also gave him a copy of the letter from Louis Pincus to Max M. Fisher concerning Rascco matter. He was satisfied with the answers and with the material presented and will so indicate in his report. He told me that the response to Dacey will indicate without specific itemization that there is no basis to question UJA's tax exempt status. It is hoped that such response will avoid further letter writing by Mr. Dacey, although I don't know that such will be the result. In that regard I enclose herewith copy of a letter Mr. Dacey wrote to the Editor of the New York Times which appeared in the Times last September.

Sincerely,

HBR

Herbert B. Rose

HBR:lr
Enclosure

cc: Edward Ginsberg, Esq.

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April 11, 1972

Mr. Herbert Rosenstein
United Jewish Appeal, Inc.
1290 Avenue of the Americas
New York, New York 10019

Dear Herb:

Regulations have just been adopted under the Financial Recordkeeping and Currency and Foreign Transactions Reporting Act of 1970 (also known as the Bank Secrecy Act) dealing with the transportation of currency or bearer instruments into and out of the United States. Commencing July 1, 1972 all persons transporting more than $5,000 in currency or bearer instruments will be required to notify the Customs Department.

Financial institutions will be required, after July 1, to make reports to the Treasury of unusual currency transactions involving more than $10,000.

The regulations provide that the transactions requiring that a report be filed are transactions involving the physical transfer of currency. A transaction which is a transfer of funds by means of bank check, bank draft, or by a transfer or other written order and which does not include the physical transfer of currency, is not within the scope of the regulation.

I do not know whether there is ever occasion when UJA or any of it's employees are involved in the transfer of currency abroad. If so, you should keep in mind the $5,000 limitation.

Sincerely,

Herbert B. Rose

HBR:lr

ROSE & SCHLESINGER, 535 FIFTH AVENUE, NEW YORK, N. Y. 10017, 687-1800

MEMORANDUM

DATE April 19, 1972

TO United Jewish Appeal of Greater New York, Inc.

FROM Herbert B. Rose

SUBJECT Impact of Tax Revision Proposals on Charitable Giving

Representative James C. Corman of California has introduced HR11058, entitled "The Tax Reform Bill of 1972" containing several provisions dealing with the deductibility of contributions made to charitable organizations. The stated major objective of the Reform Bill is "to provide meaningful reform of our tax laws in order to make them more equitable and more productive of revenue." The provisions included in the Bill dealing with the charitable deduction however are of greatest significance in the probable consequences upon charitable giving and the reduction of funds which would be available to charitable organizations in support of their humanitarian activities. While it is correct that any reduction in the availability of an income or estate tax deduction will increase tax revenue, it seems open to serious question that the reduction in the charitable deduction will promote "equity," particularly where the ultimate burden will be borne by the persons,

causes and ideals that benefit from the activities of tax exempt charitable organizations.

The specific proposals made by Representative Corman are as follows:

1. Section 103 of the Bill provides that charitable contributions by an individual are to be deductible for income tax purposes only to the extent that they are in excess of 3% of adjusted gross income.

In the case of a taxpayer who itemizes deductions, a deduction would not be available for the charitable gifts until the taxpayer's gifts exceed 3% of adjusted gross income. In the light of estimates that the average taxpayer makes a charitable contribution of 3.2% of adjusted gross income, the proposal would eliminate for millions of taxpayers the tax incentive intended by Congress when the charitable deduction was made part of the revenue laws.

2. Section 121 of the Bill provides that a charitable bequest will be deductible for estate tax purposes only if it is to be used predominantly within the U. S. or its possessions.

This proposal serves as a public statement that the humanitarian concern underlying the availability of a charitable deduction does not extend worldwide and that it

is no longer the Government's purpose to encourage gifts to organizations that aid victims of a natural disaster such as an earthquake, fire or flood, if such event occurs outside of the U. S., or organizations that aid victims of political, social, economic oppression in areas outside the United States. It seems evident that the proposal would serve to limit charitable giving either by influencing a testator against making such a gift or by reduction of the gift by the amount of estate tax applicable thereto.

The second aspect proposed in Section 121 involves placing a ceiling on the maximum charitable deduction for estate tax purposes. The proposal contained in the Bill is that the aggregate charitable deduction shall not exceed 50% of the gross estate reduced by the debts of the decedent and the expense of the administration.

This proposal is similar to the proposal limiting the income tax charitable deduction to contributions in excess of 3% of adjusted gross income. It is inconsistent with the philosophical concept inherent in allowing the charitable deduction, namely that it is in the interests of the people of the U. S. to foster support of charitable giving. If there is to be a change in philosophy it would seem that the change should be complete and be recognized as a change in

philosophy rather than characterized as being based in equity or in increasing tax revenue.

It is important also to note that the estate tax is a tax on the privilege of transfering property from generation to generation. In the case of a charitable gift the transfer is not a transfer from generation to generation but is rather an act of final devotion of the testator's property to a purpose that by definition is universal and admirable. It does not seem appropriate to impose a tax in such a situation.

3. Section 303 of the Bill would reduce the charitable deduction available in the case of a gift of appreciated property to a publicly supported charitable organization by one-half of the capital gain the individual would have had if he had sold the property on the date of the gift for its fair market value.

In considering this provision, as well as all the provisions of the Bill dealing with the charitable deduction, it is important to note that the charitable deduction alone involves a voluntary act and one for which the taxpayer does not anticipate receipt of a tangible quid pro quo. All other deductions are based on involuntary expenditures (local taxes, medical expenditures, casualty losses) or expenditures

which the donor may freely make on the basis of the tangible benefit he may reap from such expenditure (business expenses, interest paid on monies borrowed). In the case of the charitable deduction a voluntary act is required, one which cannot produce a reward beyond the knowledge of the assistance given to the purposes of the donee organization.

The change suggested by Rep. Corman would serve to reduce the charitable deduction available to donors of appreciated property who make gifts to publicly supported charitable organizations and thereby increase the net out-of-pocket cost to such a donor. However, since charitable giving involves a voluntary act it seems that a more probable consequence will be a reduction in charitable giving, rather than adjustment of an inequity or a meaningful increase in tax revenue. The significance of the possible consequence may be gathered from the estimate that at least 25% of charitable giving involves gifts of appreciated property.

4. Section 404 of the Bill proposes to include as an additional item of tax preference income an amount equal to the charitable deduction allowed to a donor where the contribution is made in appreciated property.

The essential element that distinguishes the

situation of charitable giving from other types of preference income is that charitable giving involves a cost to the donor, one that exists regardless of his tax bracket. That type of preference income only arises when the taxpayer divests himself of property, by transfer to a charity, without any expectation of profit or return other than the gratification of having served his fellow man.

The same "cost" is not present in any other type of preference income.

In summation, although the Bill has as one of its objectives establishment of equity among all taxpayers, charities stand in the unique position as the one group most likely to bear a portion of the cost of the reform measure. While it may be true that a reduction of the availability of the charitable deduction will serve to increase revenue, it will do so at the expense of the charitable organizations supported by tax deductible gifts, many of whom conduct activities which serve to lessen the burdens which otherwise would be imposed upon the Government.

President Sadat's Case

To the Editor:

Professors Curtis and Horowitz of Rutgers deplore the speech of President Sadat [letter Sept. 9] because he sought economic resources, not to raise the standard of living of his people, but to provide the means to renew the struggle against Israel.

Is this so hard to understand? For four years, the Egyptians have faced a hostile army 150 miles within their own border and only eighty miles from their capital city. That alien army has cost them the use of their biggest asset, the Canal. If they can oust the invader, they will certainly be able to raise the living standard of their people.

In their respective departments of political science and sociology, do the good professors ever have occasion to consider the inalienable right of peoples to self-determination, and do they contend that the Palestinian Arabs were ever given that right? After all, that's the rest of the whole problem in the Middle East.

NORMAN F. DACEY

Southbury, Conn., Sept. 10, 1971