

Sander Levin

U.S. House of Representatives
9th Congressional District, Michigan

September 21, 2016

The Honorable John Koskinen
Commissioner
Internal Revenue Service
1111 Constitution Ave. NW
Washington, DC 20224

Dear Commissioner Koskinen:

As you know, the Committee on Ways and Means has conducted hearings on tax-exempt organizations to better understand how they operate within the context of tax law. With this in mind, I write to ask you to review a detailed media report that the Donald J. Trump Foundation has violated self-dealing laws by using charitable funds for personal benefit.

An article in the Washington Post dated September 20, 2016 reported that Donald Trump sent a check from the Donald J. Trump Foundation on at least two occasions to resolve lawsuits or legal disputes related to his business ventures. Mr. Trump reportedly spent a total of \$258,000 from the Trump Foundation to resolve these cases. Additionally, the article highlights the purchase of portraits of Mr. Trump with foundation funds.

As you know, current rules against self-dealing generally prohibit any direct financial transaction between the foundation and virtually all persons closely related to the foundation (known as disqualified persons). Section 4941 of the Internal Revenue Code imposes an initial, 10-percent excise tax on each act of “self-dealing” between a disqualified person and a private foundation. If the act of self-dealing is not corrected within the taxable period, the initial tax increases to a 200 percent excise tax. *See I.R. C. § 4946(b)(1)*. The “taxable period” begins on the date the act of self-dealing occurs and ends on the earlier of (1) the date of mailing a notice of deficiency, (2) the date on which the initial tax is assessed, or (3) the date on which correction of the self-dealing act is completed. *See I.R.C. § 4946(e)(1)*.

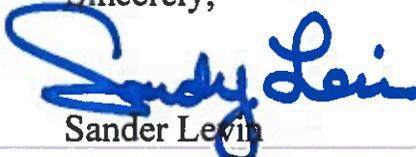


The excise tax is paid by any disqualified person who participates in the act of self-dealing. A “disqualified person” includes an officer, director, or trustee of a foundation. *See I.R.C. § 4946(a)(1)(B) & (b)(1)*. Thus, Mr. Trump, as President of the Trump Foundation would be considered a “disqualified person.”

The term “self-dealing” includes any director or indirect transfer to, or use by or for the benefit of, a disqualified person of the income or assets of a private foundation. *I.R.C. § 4941(d)(1)(E)*. The regulations, in defining when the transfer to or use by a disqualified person of the assets of a private foundation constitutes self-dealing, states: “if a private foundation makes a grant or other payment which satisfies the legal obligation of a disqualified person, such grant or payment shall ordinarily constitute an act of self-dealing” *See Treas. Reg. § 53.4941(d)-2(f)(1)*. Additionally, examples in the IRS manual note that the direct use and benefit of an asset of a private foundation (including art work) by a disqualified person constitutes self-dealing. *See I.R.M. § 7.27.15.4.1.5*.

It is important that charitable funds be used for charitable purposes, rather than promote the business ventures of those affiliated with the charity. I therefore request an immediate audit of the Donald J. Trump Foundation. Thank you for your attention to this matter.

Sincerely,



Sander Levin
Member of Congress