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## MEMORANDUM

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**To:** [REDACTED]  
**From:** Patricia E. Kefalas Dudek  
**Subject:** Charitable Contribution for an Individual's Benefit  
**Date:** October 29, 2001

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### FACTS:

It is our understanding that [REDACTED] was struck by lightning while playing golf and as a result of this accident requires substantial medical care. This care is a substantial financial expense to the family. In efforts to defer some of this expense, individuals close to the family and family members established an annual golf outing that benefits [REDACTED]. To provide a tax benefit to the individuals contributing for the benefit of [REDACTED] this golf outing was sponsored by the Golf Foundation Association. This foundation is a qualified charitable organization and therefore contributions to the foundation were deductible to the donors. The foundation has subsequently informed [REDACTED] family that they will no longer be participating in the golf outing, or accepting contributions on John's behalf.

The family has inquired what steps must be taken to establish a charitable organization or a private foundation for the purposes of receiving contributions for the benefit of [REDACTED]. We have therefore analyzed Sections 170 and 501 of the Internal Revenue Code (hereinafter referred to as "I.R.C.") to determine the feasibility of such a charity.

In addition, the family has inquired if they should pursue associating with another charitable organization. The donors again would wish to designate or segregate the donations for the benefit of [REDACTED].

### ISSUE:

1. May a charitable organization be established to benefit a single individual?
2. What tax benefits would be available if the golf outing was associated with another charitable organization that accepted funds designated on behalf of [REDACTED] and distributed such funds to [REDACTED]?

## SHORT ANSWER:

1. To qualify for tax-exempt status an organization must be established to benefit the public in general and not an individual or shareholder of the organization.
2. Donations made to the designated fund through a charitable organization serving as a conduit to benefit an individual are not deductible as a charitable donation to the donor.

## DISCUSSION:

In general, an individual is able to take a tax deduction for charitable contributions. Section 170(a) of the I.R.C. states, "There shall be allowed as a deduction any charitable contribution (as defined in subsection (c)) payment of which is made within the taxable year. A charitable contribution shall be allowable as a deduction only if verified under regulations prescribed by the Secretary." I.R.C. §170(a). A charitable contribution, as defined under subsection (c) includes contributions made to a corporation, trust, or community chest, fund, or foundation, that is (1) created or organized in the United States or any possession of the United States; (2) organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or to foster national or international amateur sports competition or for the prevention of cruelty to children or animals; (3) *no part of the net earnings of which inures to the benefit of any private shareholder or individual*; and (4) which is not disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation, and which does not participate in any political campaign. I.R.C. §170(c). In other words, contributions to qualified tax-exempt organizations qualify for a charitable deduction.

To qualify for tax-exempt status an organization must satisfy the requirements of I.R.C. §501. Section 501(c) provides a list of tax-exempt organizations. The treasury regulations promulgated under I.R.C. 501 further explain that for an organization to receive tax-exempt status that the organization must be both organized and operated exclusively for one or more of the specified purposes, including charitable purposes, that benefit the public in general. See, Treas. Reg. 1.501(c)(3)-1. The term "charitable purposes" is broadly defined, but does include, "Relief of the poor and distressed or of the underprivileged" 1.501(c)(3)-1(d)(2). Providing medical care to disabled individuals would qualify as a charitable purpose. However, only organizations operating for charitable purposes that benefit the public in general will qualify for tax-exempt status. To meet the requirement of this subdivision, "it is necessary for an organization to

establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests." Treas. Reg. 1.501(c)(3)-1(d)(1) (ii). Therefore, no matter how charitable the purpose organizations benefiting an individual will not qualify for exempt status.

In general, a donor that directs that their donation to a charitable organization will benefit a specific individual will not be deductible to the donor. Rev. Rul. 61-66, 1961-1 C.B. 19. In a Technical Advice Memorandum the service stated "a gift is not considered a contribution to a charity if the facts showed that the charity is merely a conduit to a particular person". TAM 9405003 (1994), Page 3. A deduction is only allowed when the donor can establish that the gift is to the charitable organization and is not intended as a gift to an individual. The Internal Revenue Service's position is that if a donor directs a fund to use its donation for a specific individual that such a donation is not deductible. Rev. Rul. 62-113, 1962-2 C.B. 10; Rev. Rul. 68-484, 1968-2 C.B. 105; Rev. Rul. 79-81, 1979-1 C.B. 107; TAM 9405003. Contributions made by a taxpayer to organizations earmarked for an individual by the use of an account number and by indicating the individual's name on the contribution indicate that the taxpayer intends to benefit the individual and that the organization does not have full control of the donated funds. TAM 9405003.

## CONCLUSION:

Only contributions to exempt organizations will qualify for the charitable deduction. An organization must benefit more than just a single individual to qualify for tax-exempt status. Therefore, an organization established solely to benefit [REDACTED] will not qualify for tax-exempt status.

In order for the contributions from individuals supporting [REDACTED] through the golf outing to be deductible the golf outing must be connected to a charitable organization as defined under I.R.C. §501. As indicated in the facts, in the past the contributions on [REDACTED] behalf were deductible because they were filtered through the foundation, a charitable organization with the primary purpose of benefiting the public in general. These contributions, however, were segregated by the foundation and directed by the donors to benefit only [REDACTED]

[REDACTED] In other words, although the gifts were run through an organization, these gifts were made to provide for [REDACTED]'s medical care. This agreement, however, could never have been binding. It appears that the foundation stopped this practice because of the risk that contributions to this segregated fund were not deductible. Although, the foundation benefits the public in general, this

segregation of contributions benefited an individual. This practice is prohibited by several revenue rulings and a technical advice memorandum.

Any donations to charitable organization with a segregated fund would not be deductible to the donor. Therefore, associating with another charitable organization and using a segregated fund would not create any tax benefit to the donors. For an individual to receive a charitable deduction donations must be made in a way were the organization has complete discretion in how to use the donations.

Please call [REDACTED] to schedule a time to discuss this matter with me in greater detail.