

OCT 17 1951

My dear Mr. Swope:

I have your letter of September 18, 1951, addressed to the Secretary which has been referred to me for reply. You request that your letter serve as an official application in behalf of the B. M. Baruch Memorial Fund with respect to deductibility by donors of contributions to be made to the fund.

It appears from your letter that the sole purpose for which the B. M. Baruch Memorial Fund has been created is the erection of an emplacement and a bust of Mr. Baruch which will be located in the Baruch housing project which is being constructed on the east side of New York City. It is contemplated that approximately \$20,000 will be raised for this purpose. You express the opinion that the purpose is educational.

Section 23(o) and (q) of the Internal Revenue Code provides, among other things, for the deduction of contributions made to organizations organized and operated exclusively for educational purposes. It has been the consistent position of the Bureau of Internal Revenue, however, that contributions made to an organization created and operated exclusively for the purpose of erecting and maintaining monuments or other like materials are not allowable deductions.

In the event it develops that the fund has broader purposes than you indicate and that it contemplates a wider range of activities which are religious, charitable, scientific, literary or educational in character, it is suggested that the enclosed exemption application, Form 1023, for exemption under section 101(6) of the Code be executed and filed with the Collector of Internal Revenue for your District as soon as the fund has been operated for a sufficient period to indicate the nature of its activities, in general a period of 12 months. Section 101(6) is the exemption section corresponding to section 23(o) and (q) relating to deductions. There should be attached to the application for exemption a classified statement showing receipts and disbursements during the year and a statement of assets and liabilities as of the end of the year; a copy of the articles of incorporation, if incorporated, or if not incorporated, a copy of the constitution, articles of association, declaration of trust, or other document setting forth the aims and purposes of the fund and a copy of the by-laws or other similar code of regulations.

Section 23 (o) and (q) of the Code also allows as deductions contributions to or for the use of the United States, any state, territory, or any political subdivision thereof. If the statue when erected

will become the property of an instrumentality of the United States or of a state or any political subdivision thereof, it is suggested that further information bearing on this point be submitted to the Commissioner of Internal Revenue.

Very truly yours,

(Signed) E. H. Foley

Under Secretary of the Treasury

Mr. Herbert Bayard Swope
745 Fifth Avenue
New York 22, New York

Enclosures: (1)

*CC to Mrs Mary G. Kelly
Room 3330
Treasury Bldg*