

The Jacob Engle Foundation, Inc.
P.O. Box 1136
Upland, CA 91786

EIN: 23-7231354

Person to Contact:
Mr. S. Copeland
Telephone Number:
(202) 566-4185
Refer Reply to:
OP:E:EP:T:3
Date:

25 MAR 1983

Gentlemen:

In letters dated April 8, 1982, and February 26, 1983, your authorized representative requested a written notice of approval that The Jacob Engle Foundation, Inc., may act as a passive trustee or custodian of plans benefiting owner-employees (Keogh plans) and Individual Retirement Accounts (IRAs) as provided in section 1.401-12(n) of the Income Tax Regulations.

Sections 401(d)(1) and 408(a)(2) of the Internal Revenue Code, as amended by the Employee Retirement Income Security Act of 1974 (ERISA), require a trustee or custodian of Keogh plans and IRAs to be a bank or such other person who demonstrates to the satisfaction of the Commissioner that he will administer such trusts in accordance with the requirements of sections 401 and 408, respectively.

Additionally, section 401(f) of the Code provides that a custodial account shall be treated as a qualified trust under this section if such custodial account would, except for the fact it is not a trust, constitute a qualified trust under this section and the custodian is a bank (as defined in section 401(d)(1)) or other person who demonstrates to the satisfaction of the Commissioner that the manner in which such other plan will hold the assets will be consistent with the requirements of section 401 of the Code. Section 408(h) provides similar rules for custodians of IRAs.

Section 1.401-12(n) of the regulations provides that such a person must file a written application with the Commissioner, demonstrating as set forth in that section, his ability to act as trustee or custodian of Keogh plans and IRAs.

We have concluded from all the representations made in the application that The Jacob Engle Foundation, Inc., meets the requirements of section 1.401-12(n) of the regulations and, therefore, is approved to act as a passive trustee or custodian for Keogh plans and IRAs.

This letter authorizes The Jacob Engle Foundation, Inc., to act only as a passive trustee or custodian within the meaning of section 1.401-12(n) of the regulations; that is, it is authorized only to acquire and hold particular investments specified by the custodial or trust instrument. It may not act as trustee or custodian if under the written trust or custodial instrument it has discretion to direct investment of trust or custodial funds or any other aspects of the business administration of the trust or custodial account.

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The Jacob Engle Foundation, Inc.

This letter, while authorizing The Jacob Engle Foundation, Inc., to act as a passive trustee or custodian within the meaning of section 1.401-12(n)(7) of the regulations, does not authorize it to pool accounts in a common investment fund within the meaning of section 1.401-12(n)(6)(vi) of the regulations. The Jacob Engle Foundation, Inc., may not act as trustee or custodian unless it undertakes to act only under trust and custodial instruments which contain a provision to the effect that the employer is to substitute another trustee or custodian upon notification by the Commissioner that such substitution is required because the specified trustee or custodian has failed to comply with the requirements of such regulations or is not keeping such records, or making such returns, or rendering such statements, as are required by forms or regulations.

The Jacob Engle Foundation, Inc., is required to notify the Commissioner of Internal Revenue, Attn: OP:E:EP, Internal Revenue Service, Washington, D.C. 20224, in writing, of any change which affects the continuing accuracy of any representation made in its application required by section 1.401-12(n) of the regulations.

Furthermore, the continued approval of its application is contingent upon its continued satisfaction of the criteria set forth in section 1.401-12(n) of the regulations.

This letter constitutes a determination as to whether The Jacob Engle Foundation, Inc., may act as trustee under section 401(d)(1) of the Code and does not bear upon its capacity to act as trustee or custodian under any other applicable law.

In accordance with the power of attorney on file in this office, a copy of this letter is being sent to your authorized representative.

Sincerely yours,

William T. Allen

William T. Allen
Chief, Employee Plans
Technical Branch

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