



## Robert W. Wood

THE TAX LAWYER

---

TAXES 5/16/2016

### If Clinton Foundation Helped Hillary And Bill's Friends, So What?

For all the good that the Bill, Hillary and Chelsea Clinton Foundation has done, [reportedly raising \\$2 billion](#), the allegations of inappropriate incentives and paybacks will not seem to go away. For example, the Clinton Global Initiative is supposed to help solve the world's problems, but it also helps Friends of the Clintons in ways that are being probed. The most recent revelation is that the Clinton Foundation [arranged a \\$2M pledge to a firm owned by Bill's 'friend.'](#) It could even rekindle salacious talk, in addition to worries about the nature of Clinton charitable dealings.

It may be explainable, but was it truly arms' length and devoid of private inurement? On one level, it hardly seems surprising that the [Clinton Foundation aided Clinton friends](#). Inevitably, though, it raises questions about benefits and trade-offs, including any the Clintons themselves may have received. The law is very clear that charitable organizations with public charity tax exemptions must benefit the public interest. In fact, the law requires the charity to operate *exclusively* for charitable purposes. Axiomatically, a charity cannot benefit the founders or other private parties. New allegations suggest that Energy Pioneer Solutions and its Clinton-friendly owners may have gotten more than they should have.



It might appear that the Clintons have played the charity game better than anyone in a generation, with money, power and influence. They may even have selected which monies they want taxed to themselves, and which to 'assign' to their charity. It is not clear exactly how much they have personally benefited, and not just with private travel and other perks. The IRS calls it private inurement when private parties (especially founders) receive benefits that should be treated as income. As with that private email server, the line between personal benefit and the public can blur.

[Even the New York Times has reported](#) on the Foundation's unsettling handling of speeches. For example, former President Clinton repeatedly turned down Czech model Petra Nemcova's Happy Hearts Fund event before she was prompted to offer the foundation \$500,000 for appearing. This kind of [cash deal has been called 'distasteful.'](#) And there are far bigger speech irregularities. The Washington Post [reported](#) the long list of Clinton speeches with fees ranging from \$10,000 to \$1 million. Belatedly, the Foundation later provided [a list of speeches](#), pledging continued updates.

The Republican National Committee has even asked the [IRS to audit the charity's finances](#) over failing to amend and failing to report donations from foreign governments. It's a little confusing, like having multiple email devices. Upon becoming Secretary of State, Mrs. Clinton promised that the Foundation would stop accepting donations from foreign governments. Thus, extensive donations by foreign governments while Mrs. Clinton was Secretary of State are especially hard to explain. The Foundation downplayed the errors,

noting that the dollars from government sources were noted in the organization's annual audited financial reports posted on its website. Not true, it turned out.

There was an ethics agreement signed with the Obama administration in 2008 to limit such contributions. House Republicans formally asked the IRS to review whether the Clinton Foundation is complying with the rules governing its tax-exempt status. Lois Lerner ran the tax exempt organizations wing of the IRS, but she evidently focused on what she thought were bad *conservative* causes.

Perhaps it is no wonder that many other charities seem to be going for the gusto too. Of course, the Clintons have still not defined [how they decide to designate](#) speaking fees as income or charity work. For tax purposes, who should be treated as the recipient of that money? Mrs. Clinton's financial disclosure forms show that she [reported](#) personal income of more than \$11 million for 51 speeches in 13 months. The [list](#) shows the Clintons turning over \$12 million to \$26 million. Even charities that are as big and powerful as the Clinton Foundation may need some cleaning up. Late last year, [Republicans asked the IRS to audit the Clinton Foundation](#). But that seems more than a long shot. On the other hand, perhaps the [hearings to impeach IRS Commissioner](#) might have an impact, eventually?

*For alerts to future tax articles, email me at [Wood@WoodLLP.com](mailto:Wood@WoodLLP.com). This discussion is not legal advice.*

---

This article is available online at:

2016 Forbes.com LLC™ All Rights Reserved