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**Department of the Treasury**

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Date:  
July 27, 2001

LEGEND

Central Funds =

Trust =

Advisor =

Distributor =

State =

m =

n =

Dear:

This is in response to a request for ruling dated April 4, 2001, and subsequent correspondence, you submitted on behalf of the Central Funds, as their authorized representative. The ruling requested involves the continued qualification of certain dividends for the dividends-paid deduction under §§ 561 and 852 of the Internal Revenue Code.

**FACTS**

Trust is organized as a State business trust and is registered as an open-end management investment company under the Investment Company Act of 1940, 15 U.S.C. § 80a-1, et seq., as amended (the 1940 Act). Trust also is a "series company" under Rule 18f-2 of the 1940 Act with multiple portfolio series outstanding, including all of the Central Funds. Each Central Fund has been and will continue to be operated in a manner intended to qualify it as a regulated investment company (RIC) under § 851 and will distribute all or substantially all of its income to avoid being subject to tax under § 852. Each Central Fund is treated as a separate corporation under § 851(g) for purposes of the Code (except with respect to the definitional requirement of § 851(a)).

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Central Funds and certain other funds that are also portfolio series of Trust (along with Central Funds, each a "Fund") may each use their respective cash balances that have not been invested in portfolio securities to purchase shares of one or more of the Central Funds (purchasing fund, each a "Participating Fund"). Such an investment may not exceed m% of the Participating Fund's total assets.

The service providers for each of the Participating Funds will be the same as the service providers for each of the Central Funds. Advisor serves as the investor adviser, transfer agent, and custodian for each of the Funds. Distributor serves as the distributor for the Funds.

Trust has adopted a shareholder servicing and distribution plan pursuant to Rule 12b-1 under the 1940 Act (Rule 12b-1 Plan). Each of the Funds has adopted the same Rule 12b-1 Plan which provides that no Fund may bear expenses pursuant the Rule 12b-1 Plan in the aggregate in excess of n% per annum of the average net assets of such Fund.

Advisor proposes to waive its advisory fee for each Participating Fund in an amount equal to the amount of any distribution and/or service fee that such Participating Fund incurs under the Rule 12b-1 Plan in connection with its investment in a Central Fund.

Each Central Fund has only one class of shares, and no separate class of shares will be created for shares purchased by a Participating Fund. All distributions to shareholders of a Central Fund will be made pro rata to all shareholders of such Central Fund based on the net asset value of shares owned, including any Participating Fund owning shares of the Central Fund. Similarly, only one class of shares will be offered by each Participating Fund. All distributions made by a Participating Fund will be made pro rata to all shareholders of such Participating Fund based on the net asset value of shares owned, and any Rule 12b-1 Plan expenses charged to a Participating Fund will be borne pro rata by all shareholders of such Participating Fund.

In addition to the various expenses described above that will be charged to the Funds (such as transfer agency, advisory, custody and Rule 12b-1 Plan expenses), each Fund will be allocated those other expenses that are directly attributable to a particular Fund, including certain registration, legal, and audit and accounting fees. Other fixed expenses of Trust that are not attributable to a particular Fund, such as trustees' fees and certain other legal, registration, audit and accounting fees,

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will be allocated pro rata among the Funds based upon the relative net assets of all Funds.

#### LAW AND ANALYSIS

Section 851(a) defines a RIC, in part, as a domestic corporation registered under the 1940 Act as a management company.

Section 851(b) limits the definition of a RIC to a corporation meeting certain election, gross income, and diversification requirements.

Section 851(g) provides a special rule for a RIC having more than one fund. This provision treats each fund as a separate corporation for all purposes of the Code, other than the definitional requirement of § 851(a).

A corporation that is a RIC within the meaning of § 851 and that is taxable under subchapter M, part I, pays tax on its investment company taxable income under § 852(b)(2) and on the excess, if any, of its net capital gain over its deduction for dividends paid, determined with reference to capital gain dividends only under § 852(b)(3).

Section 852(a) provides that a RIC is not taxable under subchapter M, part I, unless its deduction for dividends paid (as that term is defined in section 561(a) with certain modifications) for the taxable year equals or exceeds a specified portion of its taxable income (with certain adjustments) and its net tax-exempt interest income.

Section 561(a) defines the deduction for dividends paid, for purposes of § 852, to include dividends paid during the taxable year.

Section 561(b) applies the rules of § 562 to determine which dividends are eligible for the deduction for dividends paid under § 561(a).

Section 562(a) states that the term "dividend," except as otherwise provided, includes only dividends described in § 316 (which provides a definition of dividends for purposes of corporate distributions).

Section 316(a) defines the term "dividend" as any distribution of property made by a corporation to its shareholders (1) out of its earnings and profits (E & P) accumulated after February 28, 1913, or (2) out of its E & P of the taxable year (computed as of the close of the taxable year without diminution by reason of any distributions made during the taxable year), without regard to the amount of the E & P at the time the distribution was made.

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Section 562(c) provides that the amount of any distribution shall not be considered as a dividend for purposes of computing the dividends paid deduction under § 561 unless the distribution is pro rata, does not prefer any shares of stock of a class over other shares of stock of that same class, and does not prefer one class of stock over another class except to the extent that one class is entitled (without reference to waivers of their rights by shareholders) to be preferred.

Each Central Fund and each Participating Fund has one class of shares. This will not change. Waiver of the advisory fee as proposed and as described above will affect only shares of the Participating Funds. Each Central Fund is treated as a separate corporation pursuant to § 851(g). Therefore, waiver of the advisory fee will not affect distributions made by a Central Fund to its shareholders, some of which may be Participating Funds.

#### CONCLUSION

Advisor's waiver of its advisory fee for the Participating Funds as described in this ruling will have no effect on whether dividends paid by each of the Central Funds will be eligible for the deduction for dividends paid under §§ 561 and 852.

Except as specifically ruled upon above, no opinion is expressed or implied regarding the federal tax aspects of this transaction.

This ruling is directed only to the Central Funds. Section 6110(k)(3) provides that it may not be used or cited as precedent.

A copy of this letter should be attached to the federal income tax return of each Central Fund for each taxable year it distributes dividends to Participating Funds and Advisor waives a portion of its advisory fee to the Participating Fund as described in this ruling.

Sincerely yours,  
ALVIN J. KRAFT  
Chief, Branch 1  
Office of Associate Chief Counsel  
(Financial Institutions & Products)

Enclosure:

Copy of this letter  
Copy for § 6110 purposes

cc: