

“(D) The source of any distributions made under a plan which makes an election under this paragraph to participants and beneficiaries residing outside of the United States shall be determined, for purposes of subchapter N of chapter 1 of the Internal Revenue Code of 1986 by the Secretary of the Treasury in accordance with regulations prescribed by him. For purposes of this subparagraph the United States means the United States as defined in section 7701(a)(9) of the Internal Revenue Code of 1986.”

EXCHANGES FOR SALE OF POULTRY

Pub. L. 89-44, title VIII, §811, June 21, 1965, 79 Stat. 169, provided that certain corporations, associations, or organizations organized and operated exclusively for the purpose of providing an exchange for the sale of poultry growers of a particular locality shall be treated for purposes of this title as an exempt organization and that such exemption shall apply to taxable years beginning after Dec. 31, 1953, and ending after Aug. 16, 1954, which begin before Jan. 1, 1966.

§ 502. Feeder organizations

(a) General rule

An organization operated for the primary purpose of carrying on a trade or business for profit shall not be exempt from taxation under section 501 on the ground that all of its profits are payable to one or more organizations exempt from taxation under section 501.

(b) Special rule

For purposes of this section, the term “trade or business” shall not include—

- (1) the deriving of rents which would be excluded under section 512(b)(3), if section 512 applied to the organization,
- (2) any trade or business in which substantially all the work in carrying on such trade or business is performed for the organization without compensation, or
- (3) any trade or business which is the selling of merchandise, substantially all of which has been received by the organization as gifts or contributions.

(Aug. 16, 1954, ch. 736, 68A Stat. 166; Pub. L. 91-172, title I, §121(b)(7), Dec. 30, 1969, 83 Stat. 542.)

AMENDMENTS

1969—Pub. L. 91-172 redesignated first sentence of existing provisions as subsec. (a), and substantial portion of second sentence as subsec. (b)(1), and, in subsec. (b)(1) as so redesignated, inserted reference to section 512 of this title, and added pars. (2) and (3).

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable to taxable years beginning after Dec. 31, 1969, see section 121(g) of Pub. L. 91-172, set out as a note under section 511 of this title.

§ 503. Requirements for exemption

(a) Denial of exemption to organizations engaged in prohibited transactions

(1) General rule

(A) An organization described in section 501(c)(17) shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction after December 31, 1959.

(B) An organization described in section 401(a) which is referred to in section 4975(g) (2)

or (3) shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction after March 1, 1954.

(C) An organization described in section 501(c)(18) shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction after December 31, 1969.

(2) Taxable years affected

An organization described in section 501(c)(17) or (18) or paragraph (1)(B) shall be denied exemption from taxation under section 501(a) by reason of paragraph (1) only for taxable years after the taxable year during which it is notified by the Secretary that it has engaged in a prohibited transaction, unless such organization entered into such prohibited transaction with the purpose of diverting corpus or income of the organization from its exempt purposes, and such transaction involved a substantial part of the corpus or income of such organization.

(b) Prohibited transactions

For purposes of this section, the term “prohibited transaction” means any transaction in which an organization subject to the provisions of this section—

- (1) lends any part of its income or corpus, without the receipt of adequate security and a reasonable rate of interest, to;
- (2) pays any compensation, in excess of a reasonable allowance for salaries or other compensation for personal services actually rendered, to;
- (3) makes any part of its services available on a preferential basis to;
- (4) makes any substantial purchase of securities or any other property, for more than adequate consideration in money or money's worth, from;
- (5) sells any substantial part of its securities or other property, for less than an adequate consideration in money or money's worth, to; or
- (6) engages in any other transaction which results in a substantial diversion of its income or corpus to;

the creator of such organization (if a trust); a person who has made a substantial contribution to such organization; a member of the family (as defined in section 267(c)(4)) of an individual who is the creator of such trust or who has made a substantial contribution to such organization; or a corporation controlled by such creator or person through the ownership, directly or indirectly, of 50 percent or more of the total combined voting power of all classes of stock entitled to vote or 50 percent or more of the total value of shares of all classes of stock of the corporation.

(c) Future status of organizations denied exemption

Any organization described in section 501(c)(17) or (18) or subsection (a)(1)(B) which is denied exemption under section 501(a) by reason of subsection (a) of this section, with respect to any taxable year following the taxable year in which notice of denial of exemption was received, may, under regulations prescribed by the Secretary, file claim for exemption, and if the Secretary,

pursuant to such regulations, is satisfied that such organization will not knowingly again engage in a prohibited transaction, such organization shall be exempt with respect to taxable years after the year in which such claim is filed.

[(d) Repealed. Pub. L. 101-508, title XI, § 11801(a)(22), Nov. 5, 1990, 104 Stat. 1388-521]

(e) Special rules

For purposes of subsection (b)(1), a bond, debenture, note, or certificate or other evidence of indebtedness (hereinafter in this subsection referred to as "obligation") shall not be treated as a loan made without the receipt of adequate security if—

(1) such obligation is acquired—

(A) on the market, either (i) at the price of the obligation prevailing on a national securities exchange which is registered with the Securities and Exchange Commission, or (ii) if the obligation is not traded on such a national securities exchange, at a price not less favorable to the trust than the offering price for the obligation as established by current bid and asked prices quoted by persons independent of the issuer;

(B) from an underwriter, at a price (i) not in excess of the public offering price for the obligation as set forth in a prospectus or offering circular filed with the Securities and Exchange Commission, and (ii) at which a substantial portion of the same issue is acquired by persons independent of the issuer; or

(C) directly from the issuer, at a price not less favorable to the trust than the price paid currently for a substantial portion of the same issue by persons independent of the issuer;

(2) immediately following acquisition of such obligation—

(A) not more than 25 percent of the aggregate amount of obligations issued in such issue and outstanding at the time of acquisition is held by the trust, and

(B) at least 50 percent of the aggregate amount referred to in subparagraph (A) is held by persons independent of the issuer; and

(3) immediately following acquisition of the obligation, not more than 25 percent of the assets of the trust is invested in obligations of persons described in subsection (b).

(f) Loans with respect to which employers are prohibited from pledging certain assets

Subsection (b)(1) shall not apply to a loan made by a trust described in section 401(a) to the employer (or to a renewal of such a loan or, if the loan is repayable upon demand, to a continuation of such a loan) if the loan bears a reasonable rate of interest, and if (in the case of a making or renewal)—

(1) the employer is prohibited (at the time of such making or renewal) by any law of the United States or regulation thereunder from directly or indirectly pledging, as security for such a loan, a particular class or classes of his assets the value of which (at such time) rep-

resents more than one-half of the value of all his assets;

(2) the making or renewal, as the case may be, is approved in writing as an investment which is consistent with the exempt purposes of the trust by a trustee who is independent of the employer, and no other such trustee had previously refused to give such written approval; and

(3) immediately following the making or renewal, as the case may be, the aggregate amount loaned by the trust to the employer, without the receipt of adequate security, does not exceed 25 percent of the value of all the assets of the trust.

For purposes of paragraph (2), the term "trustee" means, with respect to any trust for which there is more than one trustee who is independent of the employer, a majority of such independent trustees. For purposes of paragraph (3), the determination as to whether any amount loaned by the trust to the employer is loaned without the receipt of adequate security shall be made without regard to subsection (e).

(Aug. 16, 1954, ch. 736, 68A Stat. 166; Pub. L. 85-866, title I, § 30(a), (b), Sept. 2, 1958, 72 Stat. 1629, 1630; Pub. L. 86-667, § 2, July 14, 1960, 74 Stat. 535; Pub. L. 87-792, § 6, Oct. 10, 1962, 76 Stat. 827; Pub. L. 91-172, title I, §§ 101(j)(7)-(14), 121(b)(6)(B), Dec. 30, 1969, 83 Stat. 527, 542; Pub. L. 93-406, title II, § 2003(b), Sept. 2, 1974, 88 Stat. 978; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 101-508, title XI, § 11801(a)(22), Nov. 5, 1990, 104 Stat. 1388-521.)

AMENDMENTS

1990—Subsec. (d). Pub. L. 101-508 struck out subsec. (d) "Special rule for loans" which read as follows: "For purposes of the application of subsection (b)(1), in the case of a loan by a trust described in section 401(a), the following rules shall apply with respect to a loan made before March 1, 1954, which would constitute a prohibited transaction if made on or after March 1, 1954:

"(1) If any part of the loan is repayable prior to December 31, 1955, the renewal of such part of the loan for a period not extending beyond December 31, 1955, on the same terms, shall not be considered a prohibited transaction.

"(2) If the loan is repayable on demand, the continuation of the loan without the receipt of adequate security and a reasonable rate of interest beyond December 31, 1955, shall be considered a prohibited transaction."

1976—Subsecs. (a)(2), (c). Pub. L. 94-455 struck out "or his delegate" after "Secretary".

1974—Subsec. (a)(1)(A). Pub. L. 93-406, § 2003(b)(1), substituted "section 501(c)(17)" for "section 501(c)(17) or (18)".

Subsec. (a)(1)(B). Pub. L. 93-406, § 2003(b)(2), inserted "which is referred to in section 4975(g)(2) or (3)".

Subsec. (a)(2). Pub. L. 93-406, § 2003(b)(3), substituted "or paragraph (1)(B)" for "or section 401".

Subsec. (c). Pub. L. 93-406, § 2003(b)(4), substituted "or subsection (a)(1)(B)" for "or section 401".

Subsec. (g). Pub. L. 93-406, § 2003(b)(5), struck out subsec. (g) which covered trusts benefiting certain owner-employees.

1969—Subsec. (a)(1)(A). Pub. L. 91-172, §§ 101(j)(7), 121(b)(6)(B)(ii), redesignated subpar. (B) as (A) and inserted reference to section 501(c)(18). Former subpar. (A), referring to organizations described in section 501(c)(3) and to prohibited transactions engaged in after July 1, 1950, was struck out.

Subsec. (a)(1)(B). Pub. L. 91-172, § 101(j)(7), redesignated subpar. (C) as (B). Former subpar. (B), referring

to organizations described in section 501(c)(17) was amended by addition of a reference to section 501(c)(18), and redesignated as subpar. (A).

Subsec. (a)(1)(C). Pub. L. 91-172, §§101(j)(7), 121(b)(6)(B)(i), added subpar. (C). Former subpar. (C), dealing with organizations described in section 401(a) and with prohibited transactions engaged in after Mar. 1, 1954, was redesignated as subpar. (B).

Subsec. (a)(2). Pub. L. 91-172, §§101(j)(8), 121(b)(6)(B)(ii), struck out reference to organizations described in section 501(c)(3), and inserted references to organizations described in section 501(c)(18).

Subsec. (b). Pub. L. 91-172, §101(j)(14), redesignated subsec. (c) as (b). Former subsec. (b), setting out the organizations to which section applied, was struck out.

Subsec. (c). Pub. L. 91-172, §§101(j)(9), (14), 121(b)(6)(B)(ii), redesignated subsec. (d) as (c), struck out reference to organizations described in section 501(c)(3), and inserted reference to organizations described in section 501(c)(17). Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 91-172, §101(j)(10), (14), redesignated subsec. (g) as (d) and substituted "subsection (b)(1)" for "subsection (c)(1)." Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 91-172, §101(j)(11), (14), redesignated subsec. (h) as (e), modified heading to read: "Special rules", substituted "subsection (b)(1)" for "subsection (c)(1)" in text preceding par. (1) and in par. (3), and in text preceding par. (1) struck out "acquired by a trust described in section 401(a) or section 501(c)(17)". Former subsec. (e), covering the disallowance of certain charitable deductions, was struck out.

Subsec. (f). Pub. L. 91-172, §101(j)(12), (14), redesignated subsec. (i) as (f) and substituted "Subsection (b)(1)" for "Subsection (c)(1)" and "subsection (e)" for "subsection (h)". Former subsec. (f), defining "gift or bequest", was struck out.

Subsec. (g). Pub. L. 91-172, §101(j)(13), (14), redesignated subsec. (j) as (g) and substituted "subsection (b)" for "subsection (c)" in par. (1). Former subsec. (g) redesignated (d).

Subsecs. (h) to (j). Pub. L. 91-172, §101(j)(14), redesignated subsecs. (h), (i), and (j) as (e), (f), and (g), respectively. Former subsecs. (e) and (f) were struck out and former subsec. (g) was redesignated (d).

1962—Subsec. (j). Pub. L. 87-792 added subsec. (j).

1960—Subsec. (a)(1). Pub. L. 86-667, §2(a)(1), denied exemption to an organization described in section 501(c)(17) if it has engaged in a prohibited transaction after Dec. 31, 1959.

Subsecs. (a)(2), (b), (d). Pub. L. 86-667, §2(a)(2), (b), (c), included organizations described in section 501(c)(17).

Subsec. (h). Pub. L. 86-667, §2(d), included trusts described in section 501(c)(17).

1958—Subsec. (h). Pub. L. 85-866, §30(a), added subsec. (h).

Subsec. (i). Pub. L. 85-866, §30(b), added subsec. (i).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 effective Jan. 1, 1975, but with provision for an election to be exercised by an organization so as to constitute a savings clause with reference to the amendment, see section 2003(c) of Pub. L. 93-406, set out as an Effective Date; Savings Provisions note under section 4975 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 101(j)(7)-(14) of Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

Amendment by section 121(b)(6)(B) of Pub. L. 91-172 applicable to taxable years beginning after Dec. 31, 1969, see section 121(g) of Pub. L. 91-172, set out as a note under section 511 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-792 applicable to taxable years beginning after Dec. 31, 1962, see section 8 of Pub. L. 87-792, set out as a note under section 22 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-667 applicable to taxable years beginning after Dec. 31, 1959, and in the case of loans, the amendments to this section made by Pub. L. 86-667 are applicable only to loans made, renewed, or continued after Dec. 31, 1959, see section 6 of Pub. L. 86-667, set out as a note under section 501 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 30(c) of Pub. L. 85-866, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) [amending this section] shall apply with respect to taxable years ending after March 15, 1956. The amendment made by subsection (b) [amending this section] shall apply with respect to taxable years ending after the date of the enactment of this Act [Sept. 2, 1958], but only with respect to periods after such date.

"(2) EXCEPTIONS.—Nothing in subsection (a) [amending this section] shall be construed to make any transaction a prohibited transaction which, under announcements of the Internal Revenue Service made with respect to section 503(c)(1) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] before the date of the enactment of this Act [Sept. 2, 1958], would not constitute a prohibited transaction. In the case of any bond, debenture, note, or certificate or other evidence of indebtedness acquired before the date of the enactment of this Act [Sept. 2, 1958], by a trust described in section 401(a) of such Code which is held on such date, paragraphs (2) and (3) of section 503(h) of such Code shall be treated as satisfied if such requirements would have been satisfied if such obligation had been acquired on such date of enactment [Sept. 2, 1958]."

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

§ 504. Status after organization ceases to qualify for exemption under section 501(c)(3) because of substantial lobbying or because of political activities

(a) General rule

An organization which—

(1) was exempt (or was determined by the Secretary to be exempt) from taxation under section 501(a) by reason of being an organization described in section 501(c)(3), and

(2) is not an organization described in section 501(c)(3)—

(A) by reason of carrying on propaganda, or otherwise attempting, to influence legislation, or

(B) by reason of participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for public office,

shall not at any time thereafter be treated as an organization described in section 501(c)(4).

(b) Regulations to prevent avoidance

The Secretary shall prescribe such regulations as may be necessary or appropriate to prevent the avoidance of subsection (a), including regulations relating to a direct or indirect transfer of all or part of the assets of an organization to