

Approved: 1/26/93
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION

The meeting was called to order by Chairperson Keith Roe at 9:12 a.m. on January 12, 1993 in Room 519-S of the Capitol.

All members were present except:
Representative Pottorff (excused)

Committee Staff Present:
Tom Severn, Legislative Research Department
Chris Courtwright, Legislative Research Department
Don Hayward, Revisor of Statutes
Bill Edds, Revisor of Statutes
Lenore Olson, Committee Secretary

Conferees appearing before the Committee:
None

Others attending:
See attached list.

Chris Courtwright, Kansas Legislative Research Department, presented a briefing on the property tax status of real property of not-for-profit groups under the new Classification Amendment. He said that the current not-for-profit provision is not self-executing and requires a legislative enactment to specifically define which organizations are entitled to receive the new 12 percent assessment level. Mr. Courtwright advised the Committee that if the Legislature wants to implement the new assessment rate provisions in 1993 for certain organizations, to act as soon as possible since state statutes provide that valuation notices for real property be sent to taxpayers not later than March 1 (Attachment 1).

A motion was made by Representative Glasscock, seconded by Representative Crowell, to introduce a bill as a Committee bill which would place all properties in 501 (c) 4, 501 (c) 8, and 501 (c) 10, into the 12 percent assessment level. The motion carried.

The meeting adjourned at 10:15 a.m. The next meeting is scheduled for Wednesday, January 13 at 9:00 a.m. in 519-S.

Date: 1/12/93

GUEST REGISTER

HOUSE COMMITTEE ON
ASSESSMENT AND TAXATION

| NAME | ORGANIZATION | ADDRESS | PHONE |
|-------------------|----------------------------|-----------|----------|
| Bruce Goeden | Kansas NEA | Topeka | |
| ED SCHAUB | WESTERN RESOURCES INC | " | |
| Dan HONNERS | DOB | " | |
| Kathy Sexton | DOB | | |
| Bill Wlasy | Boeing | Wichita | |
| Bill Janee | Boeing | Wichita | |
| Lynda Dunn | KDOT | Topeka | |
| Phil Wheelen | KS Medical Society | Topeka | 235-2383 |
| ALAN COBB | WICHITA HOSPITALS | WICHITA | |
| Ken Bahr | 4th Financial Corp | Topeka | |
| Ralph Snyder | Am. Legion | Topeka | 232-9915 |
| Charles Gunkler | Am Legion | Topeka | 232-9915 |
| Bob Totten | KS Contractors Association | Topeka | |
| Mike Massey | Airstock Inc | Wichita | 264-0022 |
| Mike Beant | KS LUSTK Assn. | Topeka | 273-5115 |
| Mark Tallman | KS Assoc. of School Boards | Topeka | 273-3600 |
| Martha Hodgesmith | KS Assoc. Rehab Facilities | Topeka | 235-5103 |
| Bill R. Fuller | Kansas Farm Bureau | Manhattan | 587-6000 |
| Alan Steppat | PETE Mcbill & Assoc. | Topeka | 233-4512 |
| RED BRADLEY | KS ASSOC of COUNTIES | TOPEKA | 233-2271 |
| | | | |
| | | | |

MEMORANDUM

Kansas Legislative Research Department

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January 11, 1993

To: House Committee on Taxation
From: Chris W. Courtwright, Principal Analyst
Re: Property Tax Status of Real Property of Not-for-Profit Groups
Under New Classification Amendment

History

Following the implementation of the state's first classification amendment in 1989, "all other urban and rural real property not otherwise specifically subclassified" (as residential real property, agricultural land, or vacant lots) was assessed at 30 percent. Real property owned and operated by not-for-profit organizations was among the property assessed as "all other" at 30 percent.

Fraternal benefit societies were among the first not-for-profit organizations to seek some form of relief from the Legislature, either in the form of statutory exemptions or through a reduced assessment level in a new classification amendment.

Many of the proposed classification amendments considered by the Legislature in 1990, 1991, and 1992 provided for such a reduced assessment level, including H.C.R. 5007, which was adopted by the voters at the November election and now replaces the original classification amendment as Article 11, Section 1 of the *Kansas Constitution*.

Current Not-for-Profit Provision

The new assessment level starting in tax year 1993 is 12 percent on "real property which is owned and operated by a not-for-profit organization not subject to federal income taxation pursuant to section 501 of the federal internal revenue code, AND WHICH IS SPECIFICALLY INCLUDED IN THIS SUBCLASS BY LAW." (emphasis added)

The provision is not self-executing and requires a Legislative enactment to specifically define which organizations are entitled to receive the 12 percent assessment level. Unless specifically included in this new subclass, the real property owned and operated by such groups would continue to be assessed as "all other" at 30 percent.

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House Taxation Cmte

Attachment 1

Section 501 (c)

The list of organizations which are federally tax exempt under Section 501 of the Internal Revenue Code is found in subsection (c). The current code lists 25 different types of organizations which are exempt from federal income taxation. (See attached list)

Many of the fraternal benefit societies who sought relief under the new classification amendment are chartered under Section 501 (c) (8) or 501 (c) (10). Certain women's leagues chartered under Section 501 (c) (4) also have appeared before the tax committees in recent years.

Impact On 1993 Property Tax Calendar

If the Legislature chooses to implement the reduced assessment level provision for certain organizations and desires the change to begin with tax year 1993 valuations, some timing issues could come into play. For example, K.S.A. 79-1460 (as amended by 1992 H. Sub. S.B. 8 effective on January 1, 1993) provides that valuation notices for real property be sent to taxpayers not later than March 1.

Exempt Property

Besides providing the assessment levels for all taxable property, the same section of the *Kansas Constitution* provides an exemption for all property used exclusively for state, county, municipal, literary, educational, scientific, religious, benevolent, and charitable purposes (as well as exemptions for farm machinery and equipment, livestock, certain inventories, and household goods and personal effects not used for the production of income). K.S.A. 79-201 Second also provides a statutory exemption for all property "actually and regularly used exclusively for literary, educational, scientific, religious, benevolent, or charitable purposes." Additional language in that statute clarifies that the exemption "shall not be deemed inapplicable" for property which has nonexempt uses which are minimal in scope or insubstantial in nature, or when an agency or organization charges a "reasonable" fee for admission to cultural or educational activities.

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[Sec. 501(a)]

(a) **EXEMPTION FROM TAXATION.**—An organization described in subsection (c) or (d) or section 401 (a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502 or 503.

Amendments

P. L. 91-172, § 101 (j)(3):

Amended Code Sec. 501(a) by substituting "section 502 or 503" for "section 502, 503, or 504." Effective for taxable years beginning after December 31, 1969.

[Sec. 501(b)]

(b) **TAX ON UNRELATED BUSINESS INCOME AND CERTAIN OTHER ACTIVITIES.**—An organization exempt from taxation under subsection (a) shall be subject to tax to the extent provided in parts II, III, and VI of this subchapter, but (notwithstanding parts II, III and VI of this subchapter) shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

Amendments

P. L. 93-625, § 10(c):

Amended Code Sec. 501(b) by substituting "Parts II, III, and VI" for "Parts II and III". Effective for taxable years beginning after December 31, 1974.

P. L. 91-172, § 101(j)(4):

Amended Code Sec. 501(b), effective January 1, 1970. Prior to amendment, Code Sec. 501(b) read as follows:

"(b) Tax on Unrelated Business Income.—An organization exempt from taxation under subsection (a) shall be subject to tax to the extent provided in part II of this subchapter (relating to tax on unrelated income), but, notwithstanding part II, shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes."

[Sec. 501(c)]

(c) **LIST OF EXEMPT ORGANIZATIONS.**—The following organizations are referred to in subsection (a):

(1) Any corporation organized under Act of Congress which is an instrumentality of the United States but only if such corporation—

(A) is exempt from Federal income taxes—

(i) under such Act as amended and supplemented before July 18, 1984, or

(ii) under this title without regard to any provision of law which is not contained in this title and which is not contained in a revenue Act, or

(B) is described in subsection (l).

(2) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt under this section.

(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

(4) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

(5) Labor, agricultural, or horticultural organizations.

(6) Business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Sec. 501(a)

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(7) Clubs organized for pleasure, recreation, and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder.

(8) Fraternal beneficiary societies, orders, or associations—

(A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and

(B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents.

(9) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or designated beneficiaries, if no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual.

(10) Domestic fraternal societies, orders, or associations, operating under the lodge system—

(A) the net earnings of which are devoted exclusively to religious, charitable, scientific, literary, educational, and fraternal purposes, and

(B) which do not provide for the payment of life, sick, accident, or other benefits.

(11) Teachers' retirement fund associations of a purely local character, if—

(A) no part of their net earnings inures (other than through payment of retirement benefits) to the benefit of any private shareholder or individual, and

(B) the income consists solely of amounts received from public taxation, amounts received from assessments on the teaching salaries of members, and income in respect of investments.

(12)(A) Benevolent life insurance associations of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations; but only if 85 percent or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses.

(B) In the case of a mutual or cooperative telephone company subparagraph (A) shall be applied without taking into account any income received or accrued—

(i) from a nonmember telephone company, for the performance of communication services which involve members of the mutual or cooperative telephone company,

(ii) from qualified pole rentals,

(iii) from the sale of display listings in a directory furnished to the members of the mutual or cooperative telephone company, or

(iv) from the prepayment of a loan under section 306A, 306B, or 311 of the Rural Electrification Act of 1936 (as in effect on January 1, 1987).

(C) In the case of a mutual or cooperative electric company, subparagraph (A) shall be applied without taking into account any income received or accrued—

(i) from qualified pole rentals, or

(ii) from the prepayment of a loan under section 306A, 306B, or 311 of the Rural Electrification Act of 1936 (as in effect on January 1, 1987).

(D) For purposes of this paragraph, the term "qualified pole rental" means any rental of a pole (or other structure used to support wires) if such pole (or other structure)—

(i) is used by the telephone or electric company to support one or more wires which are used by such company in providing telephone or electric services to its members, and

(ii) is used pursuant to the rental to support one or more wires (in addition to the wires described in clause (i)) for use in connection with the transmission by wire of electricity or of telephone or other communications.

For purposes of the preceding sentence, the term "rental" includes any sale of the right to use the pole (or other structure).

(13) Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for the purpose of the disposal of bodies by burial or cremation which is not permitted by its charter to engage in any business not necessarily incident to that purpose, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(14)(A) Credit unions without capital stock organized and operated for mutual purposes and without profit.

(B) Corporations or associations without capital stock organized before September 1, 1957, and operated for mutual purposes and without profit for the purpose of providing reserve funds for, and insurance of, shares or deposits in—

- (i) domestic building and loan associations,
- (ii) cooperative banks without capital stock organized and operated for mutual purposes and without profit,
- (iii) mutual savings banks not having capital stock represented by shares, or
- (iv) mutual savings banks described in section 591(b).

(C) Corporations or associations organized before September 1, 1957, and operated for mutual purposes and without profit for the purpose of providing reserve funds for associations or banks described in clause (i), (ii), or (iii) of subparagraph (B); but only if 85 percent or more of the income is attributable to providing such reserve funds and to investments. This subparagraph shall not apply to any corporation or association entitled to exemption under subparagraph (B).

(15)(A) Insurance companies or associations other than life (including interinsurers and reciprocal underwriters) if the net written premiums (or, if greater, direct written premiums) for the taxable year do not exceed \$350,000.

(B) For purposes of subparagraph (A), in determining whether any company or association is described in subparagraph (A), such company or association shall be treated as receiving during the taxable year amounts described in subparagraph (A) which are received during such year by all other companies or associations which are members of the same controlled group as the insurance company or association for which the determination is being made.

(C) For purposes of subparagraph (B), the term "controlled group" has the meaning given such term by section 831(b)(2)(B)(ii).

(16) Corporations organized by an association subject to part IV of this subchapter or members thereof, for the purpose of financing the ordinary crop operations of such members or other producers, and operated in conjunction with such association. Exemption shall not be denied any such corporation because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 percent per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the corporation, on dissolution or otherwise, beyond the fixed dividends) is owned by such association, or members thereof; nor shall exemption be denied any such corporation because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose.

(17)(A) A trust or trusts forming part of a plan providing for the payment of supplemental unemployment compensation benefits, if—

(i) under the plan, it is impossible, at any time prior to the satisfaction of all liabilities with respect to employees under the plan, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the providing of supplemental unemployment compensation benefits,

(ii) such benefits are payable to employees under a classification which is set forth in the plan and which is found by the Secretary not to be discriminatory in favor of employees who are highly compensated employees (within the meaning of section 414(q)), and

(iii) such benefits do not discriminate in favor of employees who are highly compensated employees (within the meaning of section 414(q)). A plan shall not be considered discriminatory within the meaning of this clause merely because the benefits received under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of the employees covered by the plan.

(B) In determining whether a plan meets the requirements of subparagraph (A), any benefits provided under any other plan shall not be taken into consideration, except that a plan shall not be considered discriminatory—

(i) merely because the benefits under the plan which are first determined in a nondiscriminatory manner within the meaning of subparagraph (A) are then reduced by

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any sick, accident, or unemployment compensation benefits received under State or Federal law (or reduced by a portion of such benefits if determined in a nondiscriminatory manner), or

(ii) merely because the plan provides only for employees who are not eligible to receive sick, accident, or unemployment compensation benefits under State or Federal law the same benefits (or a portion of such benefits if determined in a nondiscriminatory manner) which such employees would receive under such laws if such employees were eligible for such benefits, or

(iii) merely because the plan provides only for employees who are not eligible under another plan (which meets the requirements of subparagraph (A)) of supplemental unemployment compensation benefits provided wholly by the employer the same benefits (or a portion of such benefits if determined in a nondiscriminatory manner) which such employees would receive under such other plan if such employees were eligible under such other plan, but only if the employees eligible under both plans would make a classification which would be nondiscriminatory within the meaning of subparagraph (A).

(C) A plan shall be considered to meet the requirements of subparagraph (A) during the whole of any year of the plan if on one day in each quarter it satisfies such requirements.

(D) The term "supplemental unemployment compensation benefits" means only—

(i) benefits which are paid to an employee because of his involuntary separation from the employment of the employer (whether or not such separation is temporary) resulting directly from a reduction in force, the discontinuance of a plant or operation, or other similar conditions, and

(ii) sick and accident benefits subordinate to the benefits described in clause (i).

(E) Exemption shall not be denied under subsection (a) to any organization entitled to such exemption as an association described in paragraph (9) of this subsection merely because such organization provides for the payment of supplemental unemployment benefits (as defined in subparagraph (D)(i)).

(18) A trust or trusts created before June 25, 1959, forming part of a plan providing for the payment of benefits under a pension plan funded only by contributions of employees, if—

(A) under the plan, it is impossible, at any time prior to the satisfaction of all liabilities with respect to employees under the plan, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the providing of benefits under the plan,

(B) such benefits are payable to employees under a classification which is set forth in the plan and which is found by the Secretary not to be discriminatory in favor of employees who are highly compensated employees (within the meaning of section 414(q)),

(C) such benefits do not discriminate in favor of employees who are highly compensated employees (within the meaning of section 414(q)). A plan shall not be considered discriminatory within the meaning of this subparagraph merely because the benefits received under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of the employees covered by the plan, and

(D) in the case of a plan under which an employee may designate certain contributions as deductible—

(i) such contributions do not exceed the amount with respect to which a deduction is allowable under section 219(b)(3),

(ii) requirements similar to the requirements of section 401(k)(3)(A)(ii) are met with respect to such elective contributions,

(iii) such contributions are treated as elective deferrals for purposes of section 402(g) (other than paragraph (4) thereof), and

(iv) the requirements of section 401(a)(30) are met.

For purposes of subparagraph (D)(ii), rules similar to the rules of section 401(k)(8) shall apply. For purposes of section 4979, any excess contribution under clause (ii) shall be treated as an excess contribution under a cash or deferred arrangement.

(19) A post or organization of past or present members of the Armed Forces of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization—

[The next page is 5323-3.]

Income Tax—Exempt Organizations

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(A) organized in the United States or any of its possessions,

(B) at least 75 percent of the members of which are past or present members of the Armed Forces of the United States and substantially all of the other members of which are individuals who are cadets or are spouses, widows, or widowers of past or present members of the Armed Forces of the United States or of cadets, and

(C) no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(20) An organization or trust created or organized in the United States, the exclusive function of which is to form part of a qualified group legal services plan or plans, within the meaning of section 120. An organization or trust which receives contributions because of section 120(c)(5)(C) shall not be prevented from qualifying as an organization described in this paragraph merely because it provides legal services or indemnification against the cost of legal services unassociated with a qualified group legal services plan.

(21) A trust or trusts established in writing, created or organized in the United States, and contributed to by any person (except an insurance company) if—

(A) the purpose of such trust or trusts is exclusively—

(i) to satisfy, in whole or in part, the liability of such person for, or with respect to, claims for compensation for disability or death due to pneumoconiosis under Black Lung Acts;

(ii) to pay premiums for insurance exclusively covering liability; and

(iii) to pay administrative and other incidental expenses of such trust (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the trust and the processing of claims against such person under Black Lung Acts; and

(B) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

(i) the purposes described in subparagraph (A), or

(ii) investment (but only to the extent that the trustee determines that a portion of the assets is not currently needed for the purposes described in subparagraph (A)) in—

(I) public debt securities of the United States,

(II) obligations of a State or local government which are not in default as to principal or interest, or

(III) time or demand deposits in a bank (as defined in section 581) or an insured credit union (within the meaning of section 101(6) of the Federal Credit Union Act, 12 U.S.C. 1752(6)) located in the United States, or

(iii) payment into the Black Lung Disability Trust Fund established under section 9501, or into the general fund of the United States Treasury (other than in satisfaction of any tax or other civil or criminal liability of the person who established or contributed to the trust).

For purposes of this paragraph the term "Black Lung Acts" means part C of title IV of the Federal Mine Safety and Health Act of 1977, and any State law providing compensation for disability or death due to pneumoconiosis.

(22) A trust created or organized in the United States and established in writing by the plan sponsors of multiemployer plans if—

(A) the purpose of such trust is exclusively—

(i) to pay any amount described in section 4223(c) or (h) of the Employee Retirement Income Security Act of 1974, and

(ii) to pay reasonable and necessary administrative expenses in connection with the establishment and operation of the trust and the processing of claims against the trust,

(B) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

(i) the purposes described in subparagraph (A), or

(ii) the investment in securities, obligations, or time or demand deposits described in clause (ii) of paragraph (21)(B),

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(C) such trust meets the requirements of paragraphs (2), (3), and (4) of section 4223(b), 4223(h), or, if applicable, section 4223(c) of the Employee Retirement Income Security Act of 1974, and

(D) the trust instrument provides that, on dissolution of the trust, assets of the trust may not be paid other than to plans which have participated in the plan or, in the case of a trust established under section 4223(h) of such Act, to plans with respect to which employers have participated in the fund.

(23) Any association organized before 1880 more than 75 percent of the members of which are present or past members of the Armed Forces and a principal purpose of which is to provide insurance and other benefits to veterans or their dependents.

(24) A trust described in section 4049 of the Employee Retirement Income Security Act of 1974 (as in effect on the date of the enactment of the Single-Employer Pension Plan Amendments Act of 1986).

(25)(A) Any corporation or trust which—

- (i) has no more than 35 shareholders or beneficiaries,
- (ii) has only 1 class of stock or beneficial interest, and
- (iii) is organized for the exclusive purposes of—

(I) acquiring real property and holding title to, and collecting income from, such property, and

(II) remitting the entire amount of income from such property (less expenses) to 1 or more organizations described in subparagraph (C) which are shareholders of such corporation or beneficiaries of such trust.

For purposes of clause (iii), the term "real property" shall not include any interest as a tenant in common (or similar interest) and shall not include any indirect interest.

(B) A corporation or trust shall be described in subparagraph (A) without regard to whether the corporation or trust is organized by 1 or more organizations described in subparagraph (C).

(C) An organization is described in this subparagraph if such organization is—

(i) a qualified pension, profit sharing, or stock bonus plan that meets the requirements of section 401(a),

(ii) a governmental plan (within the meaning of section 414(d)),

(iii) the United States, any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing, or

(iv) any organization described in paragraph (3).

(D) A corporation or trust shall in no event be treated as described in subparagraph (A) unless such corporation or trust permits its shareholders or beneficiaries—

(i) to dismiss the corporation's or trust's investment adviser, following reasonable notice, upon a vote of the shareholders or beneficiaries holding a majority of interest in the corporation or trust, and

(ii) to terminate their interest in the corporation or trust by either, or both, of the following alternatives, as determined by the corporation or trust:

(I) by selling or exchanging their stock in the corporation or interest in the trust (subject to any Federal or State securities law) to any organization described in subparagraph (C) so long as the sale or exchange does not increase the number of shareholders or beneficiaries in such corporation or trust above 35, or

(II) by having their stock or interest redeemed by the corporation or trust after the shareholder or beneficiary has provided 90 days notice to such corporation or trust.

(E)(i) For purposes of this title—

(I) a corporation which is a qualified subsidiary shall not be treated as a separate corporation, and

(II) all assets, liabilities, and items of income, deduction, and credit of a qualified subsidiary shall be treated as assets, liabilities, and such items (as the case may be) of the corporation or trust described in subparagraph (A).

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(ii) For purposes of this subparagraph, the term "qualified subsidiary" means any corporation if, at all times during the period such corporation was in existence, 100 percent of the stock of such corporation is held by the corporation or trust described in subparagraph (A).

(iii) For purposes of this subtitle, if any corporation which was a qualified subsidiary ceases to meet the requirements of clause (ii), such corporation shall be treated as a new corporation acquiring all of its assets (and assuming all of its liabilities) immediately before such cessation from the corporation or trust described in subparagraph (A) in exchange for its the stock.

(F) For purposes of subparagraph (A), the term "real property" includes any personal property which is leased under, or in connection with, a lease of real property, but only if the rent attributable to such personal property (determined under the rules of section 856(d)(1)) for the taxable year does not exceed 15 percent of the total rent for the taxable year attributable to both the real and personal property leased under, or in connection with, such lease.

Amendments

P.L. 100-647, § 1011(c)(7)(D):

Act Sec. 1011(c)(7)(D) amended Code Sec. 501(c)(18)(D) by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and by inserting after clause (iii) new clause (iv) to read as above.

For the effective date of the above amendment, see Act Sec. 1011(c)(7)(E), below.

Act Sec. 1011(c)(7)(E) provides:

(E)(i) Except as provided in clause (ii), the amendments made by this paragraph shall apply to plan years beginning after December 31, 1987.

(ii) In the case of a plan described in section 1105(c)(2) of the Reform Act, the amendments made by this paragraph shall not apply to contributions made pursuant to an agreement described in such section for plan years beginning before the earlier of—

(I) the later of January 1, 1988, or the date on which the last of such agreements terminates (determined without regard to any extension thereof after February 28, 1986), or

(II) January 1, 1989.

P.L. 100-647, § 1016(a)(1)(A):

Act Sec. 1016(a)(1)(A) amended Code Sec. 501(c)(25)(A) by adding at the end thereof a new sentence to read as above.

The above amendment applies with respect to property acquired by the organization after June 10, 1987, except that such amendment shall not apply to any property acquired after June 10, 1987, pursuant to a binding written contract in effect on June 10, 1987, and at all times thereafter before such acquisition.

P.L. 100-647, § 1016(a)(2):

Act Sec. 1016(a)(2) amended Code Sec. 501(c)(25) by striking out so much of subparagraph (D) as precedes clause (i) and inserting in lieu thereof new material preceding clause (i) to read as above. Prior to amendment, the material preceding clause (i) read as follows:

(D) A corporation or trust described in this paragraph must permit its shareholders or beneficiaries—

P.L. 100-647, § 1016(a)(3)(A):

Act Sec. 1016(a)(3)(A) amended Code Sec. 501(c)(25) by adding at the end thereof new subparagraph (E) to read as above.

P.L. 100-647, § 1016(a)(3)(B):

Act Sec. 1016(a)(3)(B) amended Code Sec. 501(c)(25)(C) by inserting "or" at the end of clause (iii), by striking out ", or" at the end of clause (iv) and inserting in lieu thereof a period, and by striking out clause (v). Prior to amendment, Code Sec. 501(c)(25)(C)(v) read as follows:

(V) any organization described in this paragraph.

P.L. 100-647, § 1016(a)(4):

Act Sec. 1016(a)(4) amended Code Sec. 501(c)(25) by adding at the end thereof a new subparagraph (F) to read as above.

P.L. 100-647, § 1018(u)(14):

Act Sec. 1018(u)(14) amended Code Sec. 501(c)(23) by striking out "any association" and inserting in lieu thereof "Any association".

P.L. 100-647, § 1018(u)(15):

Act Sec. 1018(u)(15) amended Code Sec. 501(c)(1) by striking out "any corporation organized" and inserting in lieu thereof "Any corporation organized".

The above amendments are effective as if included in the provision of the Tax Reform Act of 1986 (P.L. 99-514) to which they relate.

P.L. 100-647, § 2003(a)(1):

Act Sec. 2003(a)(1) amended Code Sec. 501(c)(12)(B) by striking out "or" at the end of clause (ii), by striking out the period at the end of clause (iii), and inserting in lieu thereof ", or", and by adding at the end thereof new clause (iv) to read as above.

P.L. 100-647, § 2003(a)(2):

Act Sec. 2003(a)(2) amended Code Sec. 501(c)(12)(C) to read as above. Prior to amendment, Code Sec. 501(c)(12)(C) read as follows:

(C) In the case of a mutual or cooperative electric company, subparagraph (A) shall be applied without taking into account any income received or accrued from qualified pole rentals.

The above amendments apply to tax years ending after the date of the enactment of the Omnibus Budget Reconciliation Act of 1986.

Act Sec. 6203 provides:

Subparagraph (A) of section 501(c)(12) of the 1986 Code shall be applied without taking into account any income attributable to the cancellation of any loan originally made or guaranteed by the United States (or any agency or instrumentality thereof) if such cancellation occurs after 1986 and before 1990.

P.L. 100-203, § 10711(a)(2):

Act Sec. 10711(a)(2) amended Code Sec. 501(c)(3) by striking out "on behalf of any candidate" and inserting in lieu thereof "on behalf of (or in opposition to) any candidate".

The above amendment applies with respect to activities after the date of enactment of this Act.

P.L. 99-514, § 1024(b):

Act Sec. 1024(b) amended Code Sec. 501(c)(15) to read as above. Prior to amendment, Code Sec. 501(c)(15) read as follows:

(15) Mutual insurance companies or associations other than life or marine (including interinsurers and reciprocal