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Foundation Twist

How Families Create Organizations to Cut Their Liability for Tax

Group Gives 30-Hour Course That Teaches Its Members Way to Revamp Finances

But Prober Doubts Legality

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Dr. M. R. Saxon, a general practitioner in Aurora, Ill., took a job last year as the salaried "medical administrator" of a nonprofit foundation engaged in research and development in the fields of "health, education and welfare."

Though his salary is less than the revenues from his medical practice, Dr. Saxon concedes that taking the job was no financial sacrifice.

Why not? Dr. Saxon has continued to treat the same patients with the same equipment in the same office building as before. However, there's one big difference: Now, the nonprofit foundation collects all his fees, in turn providing him with a house, a car, a retirement plan and insurance—all tax free. Mrs. Saxon, her husband's nurse, is employed as the foundation's "assistant medical administrator." And the Saxons' four children are attending college on educational grants from the foundation.

The foundation contributes more money to charitable causes than Dr. Saxon did personally. But, the doctor says, he winds up paying "substantially" less in income taxes than he did before.

Easy as ABC

Where did a medical man pick up such sophistication in the nation's complex tax laws? From a nonprofit membership trust called Americans Building Constitutionally, or ABC. Dr. Saxon paid a $7,000 membership fee to join ABC shortly after it was formed early in 1966. (The fee was raised to $10,500 last May 1.)

An ABC trustee says the organization is "Henry Fordizing"—or mass producing—legal and tax expertise long available only to the wealthy. In little more than a year of existence, this trustee says, ABC has helped more than 800 members in nearly all 50 states establish nonprofit foundations and related trusts that lessen the income, property and estate taxes the members pay.

ABC's purpose is to "awaken the average creative person" to the benefits of "restructuring" his business and estate on a not-for-profit basis, says Robert D. Hayes, a Barrington, Ill., sales training expert and one of ABC's trustees. Wealthy families recognized early in this century, Mr. Hayes says, that the principle of tax exemption for nonprofit endeavors "provides a means of giving people a chance to benefit mankind and have certain advantages." He adds: "If it's legal, moral and ethical for them, it ought to be ethical for everyone else."

At a time when Congress is considering tighter controls over tax-exempt foundations, ABC is attracting the attention of some state and Federal officials. California and Illinois officials and a Congressional subcommittee are known to be poking into ABC's affairs.

Unanswered Questions

In California, the state attorney general has taken legal steps to try to require two ABC members, B. Douglas Fahy and Charles R. Billings, both Long Beach insurance men, to answer 33 questions about the trust's operations. The members so far have declined. Deputy attorney general Lawrence R. Tapper has told a state court that he "had reason to believe that information furnished by ABC to its members regarding the creation and use of charitable trusts and foundations was false and misleading and thereby inclined to lead its members into activities which would subject them to civil and criminal liability."

Messrs. Fahy and Billings have denied that Mr. Tapper's statement is accurate. In a reply filed in the court by an attorney for the two members, they deemed it "shocking that the citizens of the state of California should be summoned to sweeping and undefined inquisitions such as is sought by the head of the (state) department of justice." Mr. Hayes, the ABC trustee, calls the organization's activities "legal and sound." James R. Walsh Jr. of Chicago, a law school graduate who plays a big part in ABC though he has no title and isn't one of its three trustees, says the California attorney general is "whistling in the dark."

Mr. Walsh emphatically denies any suggestion that ABC's plan is a tax dodge. "I'm going to program that out of your mind," he says to an interviewer.

The consumer fraud section of the Illinois attorney general's office is investigating ABC, which has its main office in Barrington, Ill. A spokesman for the attorney general's office says the organization's activities were brought to its attention this year by the Illinois Bar Association, which had investigated the group. "We still are not sure what the plan consists of," says the spokesman.

Wright Patman, Too

A House of Representatives small business subcommittee, which has been studying private tax-exempt foundations since 1962, is about to consider ABC's operations. "I am deeply concerned about it," says Rep. Wright Patman of Texas, who is chairman of the subcommittee. H. A. Olsher, the subcommittee's director of foundation studies, has gone to Illinois to learn about ABC first hand.

A spokesman for the Internal Revenue Service says the IRS is "apprehensive" about ABC. But the IRS has taken no position toward it. "We expect an investigation of the whole organization by the IRS," says ABC's Mr. Hayes.

ABC's growing membership list is kept confidential, but it is known to include newly established foundations of some prominent professional men and women. It includes one foundation of some national repute, the Philippa Schuyler Memorial Foundation, on whose advisory board sits Henry Cabot Lodge. Officials of ABC have approached the National Farmers Organization (NFO) about the possibility of helping farmers establish tax-exempt foundations for themselves. One organization has been set up in Illinois to help foster such foundations. The NFO, however, has declined to connect itself with the ABC program.

ABC recruits members by word of mouth.