

§ 7906—Exempt Organizations

34 Am Jur 2d

... Corporations merely holding title to property and collecting and turning over income, less expenses, to an exempt organization *but only if* the income is payable to an organization taxable on its unrelated business income or to a church or a convention or association of churches.²

... Corporations, community chests, funds, or foundations and trusts organized and operated for religious, charitable, educational (including state colleges and universities), literary, scientific, testing for public safety, or prevention of cruelty to children or animals *other than* a church or a convention or association of churches.³

The tax on unrelated business income applies only to certain religious organizations. It doesn't apply to churches and conventions or associations of churches, or to religious organizations (including religious orders) carrying out the functions of a church by engaging in the ministration of sacerdotal functions and conduct of religious worship. The exemption extends to activities conducted through a separate wholly owned corporation other than one operated for the primary purpose of carrying on a trade or business for profit.⁴

Only other religious organizations that don't satisfy the above requisites are taxable on unrelated business income. It doesn't matter that they are operated under church auspices.⁵ A religious order engaged primarily in teaching rather than the ministration of sacerdotal functions was held to be taxable on income from operation of a winery.⁶

... Labor, agricultural, or horticultural organizations.⁷

... Chambers of commerce, business leagues, real estate boards, or boards of trade.⁸

... Employees' supplemental unemployment benefit trusts.⁹

... Qualified employee pension, profit sharing, or stock bonus trusts.¹⁰

... Pre-Sept. 1, '57 corporations or associations operated to provide reserve funds or both reserve funds and deposit insurance for building and loan associations and other cooperative or mutual banking institutions.¹¹

§ 7906. Feeder organizations aren't exempt. An organization isn't exempt merely because all of its profits are payable to exempt organizations. If such an organization is operated for the *primary* purpose of carrying on a trade or business for profit, it is *fully taxable*.¹ It is taxable on *all* its income including passive investment income. Since it isn't an exempt organization, its taxability isn't limited to its "unrelated business income."²

The regs provide that an organization owned by several *unrelated* exempt organizations and operated for the purpose of furnishing essential services to each of them isn't exempt and that exempt organizations aren't related merely because they engage in the same type of exempt activities.³ But the Court of Claims allowed the exemption to an organization owned by a group of unrelated hospitals for which it bought hospital supplies under jobbing arrangements with suppliers. This case was decided before the regs expressly provided that organizations aren't related merely because they engage in the same activities.⁴

The Treasury allows the exemption only if the organization is controlled by and furnishes its services solely to:

... A single tax exempt organization.
... A parent organization and one or more of its subsidiaries all of which are exempt.

... Exempt subsidiary organizations having a common parent.⁵

An organization that doesn't engage in a trade or business but *merely* holds title to property and turns over its income to an exempt organization isn't a feeder organization and is exempt, but it may be taxable on unrelated business income.⁶

1. Code Sec. 502; Regs. § 1.502-1(a).
2. *Sico Foundations v. U.S.*, 295 F. (2d) 924, reh. den. 297 F. (2d) 557.
3. Regs. § 1.502-1(b).
4. *Hospital Bureau of Standards and Supplies, Inc. v. U.S.*, 158 F. Supp. 560.
5. Regs. § 1.502-1(b).
6. Code Secs. 501(c)(2) and 511(a)(2)(A).

§ 7907. What is a feeder organization trade or business. For the purpose of the feeder organization rule, the following have been held not to be trades or businesses:

... Rental of real property, including personal property leased with the real property.¹
... Investments in oil and gas production payments.²

... Casual sales of real estate acquired by gift or for charitable purposes.³

But an organization was held to be engaged in business where it sold at wholesale and retail used clothing and household objects which were contributed to it by the public. It do-

1. Code Sec. 511.
2. Code Sec. 511(a)(2).
3. Code Sec. 511(a)(2) and (b).
4. Code Sec. 511(a)(2)(A); Regs. § 1.511-2(a)(3).
5. Regs. § 1.511-2(a)(3)(ii).
6. *De La Salle Institute v. U.S.*, 195 F. Supp. 891.
7. Code Sec. 511(a)(2).
8. Code Sec. 511(a)(2).
9. Code Sec. 511(a)(2) and (b).
10. Code Sec. 511(a)(2) and (b).
11. Code Sec. 511(a)(2)(A).