

FEDERAL TAXATION

Exempt Organizations—§ 7912

nated to an exempt charity its profits over and above amounts paid on the purchase price of its stores.⁴

1. Code Sec. 502; Regs. § 1.502-1(a).
2. Bright Star Foundation, Inc. v. Campbell, 191 F. Supp. 843, Southwest Endowment Corp. v. U.S., D.C. Tex., 5/28/58.
3. Marian Foundation, T.C. Memo. 1960-18.
4. Veteran's Foundation, 38 T.C. 66, aff'd (CA-10) 5/14/63; Veteran's Foundation v. U.S., 178 F. Supp. 234, aff'd 281 F. (2d) 912.

§ 7908. Investment activities may affect exemption. The investment of its principal and income by an otherwise exempt charitable organization in stocks, bonds, mortgages and other personal property or in real property won't ordinarily deprive the organization of its exemption. It is generally recognized that a charitable organization must invest its funds. This is only an incidental activity to its charitable purpose.¹ And even a temporary investment in merchandise (whiskey) acquired as a

dividend in kind paid on corporate stock doesn't affect its exemption.²

But the exemption may be lost if:

... Investment activities constitute a trade or business. The Ninth Circuit so held where a foundation with a vague charitable design traded in highly speculative securities which activities were conducted on its behalf by the grantor in the same manner as they had been conducted for his personal benefit before creating the foundation.³

... Investments of income are made in such a manner as to jeopardize the charitable purpose of the organization.⁴ This rule is fully discussed at § 7995.

1. Samuel Friedland Foundation v. U.S., 144 F. Supp. 74.
2. Alan Levin Foundation, 24 T.C. 15.
3. Randall Foundation v. Riddell, 244 F. (2d) 803.
4. Code Sec. 504(a)(3).

§ 7910. Religious, Charitable, Educational, and Similar Exempt Organizations.

The largest category of exempt organizations consists of those with religious, charitable, educational, literary, scientific, child and animal cruelty prevention, and testing for public safety purposes. The exemption applies only if the organization is both organized and operated exclusively for one of these exempt purposes and doesn't engage in substantial propaganda.

One group of religious organizations, namely religious and apostolic associations may be exempt even though not operated exclusively for religious purposes.

§ 7911. Requisites for exemption. Corporations, community chests, funds or foundations and other organizations are exempt if:

... they support religious, charitable, scientific, literary or educational activities, testing for public safety or the prevention of cruelty to children or animals.

... they are organized exclusively for these purposes.

... they operate exclusively for these purposes so that none of the net earnings benefits private shareholders of individuals.

... they do not in substantial ways attempt to influence legislation and do not intervene in political campaigns in support of a candidate.²

1. Code Sec. 501(c)(3).
2. Code Sec. 501(c)(3); Regs. § 1.501(c)(3)-1.

§ 7912. Organized exclusively for the exempt purposes. To be exempt as a religious, charitable, educational organization or the like, the document which sets up the organization,

whether it be a trust instrument, corporate charter, articles of association or any other written document must meet certain Treasury standards. The regs say that the documents must be drawn so that they:

• limit the organization's purposes to one or more of the exempt purposes and

• do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which are not in themselves in furtherance of one or more exempt purposes.

The instrument can express the limitation to exempt purposes by reference to the Code. For example a charitable corporation's charter may say that it is formed "for literary and scientific purposes within the meaning of Sec. 501(c)(3) of the '54 Code." Or the instrument may specify a particular activity such as the operation of an adult education center and provide the details of the method of operation. Or the instrument may simply state that the organization is being formed "for charitable purposes" and that will ordinarily be sufficient.¹

The organizing instrument cannot give the organization the power to carry on in a substantial way activities which are not in further-