

FEDERAL TAXATION

Exempt Organizations—§ 7915

the founder or his relations or heirs. In one instance the annuities paid to the founder and his wife were large in comparison to the amounts distributed to charities and so the foundation was not exempt.¹⁰ However, the obligation to make payments to private persons need not affect the organization's exemption. Some courts, distinguishing between annuities which are charges on property given to the organization and those which are not, have allowed exemption in the case of annuities which are charges on the donated property.²⁰ An annuity payable from a testamentary charitable trust to a relative of the testator was considered a legacy rather than an interest in the trust's earnings.²¹ A foundation did not lose its exemption because it was required to pay out annuities at the founder's death. Since the annuities were comparatively minor in relation to the foundation's assets, tax exemption would not primarily benefit the annuitants.²² However, the charitable organization should segregate the assets which are charged with an annuity unless the difference between the income from the assets and the annuity is relatively slight.²³

1. Rev. Rul. 66-103, IRB 1966-18, 9.
2. Rev. Rul. 66-104, IRB 1966-18, 10.
3. *Stevens Bros. Foundation, Inc. v. Com.*, 324 F. (2d) 633, cert. den. 376 U.S. 769, reh. den. 377 U.S. 920.
4. *American Institute for Economic Research v. U.S.*, 302 F. (2d) 934, cert. den. 4/22/63, reh. den. 6/3/63; Rev. Rul. 60-351, CB 1960-2, 169.
5. Code Sec. 501(c)(3).
6. *L.T.*, 2937, CB XIV-2, 123 (1935).
7. *Carter, T.C. Memo.*, 1958-166.
8. *C. F. Smith Co., T.C. Memo.*, 1954-86.
9. *Kemper Military School v. Crutchley*, 274 Fed. 125.
10. *Kenner v. Com.*, 318 F. (2d) 632.
11. *Riker v. Com.*, 244 F. (2d) 220, aff'g T.C. Memo. 1955-225, cert. den. 355 U.S. 839; *Help The Children, Inc.*, 28 T.C. 1128.
12. *Texas Trade School*, 30 T.C. 642, aff'd 272 F. (2d) 168.
13. Rev. Rul. 55-610, CB 1955-2, 262.
14. Rev. Rul. 55-231, CB 1955-1, 72.
15. *Science and Research Foundation, Inc. v. U.S.*, 181 F. Supp. 526.
16. *Home Oil Mill v. Willingham*, 68 F. Supp. 525.
17. *St. Germain Foundation*, 26 T.C. 648.
18. Rev. Rul. 56-304, CB 1956-2, 306.
19. *Scholarship Endowment Foundation v. Nicholas*, 106 F. (2d) 552, cert. den. 308 U.S. 623.
20. *Com. v. Edward Orton, Jr., Ceramic Foundation*, 173 F. (2d) 483, aff'g 9 T.C. 533; *Davenport Foundation, T.C. Memo.*, 12/24/47, aff'd 170 F. (2d) 70.
21. *Lewis v. U.S.*, 189 F. Supp. 950.
22. *Francis Edward McGillick Foundation v. Com.*, 278 F. (2d) 643, aff'g and rev'g 30 T.C. 1130.
23. *William L. Powell Foundation v. Com.*, 222 F. (2d) 68.

§ 7914. Action or propaganda organizations. A religious, charitable, etc., organization isn't exempt if, as a substantial part of its activities, it carries on propaganda, attempts to influence legislation, or participates or intervenes in any political campaign on behalf of any candidate for public office.¹ The Treasury describes an organization which carries on

any of these activities in a substantial way as an action organization and denies it exemption.² An organization enters the political arena by contacting legislators or urging the public to contact legislators in support of or in opposition to legislation, by advocating the adoption or rejection of legislation, by making statements, written or oral, for or against a candidate for public office. Legislation means action by Congress, a state legislature or a local legislative body as well as action by the public in a similar procedure.

These activities must be a substantial part of the organization's total activities in order to bar exemption. Insubstantial political activities will not disqualify the organization, nor will activities which are in furtherance of its basic exempt purpose.

In some instances it may be difficult to distinguish between an organization which aims at influencing political opinion and an educational organization. The Treasury admits that an organization which advocates a particular position may be educational provided it presents all the pertinent facts (not mere unsupported views) so that an independent judgment can be made.³ But it will deny exemption if the doctrine advocated by the organization can become effective only by the enactment of legislation.⁴

✓ *observation:* Whether an organization is an action organization must be decided in the light of all its activities and all the surrounding circumstances.

1. Code Sec. 501(c)(3).
2. Regs. § 1.501(c)(3)-1(c)(3).
3. Regs. § 1.501(c)(3)-1(d)(3)(ii).
4. Rev. Rul. 62-71, CB 1962-1, 85.

§ 7915. Charitable organizations. "Charitable" is given its generally accepted legal meaning. It includes relief of the poor, distressed or underprivileged, the advancement of religion, education or science, erecting and maintaining public buildings, monuments and works, and lessening the burdens of government. The regs also say that the term may apply to bodies that promote social welfare by easing neighborhood tensions, eliminating prejudice and discrimination, defending human and civil rights or by combating community deterioration and juvenile delinquency. The organization may advocate social reform and attempt to form public opinion on controversial issues, provided it does undertake the functions of an action organization.¹ Generally the charitable activities must benefit more than a narrow class such as a family. However, the needy employees of a particular business is a sufficiently public group.² But a trust to provide pensions for all retired employees regardless of need doesn't qualify.³