

for changing market conditions, the Secretary of the Treasury should be given regulatory authority to determine this rate on an annual basis. Based upon existing market conditions, it would appear that a reasonable income equivalent would be in the range of 3 to 3½ percent.

The income equivalent would only be applied against a foundation's investment assets.⁹ It would not be applied against assets which the foundation uses for its own charitable program. Assets which can be valued by reference to regularly available sources, such as quotations on a stock exchange or in an over-the-counter market, would be valued at their market value at the beginning of the foundation's annual accounting period. For other assets it will be necessary initially to use the value of the asset at the time it was acquired by the foundation. In the case of contributed assets, this value will be the same as the amount claimed by the donor as a contribution deduction. However with the passage of time such value is typically less than market value where the foundation continues to hold the asset. Therefore it will be necessary to revalue such assets periodically—perhaps every 5 years—and to use the value determined at such time until the next required revaluation. By using the market value as of the beginning of the year for assets which can easily be valued and a relatively constant value for all other assets, a foundation would always be able to determine well in advance of the end of its accounting period the amount which it would have to expend.

An exception for situations in which the foundation wishes to set aside its income equivalent for a definite charitable purpose which it can identify at that time should also be adopted. Such an exception would be similar to the exception suggested earlier with respect to accumulations of realized income.

Both the direct accumulation and income equivalent recommendations should apply to private nonoperating foundations which are presently in existence, as well as those created in the future. Existing organizations, however, should be permitted a reasonable period in which to adjust their investments in order to avoid having to spend corpus to satisfy the income equivalent requirement.¹⁰

It is recognized that the income equivalent proposal does not provide an adequate solution in all cases.¹¹ The fact that this proposal does not always assure that charity will receive a current benefit merely points out the need for special rules, such as those recommended in parts II(D) and III(A) of this Report, where the asset contributed to the foundation often does not generate any current income.

The two approaches described in this section are complementary and both are needed to prevent inappropriate delay in charitable benefits. These recommendations, together with those dealing with the treatment of specific types of assets, would provide a moderate and generally effective solution to the problems in this area. The combination of these approaches would impress upon the trustees of foundations the principle that fiduciaries should not ignore the present needs of charity in favor of concentrating on an increase in the size of the fund under their control merely to provide for some

⁹ The income equivalent would not be applied against assets with respect to which, under the recommendations set forth in subsequent portions of this report, the donor's contribution deduction has been postponed.

¹⁰ Provisions for existing organizations whose underlying instruments require an accumulation of current income or prohibit an invasion of corpus may be desirable.

¹¹ For example, one asset may provide enough income to completely shelter a nonincome producing asset. In such a case charity would only receive funds generated by the income producing asset. Charity would not benefit from the nonincome producing asset, even though the public has paid for the receipt of the asset through a contribution deduction.