

Since the donor has not yet conferred a clear and definite present benefit upon charity—so the argument proceeds—he has done nothing to warrant a present tax deduction. To this contention—based, as it is, upon a considerable body of experience to the effect that charity very frequently benefits little or not at all from gifts of controlled corporation stock—the suggested modification provides no answer; for the donor's continuing power over the corporation exists whether the foundation to which he gives the stock is subject to his influence or not. To limit the impact of the remedial measure to gifts to influenced foundations, then, may confine the remedy to only a part of the abuse.

The existence of these problems does not compel the conclusion that such a limitation is unworkable. After deliberation, Congress may determine that the possibilities for avoiding the definition of donor influence are not serious. A somewhat stricter definition than that used in Part II-F—perhaps restricting the donor and related parties to a smaller percentage of participation in the foundation's governing body—may reduce those possibilities significantly. Consideration of specific instances of the controlled property abuse may lead Congress to conclude that the portion of the problem to which the restricted rule would apply is the portion of major practical importance, and that the disadvantage of the broader rule—which may, concededly, defer deductions in a limited number of situations where no abuse is present—outweighs the advantage to be achieved by seeking to cover the remaining part of the problem. The controlled property rule should not, however, be restricted to gifts to influenced foundations without complete awareness of the difficulties which that restriction may entail and without clear assurance that adoption of the restriction will cause no serious impediment to the operation of the rule itself.

E. FINANCIAL TRANSACTIONS UNRELATED TO CHARITABLE FUNCTIONS

Private foundations necessarily engage in a number of financial transactions connected with the investment of their funds. However, experience has indicated that unrestricted participation by foundations in three classes of transactions which are not essential to their charitable or investment activities can produce seriously unfortunate results.

(1) *Foundation borrowing*

The great majority of private foundations appear to borrow very little money. The Treasury Department's survey of the character and value of foundation assets and liabilities has disclosed that, at the end of 1962, while foundations held assets reported to have a total book value of approximately \$10,713 million, they had total liabilities²⁷ of only \$244 million. Borrowings, in other words, accounted for less than 2½ percent of total foundation assets.

On the other hand, a limited number of private foundations have borrowed heavily, for a wide range of purposes not related to the conduct of their charitable functions.

Example 1.—In the years 1951 through 1962 the A, B, and C foundations, established and dominated by one person, borrowed

²⁷ Other than liabilities with respect to grants payable. The latter class of liabilities does not, of course, represent borrowing in any usual sense of the term.