

PART III. ADDITIONAL PROBLEMS

In the course of its review of private foundations and the tax laws which apply to them, the Treasury Department has encountered several problems which, while possessing less general significance than the problems discussed in part II of the report, are sufficiently serious to warrant remedial action. Some donors have been able to secure substantial deductions for contributing to foundations assets which produce no benefit whatever for charity. Other donors have reduced their personal taxes by accomplishing tax-free bailouts of corporate earnings to foundations or by making contributions of other property which would have generated ordinary income upon sale. A defect in the computation of the estate tax marital deduction has permitted taxpayers unjustifiable enlargements in the tax benefits of bequests to their spouses through various devices involving foundations. Proper enforcement of reporting rules has been hampered by the absence of an effective sanction for failure to file the information returns required of foundations.

This Part of the Report sets forth illustrations of these problems, analyzes them, and suggests appropriate remedies.

A. CONTRIBUTIONS OF UNPRODUCTIVE PROPERTY

The Internal Revenue Service has discovered a number of situations in which very substantial income tax deductions have been claimed for contributions to private foundations of property which does not produce income and which the foundation does not, or cannot, devote to charitable uses.

Example 1.—One taxpayer, for example, claimed a charitable deduction of \$39,500 for the gift of family jewelry to her husband's foundation. The jewelry was placed in a safe deposit box listed in the name of the foundation, and at last report it has been held there for more than 6 years.

Example 2.—Other taxpayers have secured significant tax savings by contributing paintings and other artworks to controlled foundations which do not maintain museums.

Example 3.—A company donated vacant land adjoining its plant facilities to its foundation. During the 11 years for which the foundation held the property, it produced no income whatever.

Example 4.—A man and his wife contributed the remainder interest in their personal residence to a foundation.

Difficult valuation problems frequently attend the donor's assertion of a right to a charitable deduction in these cases. More fundamental, however, is the criticism that the donor obtains a current tax advantage for a transfer which confers no concomitant benefit upon charity. The Government, in effect, pays the donor for his act; but the jewelry remains in the safe deposit box, the painting in the warehouse, and the land unused. As other portions of this report have noted, the presupposition of the tax statute is that the cost of the charitable