tions for people like Dr. Saxon. It charges a fee of $10,500, which is partially refundable if the client gets another person to take the organization's services.

For that $10,500, A.B.C. gives instructions in how to set up a nonprofit foundation. It also provides the legal expertise that a local lawyer can use to set up a foundation according to the laws of his home state. Part of A.B.C.'s counsel is that a foundation should not seek a ruling from the Internal Revenue Service approving its tax-free status. Dr. Saxon has followed that advice.

Many lawyers feel, however, that a foundation cannot legally claim tax-free status unless it has gotten such a ruling from the I.R.S. Gustave Simons, a New York attorney with considerable experience in setting up foundations, agrees with A.B.C. that a ruling isn't legally necessary, but feels that it's a practical necessity. "Without a ruling," he says, "the I.R.S. can always claim that a foundation was not in fact entitled to its tax-free status and can then assess taxes for any number of past years." Ordinarily, three years after a tax return has been filed, it can no longer be questioned by the I.R.S.

Simons has more serious reservations about foundations of the type set up by Dr. Saxon. These reservations concern the extent of fringe benefits the foundation supplies. "The tuition payments alone could cause the I.R.S. to disqualify the foundation," Simons says, "and through the foundation could reimburse a doctor for ordinary and necessary expenses, it couldn't pay for more of his house or car than he could justify as practice-connected. It's just the same as a doctor in private practice claiming all of his home and car as professional expenses without being able to back up the claims. The I.R.S. wouldn't stand for it."

The I.R.S., in fact, has said that it plans to investigate the A.B.C. foundation setup. As one I.R.S. spokesman puts it: "We're not going to let those things go unchallenged."

Simons adds, however, that while some foundations' practices may be questionable, a properly set up foundation "could be the best way to solve some M.D.s' tax problems." In many states, he says, medical care foundations may be organized by qualified groups who maintain a hospital-like facility, such as a clinic. Doctors involved could benefit from tax-free accumulation of income in a retirement fund, along with reasonable salaries and payment of bona fide expenses.

Dr. Saxon says he's not worried by the I.R.S. threat. "I'm sure that what I'm doing is permitted by law," he says. "It's the same thing, but on a smaller scale, as the Mayo Clinic. It enables me to provide for my own and my family's modest needs and then to make a contribution to society. I'd welcome the opportunity to show other doctors how to do it."

EXHIBIT NO. 16

[From the Wall Street Journal, Oct. 25, 1967]

Tribulations for Trusts: Marketer of Tax-Saving Foundations for Individuals Faces Rising Trouble

(By Byron E. Calame)

Barrington, Ill.—Troubles are mounting for American Building Constitutionally, the organization that claims to be mass-producing tax-saving foundations and trusts for hundreds of middle-income Americans.

ABC members pay $10,500 for the creation of a package of foundations and trusts that supposedly will minimize their income and estate taxes. This is usually accomplished by setting up a nonprofit foundation that takes over the individual's business (supposedly making all the income tax-free) and then hires him to operate it. There are other mechanisms for taking the ABC member's house, stocks and other assets off the tax lists.

Now, however, the legality of the tax benefits offered by ABC is under investigation by the Internal Revenue Service, a Congressional subcommittee and attorneys-general in California and Illinois. One man the various investigators are particularly interested in questioning is James R. Walsh Jr., who is generally credited with being one of the principal architects of ABC.

It has been learned that Mr. Walsh, about 50 years old, previously has been involved in legal difficulties and that apparent discrepancies exist in certain representations he has made to prospective ABC members and others about his personal background and experience with foundations and trusts.