

more employee organizations and 1 or more employers.”

Subsec. (b)(1). Pub. L. 99-514, §1851(c)(2), (3), substituted “as otherwise provided in this subsection” for “as provided in paragraph (2)” in introductory provision, and in subpar. (B) substituted “highly compensated individuals” for “highly compensated employees”.

Subsec. (b)(2). Pub. L. 99-514, §1151(g)(6), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “For purposes of paragraph (1), there may be excluded from consideration—

“(A) employees who have not completed 3 years of service,

“(B) employees who have not attained age 21,

“(C) seasonal employees or less than half-time employees,

“(D) employees not included in the plan who are included in a unit of employees covered by an agreement between employee representatives and 1 or more employers which the Secretary finds to be a collective bargaining agreement if the class of benefits involved was the subject of good faith bargaining between such employee representatives and such employer or employers, and

“(E) employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).”

Subsec. (b)(4). Pub. L. 99-514, §1151(e)(2)(B), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “For purposes of this subsection—

“(A) AGGREGATION OF PLANS.—At the election of the employer, 2 or more plans of such employer may be treated as 1 plan.

“(B) TREATMENT OF RELATED EMPLOYERS.—Rules similar to the rules of subsections (b), (c), (m), and (n) of section 414 shall apply. For purposes of the preceding sentence, section 414(n) shall be applied without regard to paragraph (5).”

Subsec. (b)(5). Pub. L. 99-514, §1114(b)(16), amended par. (5) generally. Prior to amendment, par. (5) read as follows: “For purposes of this subsection, the term ‘highly compensated individual’ has the meaning given such term by section 105(h)(5). For purposes of the preceding sentence, section 105(h)(5) shall be applied by substituting ‘10 percent’ for ‘25 percent’.”

Subsec. (b)(6). Pub. L. 99-514, §1151(j)(3), added par. (6).

Subsec. (c)(2). Pub. L. 99-514, §1899A(16), substituted “July 18, 1984” for “the date of the enactment of the Tax Reform Act of 1984”.

#### EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-16 applicable to years beginning after Dec. 31, 2001, see section 611(i)(1) of Pub. L. 107-16, set out as a note under section 415 of this title.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable, except as otherwise provided, to benefits accruing in plan years beginning after Dec. 31, 1993, see section 13212(d) of Pub. L. 103-66, set out as a note under section 401 of this title.

#### EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 203(a)(1), (2) of Pub. L. 101-140 effective as if included in section 1151 of Pub. L. 99-514, see section 203(c) of Pub. L. 101-140, set out as a note under section 79 of this title.

Section 204(d)(4) of Pub. L. 101-140 provided that: “The amendment made by subsection (c) [amending this section] shall take effect as if included in the amendment made by section 1011B(a)(32) of the Technical and Miscellaneous Revenue Act of 1988 [Pub. L. 100-647].”

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of

the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1114(b)(16) of Pub. L. 99-514 applicable to years beginning after Dec. 31, 1987, see section 1114(c)(2) of Pub. L. 99-514, set out as a note under section 414 of this title.

Amendment by section 1151(e)(2)(B), (g)(6), (j)(3) of Pub. L. 99-514 applicable, with certain qualifications and exceptions, to years beginning after Dec. 31, 1988, see section 1151(k) of Pub. L. 99-514, as amended, set out as a note under section 79 of this title.

Amendment by section 1851(c) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

#### EFFECTIVE DATE

Section 513(c) of Pub. L. 98-369, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting this section] shall apply to years beginning after December 31, 1984.

“(2) TREATMENT OF CERTAIN BENEFITS IN PAY STATUS AS OF JANUARY 1, 1985.—For purposes of determining whether a plan meets the requirements of section 505(b) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by subsection (a)), there may (at the election of the employer) be excluded from consideration all disability or severance payments payable to individuals who are in pay status as of January 1, 1985. The preceding sentence shall not apply to any payment to the extent such payment is increased by any plan amendment adopted after June 22, 1984.”

#### REGULATIONS

Secretary of the Treasury or his delegate to issue before Feb. 1, 1988, final regulations to carry out amendments made by section 1114 of Pub. L. 99-514, see section 1141 of Pub. L. 99-514, set out as a note under section 401 of this title.

#### NONENFORCEMENT OF AMENDMENT MADE BY SECTION 1151 OF PUB. L. 99-514 FOR FISCAL YEAR 1990

No monies appropriated by Pub. L. 101-136 to be used to implement or enforce section 1151 of Pub. L. 99-514 or the amendments made by such section, see section 528 of Pub. L. 101-136, set out as a note under section 89 of this title.

#### PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

#### PART II—PRIVATE FOUNDATIONS

Sec. 507. Termination of private foundation status.  
508. Special rules with respect to section 501(c)(3) organizations.  
509. Private foundation defined.

#### AMENDMENTS

1969—Pub. L. 91-172, title I, §101(a), Dec. 30, 1969, 83 Stat. 492, added part heading and analysis for part II.

**§ 507. Termination of private foundation status****(a) General rule**

Except as provided in subsection (b), the status of any organization as a private foundation shall be terminated only if—

(1) such organization notifies the Secretary (at such time and in such manner as the Secretary may by regulations prescribe) of its intent to accomplish such termination, or

(2)(A) with respect to such organization, there have been either willful repeated acts (or failures to act), or a willful and flagrant act (or failure to act), giving rise to liability for tax under chapter 42, and

(B) the Secretary notifies such organization that, by reason of subparagraph (A), such organization is liable for the tax imposed by subsection (c),

and either such organization pays the tax imposed by subsection (c) (or any portion not abated under subsection (g)) or the entire amount of such tax is abated under subsection (g).

**(b) Special rules****(1) Transfer to, or operation as, public charity**

The status as a private foundation of any organization, with respect to which there have not been either willful repeated acts (or failures to act) or a willful and flagrant act (or failure to act) giving rise to liability for tax under chapter 42, shall be terminated if—

(A) such organization distributes all of its net assets to one or more organizations described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)) each of which has been in existence and so described for a continuous period of at least 60 calendar months immediately preceding such distribution, or

(B)(i) such organization meets the requirements of paragraph (1), (2), or (3) of section 509(a) by the end of the 12-month period beginning with its first taxable year which begins after December 31, 1969, or for a continuous period of 60 calendar months beginning with the first day of any taxable year which begins after December 31, 1969,

(ii) such organization notifies the Secretary (in such manner as the Secretary may by regulations prescribe) before the commencement of such 12-month or 60-month period (or before the 90th day after the day on which regulations first prescribed under this subsection become final) that it is terminating its private foundation status, and

(iii) such organization establishes to the satisfaction of the Secretary (in such manner as the Secretary may by regulations prescribe) immediately after the expiration of such 12-month or 60-month period that such organization has complied with clause (i).

If an organization gives notice under subparagraph (B)(ii) of the commencement of a 60-month period and such organization fails to meet the requirements of paragraph (1), (2), or (3) of section 509(a) for the entire 60-month period, this part and chapter 42 shall not apply to such organization for any taxable year within such 60-month period for which it does meet such requirements.

**(2) Transferee foundations**

For purposes of this part, in the case of a transfer of assets of any private foundation to another private foundation pursuant to any liquidation, merger, redemption, recapitalization, or other adjustment, organization, or reorganization, the transferee foundation shall not be treated as a newly created organization.

**(c) Imposition of tax**

There is hereby imposed on each organization which is referred to in subsection (a) a tax equal to the lower of—

(1) the amount which the private foundation substantiates by adequate records or other corroborating evidence as the aggregate tax benefit resulting from the section 501(c)(3) status of such foundation, or

(2) the value of the net assets of such foundation.

**(d) Aggregate tax benefit****(1) In general**

For purposes of subsection (c), the aggregate tax benefit resulting from the section 501(c)(3) status of any private foundation is the sum of—

(A) the aggregate increases in tax under chapters 1, 11, and 12 (or the corresponding provisions of prior law) which would have been imposed with respect to all substantial contributors to the foundation if deductions for all contributions made by such contributors to the foundation after February 28, 1913, had been disallowed, and

(B) the aggregate increases in tax under chapter 1 (or the corresponding provisions of prior law) which would have been imposed with respect to the income of the private foundation for taxable years beginning after December 31, 1912, if (i) it had not been exempt from tax under section 501(a) (or the corresponding provisions of prior law), and (ii) in the case of a trust, deductions under section 642(c) (or the corresponding provisions of prior law) had been limited to 20 percent of the taxable income of the trust (computed without the benefit of section 642(c) but with the benefit of section 170(b)(1)(A)), and

(C) interest on the increases in tax determined under subparagraphs (A) and (B) from the first date on which each such increase would have been due and payable to the date on which the organization ceases to be a private foundation.

**(2) Substantial contributor****(A) Definition**

For purposes of paragraph (1), the term “substantial contributor” means any person who contributed or bequeathed an aggregate amount of more than \$5,000 to the private foundation, if such amount is more than 2 percent of the total contributions and bequests received by the foundation before the close of the taxable year of the foundation in which the contribution or bequest is received by the foundation from such person. In the case of a trust, the term “substantial

contributor” also means the creator of the trust.

**(B) Special rules**

For purposes of subparagraph (A)—

(i) each contribution or bequest shall be valued at fair market value on the date it was received,

(ii) in the case of a foundation which is in existence on October 9, 1969, all contributions and bequests received on or before such date shall be treated (except for purposes of clause (i)) as if received on such date,

(iii) an individual shall be treated as making all contributions and bequests made by his spouse, and

(iv) any person who is a substantial contributor on any date shall remain a substantial contributor for all subsequent periods.

**(C) Person ceases to be substantial contributor in certain cases**

**(i) In general**

A person shall cease to be treated as a substantial contributor with respect to any private foundation as of the close of any taxable year of such foundation if—

(I) during the 10-year period ending at the close of such taxable year such person (and all related persons) have not made any contribution to such private foundation,

(II) at no time during such 10-year period was such person (or any related person) a foundation manager of such private foundation, and

(III) the aggregate contributions made by such person (and related persons) are determined by the Secretary to be insignificant when compared to the aggregate amount of contributions to such foundation by one other person.

For purposes of subclause (III), appreciation on contributions while held by the foundation shall be taken into account.

**(ii) Related person**

For purposes of clause (i), the term “related person” means, with respect to any person, any other person who would be a disqualified person (within the meaning of section 4946) by reason of his relationship to such person. In the case of a contributor which is a corporation, the term also includes any officer or director of such corporation.

**(3) Regulations**

For purposes of this section, the determination as to whether and to what extent there would have been any increase in tax shall be made in accordance with regulations prescribed by the Secretary.

**(e) Value of assets**

For purposes of subsection (c), the value of the net assets shall be determined at whichever time such value is higher: (1) the first day on which action is taken by the organization which culminates in its ceasing to be a private founda-

tion, or (2) the date on which it ceases to be a private foundation.

**(f) Liability in case of transfers of assets from private foundation**

For purposes of determining liability for the tax imposed by subsection (c) in the case of assets transferred by the private foundation, such tax shall be deemed to have been imposed on the first day on which action is taken by the organization which culminates in its ceasing to be a private foundation.

**(g) Abatement of taxes**

The Secretary may abate the unpaid portion of the assessment of any tax imposed by subsection (c), or any liability in respect thereof, if—

(1) the private foundation distributes all of its net assets to one or more organizations described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)) each of which has been in existence and so described for a continuous period of at least 60 calendar months, or

(2) following the notification prescribed in section 6104(c) to the appropriate State officer, such State officer within one year notifies the Secretary, in such manner as the Secretary may by regulations prescribe, that corrective action has been initiated pursuant to State law to insure that the assets of such private foundation are preserved for such charitable or other purposes specified in section 501(c)(3) as may be ordered or approved by a court of competent jurisdiction, and upon completion of the corrective action, the Secretary receives certification from the appropriate State officer that such action has resulted in such preservation of assets.

(Added Pub. L. 91-172, title I, §101(a), Dec. 30, 1969, 83 Stat. 492; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-369, div. A, title III, §313(a), July 18, 1984, 98 Stat. 786.)

AMENDMENTS

1984—Subsec. (d)(2)(C). Pub. L. 98-369 added subpar. (C).

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 313(b) of Pub. L. 98-369 provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1984.”

EFFECTIVE DATE

Section effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as a note under section 4940 of this title.

APPLICABILITY TO DETERMINATION OF STATUS AS SUBSTANTIAL CONTRIBUTOR FOR PURPOSES OF TAXES ON SELF-DEALING OF CONTRIBUTIONS MADE PRIOR TO OCTOBER 9, 1969

Pub. L. 95-170, §3, Nov. 12, 1977, 91 Stat. 1352, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “In determining whether a person is a substantial contributor within the meaning of section 507(d)(2) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] for purposes of applying section 4941 of such Code (relating to taxes on self-dealing), contributions made before October 9, 1969, which—

“(1) were made on account of or in lieu of payments required under a lease in effect before such date, and  
“(2) were coincident with or by reason of the reduction in the required payments under such lease, shall not be taken into account. For purposes of applying section 507(d)(2)(B)(iv) of such Code, the preceding sentence shall be treated as having taken effect on January 1, 1970.”

**§ 508. Special rules with respect to section 501(c)(3) organizations**

**(a) New organizations must notify Secretary that they are applying for recognition of section 501(c)(3) status**

Except as provided in subsection (c), an organization organized after October 9, 1969, shall not be treated as an organization described in section 501(c)(3)—

(1) unless it has given notice to the Secretary in such manner as the Secretary may by regulations prescribe, that it is applying for recognition of such status, or

(2) for any period before the giving of such notice, if such notice is given after the time prescribed by the Secretary by regulations for giving notice under this subsection.

**(b) Presumption that organizations are private foundations**

Except as provided in subsection (c), any organization (including an organization in existence on October 9, 1969) which is described in section 501(c)(3) and which does not notify the Secretary, at such time and in such manner as the Secretary may by regulations prescribe, that it is not a private foundation shall be presumed to be a private foundation.

**(c) Exceptions**

**(1) Mandatory exceptions**

Subsections (a) and (b) shall not apply to—

(A) churches, their integrated auxiliaries, and conventions or associations of churches, or

(B) any organization which is not a private foundation (as defined in section 509(a)) and the gross receipts of which in each taxable year are normally not more than \$5,000.

**(2) Exceptions by regulations**

The Secretary may by regulations exempt (to the extent and subject to such conditions as may be prescribed in such regulations) from the provisions of subsection (a) or (b) or both—

(A) educational organizations described in section 170(b)(1)(A)(ii), and

(B) any other class of organizations with respect to which the Secretary determines that full compliance with the provisions of subsections (a) and (b) is not necessary to the efficient administration of the provisions of this title relating to private foundations.

**(d) Disallowance of certain charitable, etc., deductions**

**(1) Gift or bequest to organizations subject to section 507(c) tax**

No gift or bequest made to an organization upon which the tax provided by section 507(c) has been imposed shall be allowed as a deduction under section 170, 545(b)(2), 642(c), 2055,

2106(a)(2), or 2522, if such gift or bequest is made—

(A) by any person after notification is made under section 507(a), or

(B) by a substantial contributor (as defined in section 507(d)(2)) in his taxable year which includes the first day on which action is taken by such organization which culminates in the imposition of tax under section 507(c) and any subsequent taxable year.

**(2) Gift or bequest to taxable private foundation, section 4947 trust, etc.**

No gift or bequest made to an organization shall be allowed as a deduction under section 170, 545(b)(2), 642(c), 2055, 2106(a)(2), or 2522, if such gift or bequest is made—

(A) to a private foundation or a trust described in section 4947 in a taxable year for which it fails to meet the requirements of subsection (e) (determined without regard to subsection (e)(2)), or

(B) to any organization in a period for which it is not treated as an organization described in section 501(c)(3) by reason of subsection (a).

**(3) Exception**

Paragraph (1) shall not apply if the entire amount of the unpaid portion of the tax imposed by section 507(c) is abated by the Secretary under section 507(g).

**(e) Governing instruments**

**(1) General rule**

A private foundation shall not be exempt from taxation under section 501(a) unless its governing instrument includes provisions the effects of which are—

(A) to require its income for each taxable year to be distributed at such time and in such manner as not to subject the foundation to tax under section 4942, and

(B) to prohibit the foundation from engaging in any act of self-dealing (as defined in section 4941(d)), from retaining any excess business holdings (as defined in section 4943(c)), from making any investments in such manner as to subject the foundation to tax under section 4944, and from making any taxable expenditures (as defined in section 4945(d)).

**(2) Special rules for existing private foundations**

In the case of any organization organized before January 1, 1970, paragraph (1) shall not apply—

(A) to any period after December 31, 1971, during the pendency of any judicial proceeding begun before January 1, 1972, by the private foundation which is necessary to reform, or to excuse such foundation from compliance with, its governing instrument or any other instrument in order to meet the requirements of paragraph (1), and

(B) to any period after the termination of any judicial proceeding described in subparagraph (A) during which its governing instrument or any other instrument does not permit it to meet the requirements of paragraph (1).

**(f) Additional provisions relating to sponsoring organizations**

A sponsoring organization (as defined in section 4966(d)(1)) shall give notice to the Secretary (in such manner as the Secretary may provide) whether such organization maintains or intends to maintain donor advised funds (as defined in section 4966(d)(2)) and the manner in which such organization plans to operate such funds.

(Added Pub. L. 91-172, title I, §101(a), Dec. 30, 1969, 83 Stat. 494; amended Pub. L. 94-455, title XIX, §§1901(a)(71), (b)(8)(E), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1776, 1794, 1834; Pub. L. 108-357, title IV, §413(c)(30), Oct. 22, 2004, 118 Stat. 1509; Pub. L. 109-280, title XII, §1235(b)(1), Aug. 17, 2006, 120 Stat. 1101.)

## AMENDMENTS

2006—Subsec. (f). Pub. L. 109-280, which directed the addition of subsec. (f) to section 508, without specifying the act to be amended, was executed by making the addition to this section, which is section 508 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

2004—Subsec. (d)(1), (2). Pub. L. 108-357 struck out “556(b)(2),” after “545(b)(2).”

1976—Subsec. (a). Pub. L. 94-455, §1901(a)(71)(A), struck out last sentence providing that for purposes of paragraph (2), the time prescribed for giving notice under this subsection shall not expire before the 90th day after the day on which regulations first prescribed under this subsection become final.

Subsec. (a)(1), (2). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” in three places after “Secretary”.

Subsec. (b). Pub. L. 94-455, §§1901(a)(71)(A), 1906(b)(13)(A), struck out “or his delegate” in two places after “Secretary” and “The time prescribed for giving notice under this subsection shall not expire before the 90th day after the day on which regulations first prescribed under this subsection become final” after “a private foundation”.

Subsec. (c)(2). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (c)(2)(A). Pub. L. 94-455, §1901(b)(8)(E), substituted “(A) educational organizations described in section 170(b)(1)(A)(ii), and” for “(A) educational organizations which normally maintain a regular faculty and curriculum and normally have a regularly enrolled body of pupils or students in attendance at the place where their educational activities are regularly carried on; and” after “(b) or both—”.

Subsec. (c)(2)(B). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (d)(2)(A). Pub. L. 94-455, §1901(a)(71)(C), substituted “(e)(2)” for “(e)(2)(B) and (C)” after “regard to subsection”.

Subsec. (d)(3). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (e)(2)(A). Pub. L. 94-455, §1901(a)(71)(B), struck out subpar. (A) relating to taxable years beginning before 1972, and redesignated subpars. (B) and (C) as (A) and (B), respectively.

Subsec. (e)(2)(B). Pub. L. 94-455, §1901(a)(71)(B), redesignated subpar. (C) as (B) and substituted “(A)” for “(B)” after “described in subparagraph”.

Subsec. (e)(2)(C). Pub. L. 94-455, §1901(a)(71)(B), redesignated subpar. (C) as (B).

## EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-280, title XII, §1235(b)(2), Aug. 17, 2006, 120 Stat. 1102, provided that: “The amendment made by this subsection [amending this section] shall apply to organizations applying for tax-exempt status after the date of the enactment of this Act [Aug. 17, 2006].”

## EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to taxable years of foreign corporations beginning after Dec. 31,

2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end, see section 413(d)(1) of Pub. L. 108-357, set out as an Effective and Termination Dates of 2004 Amendments note under section 1 of this title.

## EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(a)(71)(A)–(C), (b)(8)(E) of Pub. L. 94-455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

## EFFECTIVE DATE

Section effective Jan. 1, 1970, except that subsecs. (a), (b), and (c) effective Oct. 9, 1969, see section 101(k)(1), (3) of Pub. L. 91-172, set out as a note under section 4940 of this title.

## SAVINGS PROVISION

Limits on inclusion of provisions inconsistent with subsec. (e) of this section in governing instruments, see section 101(l)(6) of Pub. L. 91-172, set out as a note under section 4940 of this title.

**§ 509. Private foundation defined****(a) General rule**

For purposes of this title, the term “private foundation” means a domestic or foreign organization described in section 501(c)(3) other than—

(1) an organization described in section 170(b)(1)(A) (other than in clauses (vii) and (viii));

(2) an organization which—

(A) normally receives more than one-third of its support in each taxable year from any combination of—

(i) gifts, grants, contributions, or membership fees, and

(ii) gross receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities, in an activity which is not an unrelated trade or business (within the meaning of section 513), not including such receipts from any person, or from any bureau or similar agency of a governmental unit (as described in section 170(c)(1)), in any taxable year to the extent such receipts exceed the greater of \$5,000 or 1 percent of the organization’s support in such taxable year,

from persons other than disqualified persons (as defined in section 4946) with respect to the organization, from governmental units described in section 170(c)(1), or from organizations described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)), and

(B) normally receives not more than one-third of its support in each taxable year from the sum of—

(i) gross investment income (as defined in subsection (e)) and

(ii) the excess (if any) of the amount of the unrelated business taxable income (as defined in section 512) over the amount of the tax imposed by section 511;

(3) an organization which—

(A) is organized, and at all times thereafter is operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more specified organizations described in paragraph (1) or (2),

(B) is—

(i) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2),

(ii) supervised or controlled in connection with one or more such organizations, or

(iii) operated in connection with one or more such organizations, and

(C) is not controlled directly or indirectly by one or more disqualified persons (as defined in section 4946) other than foundation managers and other than one or more organizations described in paragraph (1) or (2); and

(4) an organization which is organized and operated exclusively for testing for public safety.

For purposes of paragraph (3), an organization described in paragraph (2) shall be deemed to include an organization described in section 501(c)(4), (5), or (6) which would be described in paragraph (2) if it were an organization described in section 501(c)(3).

**(b) Continuation of private foundation status**

For purposes of this title, if an organization is a private foundation (within the meaning of subsection (a)) on October 9, 1969, or becomes a private foundation on any subsequent date, such organization shall be treated as a private foundation for all periods after October 9, 1969, or after such subsequent date, unless its status as such is terminated under section 507.

**(c) Status of organization after termination of private foundation status**

For purposes of this part, an organization the status of which as a private foundation is terminated under section 507 shall (except as provided in section 507(b)(2)) be treated as an organization created on the day after the date of such termination.

**(d) Definition of support**

For purposes of this part and chapter 42, the term “support” includes (but is not limited to)—

(1) gifts, grants, contributions, or membership fees,

(2) gross receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities in any activity which is not an unrelated trade or business (within the meaning of section 513),

(3) net income from unrelated business activities, whether or not such activities are carried on regularly as a trade or business,

(4) gross investment income (as defined in subsection (e)),

(5) tax revenues levied for the benefit of an organization and either paid to or expended on behalf of such organization, and

(6) the value of services or facilities (exclusive of services or facilities generally furnished to the public without charge) furnished by a governmental unit referred to in section 170(c)(1) to an organization without charge.

Such term does not include any gain from the sale or other disposition of property which would be considered as gain from the sale or ex-

change of a capital asset, or the value of exemption from any Federal, State, or local tax or any similar benefit.

**(e) Definition of gross investment income**

For purposes of subsection (d), the term “gross investment income” means the gross amount of income from interest, dividends, payments with respect to securities loans (as defined in section 512(a)(5)), rents, and royalties, but not including any such income to the extent included in computing the tax imposed by section 511. Such term shall also include income from sources similar to those in the preceding sentence.

**(f) Requirements for supporting organizations**

**(1) Type III supporting organizations**

For purposes of subsection (a)(3)(B)(iii), an organization shall not be considered to be operated in connection with any organization described in paragraph (1) or (2) of subsection (a) unless such organization meets the following requirements:

**(A) Responsiveness**

For each taxable year beginning after the date of the enactment of this subsection, the organization provides to each supported organization such information as the Secretary may require to ensure that such organization is responsive to the needs or demands of the supported organization.

**(B) Foreign supported organizations**

**(i) In general**

The organization is not operated in connection with any supported organization that is not organized in the United States.

**(ii) Transition rule for existing organizations**

If the organization is operated in connection with an organization that is not organized in the United States on the date of the enactment of this subsection, clause (i) shall not apply until the first day of the third taxable year of the organization beginning after the date of the enactment of this subsection.

**(2) Organizations controlled by donors**

**(A) In general**

For purposes of subsection (a)(3)(B), an organization shall not be considered to be—

(i) operated, supervised, or controlled by any organization described in paragraph (1) or (2) of subsection (a), or

(ii) operated in connection with any organization described in paragraph (1) or (2) of subsection (a),

if such organization accepts any gift or contribution from any person described in subparagraph (B).

**(B) Person described**

A person is described in this subparagraph if, with respect to a supported organization of an organization described in subparagraph (A), such person is—

(i) a person (other than an organization described in paragraph (1), (2), or (4) of section 509(a)) who directly or indirectly con-

trols, either alone or together with persons described in clauses (ii) and (iii), the governing body of such supported organization,

(ii) a member of the family (determined under section 4958(f)(4)) of an individual described in clause (i), or

(iii) a 35-percent controlled entity (as defined in section 4958(f)(3) by substituting “persons described in clause (i) or (ii) of section 509(f)(2)(B)” for “persons described in subparagraph (A) or (B) of paragraph (1)” in subparagraph (A)(i) thereof).

### (3) Supported organization

For purposes of this subsection, the term “supported organization” means, with respect to an organization described in subsection (a)(3), an organization described in paragraph (1) or (2) of subsection (a)—

(A) for whose benefit the organization described in subsection (a)(3) is organized and operated, or

(B) with respect to which the organization performs the functions of, or carries out the purposes of.

(Added Pub. L. 91-172, title I, §101(a), Dec. 30, 1969, 83 Stat. 496; amended Pub. L. 94-81, §3(a), Aug. 9, 1975, 89 Stat. 418; Pub. L. 95-345, §2(a)(1), Aug. 15, 1978, 92 Stat. 481; Pub. L. 109-280, title XII, §§1221(a)(2), 1241(a), (b), Aug. 17, 2006, 120 Stat. 1089, 1102.)

#### REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (f)(1)(A), (B)(ii), is the date of enactment of Pub. L. 109-280, which was approved Aug. 17, 2006.

#### CODIFICATION

Sections 1221(a)(2) and 1241(a), (b) of Pub. L. 109-280, which directed the amendment of section 509 without specifying the act to be amended, were executed to this section, which is section 509 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress. See 2006 Amendment notes below.

#### AMENDMENTS

2006—Subsec. (a)(3)(B). Pub. L. 109-280, §1241(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “is operated, supervised, or controlled by or in connection with one or more organizations described in paragraph (1) or (2), and”. See Codification note above.

Subsec. (e). Pub. L. 109-280, §1221(a)(2), inserted at end “Such term shall also include income from sources similar to those in the preceding sentence.” See Codification note above.

Subsec. (f). Pub. L. 109-280, §1241(b), added subsec. (f). See Codification note above.

1978—Subsec. (e). Pub. L. 95-345 inserted provision relating to payments with respect to securities loans.

1975—Subsec. (a)(2)(B). Pub. L. 94-81 designated existing provisions as cl. (i) and added cl. (ii).

#### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-280, title XII, §1221(c), Aug. 17, 2006, 120 Stat. 1089, provided that: “The amendments made by this section [amending this section and section 4940 of this title] shall apply to taxable years beginning after the date of the enactment of this Act [Aug. 17, 2006].”

Pub. L. 109-280, title XII, §1241(e), Aug. 17, 2006, 120 Stat. 1103, provided that:

“(1) IN GENERAL.—The amendments made by subsections (a) and (b) [amending this section] shall take effect on the date of the enactment of this Act [Aug. 17, 2006].

“(2) CHARITABLE TRUSTS WHICH ARE TYPE III SUPPORTING ORGANIZATIONS.—Subsection (c) [enacting provisions set out as a note below] shall take effect—

“(A) in the case of trusts operated in connection with an organization described in paragraph (1) or (2) of section 509(a) of the Internal Revenue Code of 1986 on the date of the enactment of this Act, on the date that is one year after the date of the enactment of this Act, and

“(B) in the case of any other trust, on the date of the enactment of this Act.”

#### EFFECTIVE DATE OF 1978 AMENDMENT

Section 2(e) of Pub. L. 95-345, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by this section [enacting section 1058 of this title and amending sections 509, 512, 514, 851, and 4940 of this title] apply with respect to—

“(1) amounts received after December 31, 1976, as payments with respect to securities loans (as defined in section 512(a)(5) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]), and

“(2) transfers of securities, under agreements described in section 1058 of such Code, occurring after such date.”

#### EFFECTIVE DATE OF 1975 AMENDMENT

Section 3(b) of Pub. L. 94-81 provided that: “The amendment made by this section [amending this section] shall apply to unrelated business taxable income derived from trades and businesses which are acquired by the organization after June 30, 1975.”

#### EFFECTIVE DATE

Section effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as a note under section 4940 of this title.

#### SAVINGS PROVISION

Applicability of subsec. (a) of this section to testamentary trusts, see section 101(l)(7) of Pub. L. 91-172, set out as a note under section 4940 of this title.

#### CHARITABLE TRUSTS WHICH ARE TYPE III SUPPORTING ORGANIZATIONS

Pub. L. 109-280, title XII, §1241(c), Aug. 17, 2006, 120 Stat. 1103, provided that: “For purposes of section 509(a)(3)(B)(iii) of the Internal Revenue Code of 1986, an organization which is a trust shall not be considered to be operated in connection with any organization described in paragraph (1) or (2) of section 509(a) of such Code solely because—

“(1) it is a charitable trust under State law,

“(2) the supported organization (as defined in section 509(f)(3) of such Code) is a beneficiary of such trust, and

“(3) the supported organization (as so defined) has the power to enforce the trust and compel an accounting.”

#### PAYOUT REQUIREMENTS FOR TYPE III SUPPORTING ORGANIZATIONS

Pub. L. 109-280, title XII, §1241(d), Aug. 17, 2006, 120 Stat. 1103, provided that:

“(1) IN GENERAL.—The Secretary of the Treasury shall promulgate new regulations under section 509 of the Internal Revenue Code of 1986 on payments required by type III supporting organizations which are not functionally integrated type III supporting organizations. Such regulations shall require such organizations to make distributions of a percentage of either income or assets to supported organizations (as defined in section 509(f)(3) of such Code) in order to ensure that a significant amount is paid to such organizations.

“(2) TYPE III SUPPORTING ORGANIZATION; FUNCTIONALLY INTEGRATED TYPE III SUPPORTING ORGANIZATION.—For purposes of paragraph (1), the terms ‘type III supporting organization’ and ‘functionally integrated type III

supporting organization' have the meanings given such terms under subparagraphs (A) and (B) section 4943(f)(5) of the Internal Revenue Code of 1986 (as added by this Act), respectively."

### PART III—TAXATION OF BUSINESS INCOME OF CERTAIN EXEMPT ORGANIZATIONS

Sec.

511. Imposition of tax on unrelated business income of charitable organizations, etc.<sup>1</sup>
512. Unrelated business taxable income.
513. Unrelated trade or business.
514. Unrelated debt-financed income.
515. Taxes of foreign countries and possessions of the United States.

#### AMENDMENTS

1969—Pub. L. 91-172, title I, §§101(a), 121(d)(3)(C), Dec. 30, 1969, 83 Stat. 492, 548, substituted "PART III" for "PART II" as part designation and substituted "Unrelated debt-financed income" for "Business leases" in item 514.

#### § 511. Imposition of tax on unrelated business income of charitable, etc., organizations

##### (a) Charitable, etc., organizations taxable at corporation rates

###### (1) Imposition of tax

There is hereby imposed for each taxable year on the unrelated business taxable income (as defined in section 512) of every organization described in paragraph (2) a tax computed as provided in section 11. In making such computation for purposes of this section, the term "taxable income" as used in section 11 shall be read as "unrelated business taxable income".

###### (2) Organizations subject to tax

###### (A) Organizations described in sections 401(a) and 501(c)

The tax imposed by paragraph (1) shall apply in the case of any organization (other than a trust described in subsection (b) or an organization described in section 501(c)(1)) which is exempt, except as provided in this part or part II (relating to private foundations), from taxation under this subtitle by reason of section 501(a).

###### (B) State colleges and universities

The tax imposed by paragraph (1) shall apply in the case of any college or university which is an agency or instrumentality of any government or any political subdivision thereof, or which is owned or operated by a government or any political subdivision thereof, or by any agency or instrumentality of one or more governments or political subdivisions. Such tax shall also apply in the case of any corporation wholly owned by one or more such colleges or universities.

##### (b) Tax on charitable, etc., trusts

###### (1) Imposition of tax

There is hereby imposed for each taxable year on the unrelated business taxable income of every trust described in paragraph (2) a tax computed as provided in section 1(e). In making such computation for purposes of this section, the term "taxable income" as used in

section 1 shall be read as "unrelated business taxable income" as defined in section 512.

###### (2) Charitable, etc., trusts subject to tax

The tax imposed by paragraph (1) shall apply in the case of any trust which is exempt, except as provided in this part or part II (relating to private foundations), from taxation under this subtitle by reason of section 501(a) and which, if it were not for such exemption, would be subject to subchapter J (sec. 641 and following, relating to estates, trusts, beneficiaries, and decedents).

##### (c) Special rule for section 501(c)(2) corporations

If a corporation described in section 501(c)(2)—

(1) pays any amount of its net income for a taxable year to an organization exempt from taxation under section 501(a) (or which would pay such an amount but for the fact that the expenses of collecting its income exceed its income), and

(2) such corporation and such organization file a consolidated return for the taxable year,

such corporation shall be treated, for purposes of the tax imposed by subsection (a), as being organized and operated for the same purposes as such organization, in addition to the purposes described in section 501(c)(2).

(Aug. 16, 1954, ch. 736, 68A Stat. 169; Pub. L. 86-667, §3, July 14, 1960, 74 Stat. 535; Pub. L. 89-352, §2, Feb. 2, 1966, 80 Stat. 4; Pub. L. 91-172, title I, §121(a)(1)-(3), title III, §301(b)(8), title VIII, §803(d)(2), Dec. 30, 1969, 83 Stat. 536, 585, 684; Pub. L. 95-30, title I, §101(d)(6), May 23, 1977, 91 Stat. 133; Pub. L. 95-600, title III, §301(b)(5), title IV, §421(e)(3), Nov. 6, 1978, 92 Stat. 2821, 2876; Pub. L. 97-248, title II, §201(d)(5), formerly §201(c)(5), Sept. 3, 1982, 96 Stat. 419, renumbered §201(d)(5), Pub. L. 97-448, title III, §306(a)(1)(A)(i), Jan. 12, 1983, 96 Stat. 2400; Pub. L. 100-647, title I, §1007(g)(6), Nov. 10, 1988, 102 Stat. 3435.)

#### AMENDMENTS

1988—Subsec. (d). Pub. L. 100-647 struck out subsec. (d) which read as follows: "TAX PREFERENCES.—

"(1) ORGANIZATIONS TAXABLE AT CORPORATE RATES.—If an organization is subject to tax on unrelated business taxable income pursuant to subsection (a), the tax imposed by section 56 shall apply to such organizations with respect to items of tax preference which enter into the computation of unrelated business taxable income in the same manner as section 56 applies to corporations.

"(2) ORGANIZATIONS TAXABLE AS TRUSTS.—If an organization is subject to tax on unrelated business taxable income pursuant to subsection (b), the taxes imposed by section 55 shall apply to such organization with respect to items of tax preference which enter into the computation of unrelated business taxable income."

1982—Subsec. (d)(2). Pub. L. 97-248 substituted "section 55" for "section 55 and section 56 (as the case may be)".

1978—Subsec. (a)(1). Pub. L. 95-600, §301(b)(5)(A), substituted "a tax" for "a normal tax and a surtax".

Subsec. (a)(2). Pub. L. 95-600, §301(b)(5)(B), substituted "tax" for "taxes" wherever appearing.

Subsec. (d). Pub. L. 95-600, §421(e)(3), substituted provisions relating to organizations taxable at corporate rates and organizations taxable as trusts, for provisions relating to imposition of the tax imposed by section 56 of this title to an organization subject to tax under this

<sup>1</sup> So in original. Does not conform to section catchline.