

foundation is not an insurance set aside, a substantial portion of the income is in fact distributed to such post or organization or for section 170(c)(4) charitable purposes, and

(4) It is organized exclusively for one or more of those purposes enumerated in paragraph (c) of this section.

[T.D. 7438, 41 FR 44392, Oct. 8, 1976]

§ 1.501(c)(21)-1 Black lung trusts—certain terms.

(a) *Created or organized in the United States.* A trust is not *created or organized in the United States* unless it is maintained at all times as a domestic trust in the United States. For this purpose, section 7701(a)(9) limits the term *United States* to the District of Columbia and States of the United States.

(b) *Insurance company.* The term *insurance company* means an insurance, surety, bonding or other company whose liability for the kinds of claims to which section 501(c)(21)(A)(i) applies is as an insurer or guarantor of the liabilities of another.

(c) *Black Lung Acts.* The term *Black Lung Acts* includes any State law providing compensation for disability or death due to pneumoconiosis even though the State law compensates for other kinds of injuries. In such a case, section 501(c)(21) applies only to the extent that the liability is attributable to disability or death due to pneumoconiosis. For this purpose, the term *pneumoconiosis* has the same meaning as it has under federal law. See 30 U.S.C. 902.

(d) *Insurance exclusively covering such liability.* The term *insurance exclusively covering such liability* includes insurance that covers risk for liabilities in addition to the liabilities to which section 501(c)(21)(A)(i) applies. In such a case, payment for premiums may be made from the trust only to the extent of that portion of the premiums that has been separately allocated and stated by the insurer as attributable solely to coverage of the liabilities to which section 501(c)(21)(A)(i) applies.

(e) *Administrative and other incidental expenses.* The term *administrative and other incidental expenses* means expenditures that are appropriate and helpful to the trust making them in carrying

out the purposes for which its assets may be used under section 501(c)(21)(B). The term includes any excise tax imposed on the trust under section 4952 (relating to taxes on taxable expenditures) and reasonable expenses, such as legal expenses, incurred by the trust in connection with an assertion against the trust of liability for a taxable expenditure. The term does not include an excise tax imposed on the trustee or on other disqualified persons under section 4951 (relating to taxes on self-dealing) or under section 4953 (relating to tax on excess contributions to black lung benefit trusts) or any expenses incurred in connection with the assertion of these taxes other than expenses that are treated as part of reasonable compensation under section 4951(d)(2)(C). See §§ 53.4941 (d)-2(f)(3) and (d)-3(c) for interpretations of similar provisions under section 4941(d)(2)(E), relating to reasonable compensation for private foundation disqualified persons.

(f) *Public debt securities of the United States.* The term *public debt securities of the United States* means obligations that are taken into consideration for purposes of the public debt limit. See, for example 31 U.S.C. 757b.

(g) *Obligations of a State or local government.* The term *obligations of a State or local government* means the obligations of a State or local governmental unit the interest on which is exempt from tax under section 103(a). See § 1.103-1(a).

(h) *Time or demand deposits.* The term *time or demand deposits* includes checking accounts, savings accounts, certificates of deposit or other time or demand deposits. The term does not include common or collective trust funds such as a common trust fund as defined in section 584.

[44 FR 52197, Sept. 7, 1979]

§ 1.501(c)(21)-2 Same—trust instrument.

As trust does not meet the requirements of section 501(c)(21) if it is not established and maintained pursuant to a written instrument. The trust instrument must definitely and affirmatively prohibit a diversion or use of trust assets that is not permitted under section 501(c)(21)(B) or section

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4953(c), whether by operation or natural termination of the trust, by power of revocation or amendment by the happening of a contingency by collateral arrangement, or by any other means. No particular form for the trust instrument is required. A trust may meet the requirements of section 501(c)921) although the trust instrument fails to contain provisions the effects of which are to prohibit acts that are subject to section 4951 (relating to taxes on self-dealing), section 4952 (relating to taxes on taxable expenditures) or the retention of contributions subject to section 4953 (relating to tax on excess contributions to black lung benefit trusts).

[44 FR 52197, Sept. 7, 1979]

§ 1.501(d)-1 Religious and apostolic associations or corporations.

(a) Religious or apostolic associations or corporations are described in section 501(d) and are exempt from taxation under section 501(a) if they have a common treasury or community treasury, even though they engage in business for the common benefit of the members, provided each of the members includes (at the time of filing his return) in his gross income his entire pro rata share, whether distributed or not, of the net income of the association or corporation for the taxable year of the association or corporation ending with or during his taxable year. Any amount so included in the gross income of a member shall be treated as a dividend received.

(b) For annual return requirements of organizations described in section 501(d), see section 6033 and paragraph (a)(5) of § 1.6033-1.

§ 1.501(e)-1 Cooperative hospital service organizations.

(a) *General rule.* Section 501(e) is the exclusive and controlling section under which a cooperative hospital service organization can qualify as a charitable organization. A cooperative hospital service organization which meets the requirements of section 501(e) and this section shall be treated as an organization described in section 501(c)(3), exempt from taxation under section 501(a), and referred to in section 170(b)(1)(A) (iii) (relating to percentage

limitations on charitable contributions). In order to qualify for tax exempt status, a cooperative hospital service organization must—

(1) Be organized and operated on a cooperative basis,

(2) Perform, on a centralized basis, only one or more specifically enumerated services which, if performed directly by a tax exempt hospital, would constitute activities in the exercise or performance of the purpose or function constituting the basis for its exemption, and

(3) Perform such service or services solely for two or more patron-hospitals as described in paragraph (d) of this section.

(b) *Organized and operated on a cooperative basis—*(1) *In general.* In order to meet the requirements of section 501(e), the organization must be organized and operated on a cooperative basis (whether or not under a specific statute on cooperatives) and must allocate or pay all of its net earnings within 8½ months after the close of the taxable year to its patron-hospitals on the basis of the percentage of its services performed for each patron. To *allocate* its net earnings to its patron-hospitals, the organization must make appropriate bookkeeping entries and provide timely written notice to each patron-hospital disclosing to the patron-hospital the amount allocated to it on the books of the organization. For the recordkeeping requirements of a section 501(e) organization, see § 1.521-1(a)(1).

(2) *Percentage of services defined.* The percentage of services performed for each patron-hospital may be determined on the basis of either the value or the quantity of the services provided by the organization to the patron-hospital, provided such basis is realistic in terms of the actual cost of the services to the organization.

(3) *Retention of net earnings.* Exemption will not be denied a cooperative hospital service organization solely because the organization, instead of paying all net earnings to its patron-hospitals, retains an amount for such purposes as retiring indebtedness, expanding the services of the organization, or for any other necessary purpose and allocates such amounts to its patrons.