

the prevailing rate of interest does not meet the reasonable rate of interest requirement.

Example 5. N Corporation, a substantial contributor to an exempt organization subject to section 503 borrows \$50,000 on or after March 16, 1956, from the organization. If the loan is not adequately secured, the organization has committed a prohibited transaction at the time the loan was made. If the loan had been made on or before March 15, 1956, and is continued after January 31, 1957, it must be adequately secured on February 1, 1957, or it will be considered a prohibited transaction on that date. However, if the exempt organization were an employees' trust, described in section 401(a), and the loan were made before March 1, 1954, repayable by its terms after December 31, 1955, it would not have to be adequately secured on February 1, 1957. Moreover, if the exempt organization were a supplemental unemployment benefit trust, described in section 501(c)(17), and the loan were made before January 1, 1960, repayable by its terms after December 31, 1959, it would not have to be adequately secured on January 1, 1960.

Example 6. An exempt organization subject to section 503 purchases a debenture issued by O Corporation, which is a substantial contributor to the organization. The organization purchases the debenture in an arm's length transaction from a third person on or after November 9, 1956. The purchase is considered as a loan by the organization to O Corporation. The loan must be adequately secured when it is made, or it is considered as a prohibited transaction at that time. If the organization purchased the debenture before November 9, 1956, and holds it after December 1, 1958, the debenture must be adequately secured on December 2, 1958, or it will then be considered as a prohibited transaction. However, if the organization were an employees' trust described in section 401(a), and if the debenture were purchased before March 1, 1954, and its maturity date is after December 31, 1955, the debenture does not have to be adequately secured. Moreover, if the organization were an employees' contribution pension plan trust described in section 501(c)(18), and if the debenture were purchased before January 1, 1970, and its maturity date is after December 31, 1969, the debenture does not have to be adequately secured.

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§ 1.503(c)-1 Future status of organizations denied exemption.

(a) Any organization described in section 501(c) (3), (17), or (18), or an employees' trust described in section 401(a), which is denied exemption under section 501(a) by reason of the provisions of section 503(a), may file, in any

taxable year following the taxable year in which notice of denial was issued, a claim for exemption. In the case of organizations described in section 501(c) (3), (17), or (18), the appropriate exemption application shall be used for this purpose, and shall be filed with the district director. In the case of an employees' trust described in section 401(a), the information described in § 1.404(a)-2 shall be submitted with a letter claiming exemption. All employees' trust described in section 401(a) shall submit this information to the district director with whom a request for a determination as to its qualification under section 401 and exemption under section 501 may be submitted under paragraph (s) of § 601.201 of this chapter (Statement of Procedural Rules). A claim for exemption must contain or have attached to it, in addition to the information generally required of such an organization claiming exemption as an organization described in section 501(c) (17), or (18), or section 401(a) (or section 501(c)(3) prior to January 1, 1970), a written declaration made under the penalties of perjury by principal officer of such organization authorized to make such declaration that the organization will not knowingly again engage in a prohibited transaction, (as defined in section 503(b) (or 4975(c) if such section applies to such organization)). In the case of section 501(c)(3) organizations which have lost their exemption after December 31, 1969, pursuant to section 503, a claim for exemption must contain or have attached to it a written agreement made under penalties of perjury by a principal officer of such organization authorized to make such agreement that the organization will not violate the provisions of chapter 42. In addition, such organization must comply with the rules for governing instruments as prescribed in § 1.508-3. See § 1.501(a)-1 for proof of exemption requirements in general.

(b) If the Commissioner is satisfied that such organization will not knowingly again engage in a prohibited transaction (as defined under section 503(b) or 4975(c), as applicable to such organization) or in the case of a section 501(c)(3) organization, will not violate

the provisions of chapter 42, and the organization also satisfied all the other requirements under section 501(c) (3), (17), or (18), or section 401(a), the organization will be so notified in writing. In such case the organization will be exempt (subject to the provisions of section 501(c)(3), or sections 501(c) (17), (18) or 401(a), and 503, and 504 when applicable) with respect to the taxable years subsequent to the taxable year in which the claim described in section 503(c) is filed. Section 503 contemplates that an organization denied exemption because of the terms of such section will be subject to taxation for at least one full taxable year. For the purpose of this section, the term *taxable year* means the established annual accounting period of the organization; or, if the organization has no such established annual accounting period, the *taxable year* of the organization means the calendar year.

(c) For taxable years beginning after December 31, 1969, the denial of an exemption pursuant to this section, for a taxable year prior to January 1, 1970, of an organization described in section 501(c)(3) shall not cause such organization to cease to be described in section 501(c)(3) for purposes of part II of subchapter F, chapter 1 and for purposes of the application of chapter 42 taxes.

(d) In the case of an organization described in section 501(c)(3), which has lost its exemption pursuant to section 503, and which has not notified the Commissioner that it is applying for recognition of its exempt status under section 508(a) and this section, no gift or contribution made after December 31, 1969, which would otherwise be deductible under section 170, 642(c), or 545(b)(2) shall be allowed as a deduction. For rules relating to the denial of deductions with respect to gifts or contributions made before January 1, 1970, see, § 1.503(e)-4.

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§ 1.503(d)-1 Cross references.

For provisions relating to loans described in section 503(b)(1) by a trust described in section 401(a), see

§ 1.503(b)-1 and section 503 (e) and (f) and the regulations thereunder.

[T.D. 7428, 41 FR 34623, Aug. 16, 1976]

§ 1.503(e)-1 Special rules.

(a) *In general.* (1) Section 503(e) provides that for purposes of section 503(b)(1) (relating to loans made without the receipt of adequate security and a reasonable rate of interest) the acquisition of a bond, debenture, note, or certificate or other evidence of indebtedness shall not be treated as a loan made without the receipt of adequate security if certain requirements are met. Those requirements are described in § 1.503(e)-2.

(2) Section 503(e) does not affect the requirement in section 503(b)(1) of a reasonable rate of interest. Thus, although the acquisition of a certificate of indebtedness which meets all of the requirements of section 503(e) and of § 1.503(e)-2 will not be considered as a loan made without the receipt of adequate security, the acquisition of such an indebtedness does constitute a prohibited transaction if the indebtedness does not bear a reasonable rate of interest.

(3) The provisions of section 503(e) do not limit the effect of section 401(a) and § 1.401-2, section 501(c)(17)(A)(i), or section 501(c)(18)(A), all relating to the use of diversion of corpus or income of the respective employee trusts. Furthermore, the provisions of section 503(e) do not limit the effect of any of the provisions of section 503 other than section 503(b)(1). Thus, for example, although a loan made by employees' trust described in section 503(a)(1)(B) meets all the requirements of section 503(e) and therefore is not treated as a loan made without the receipt of adequate security, such an employees' trust making such a loan will lose its exempt status if the loan is not considered as made for the exclusive benefit of the employees or their beneficiaries. Similarly, a loan which meets the requirements of section 503(e) will constitute a prohibited transaction within the meaning of section 503(b)(6) if it results in a substantial diversion of the trust's income or corpus to a person described in section 503(b).

(b) *Definitions.* For purposes of section 503(e):